

EBIL ADELBAI, NGIRAUSUI, KALUU, and UCHELBESANG,
Appellants·

v.

ADELBAI NGIRCHOTEOT, and NGILAS, Appellees

Civil Appeal No. 26

Trial Division of the High Court

Palau District

August 20, 1969

Appellate Court Opinion-3 T.T.R. 619

Petition for motion in aid of judgment. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that agreement reached as a result of meetings directed by High Court was in accordance with the provisions of that judgment and that appellee had lost whatever privileges he had by his failure to cooperate with the clan in such meetings.

Palau Land Law-Clan Ownership-Use Rights'

Appellee lost the privilege of remaining in his house, built on clan land, by his conduct and refusal to meet with or cooperate with the clan members.

TURNER, *Associate Justice*

The Appellate Division Judgment in this case, 3 T.T.R. 619, required the Ibuuch Clan to determine the use rights of the land in question on which the appellee, Adelbai Ngirchoteot, has built his house in spite of objection at the time of construction by the appellants. The appeal judgment held that the land was neither chief's title land, as claimed by appellants, nor was it Oteot Lineage land as claimed by the appellees, but that it was clan land.

The judgment also provided that if a use determination had not been made by the clan within six (6) months, further aid of this court should be asked. A petition for motion in aid of judgment was filed by appellants after six months and hearing on the petition was commenced March 10, 1969. When it appeared that clan meetings had been called without a decision being reached because of the absence of appellee, Adelbai Ngirchoteot, who refused to attend the meetings, the court ordered the hearing continued and instructed the petitioners to call a clan meeting, arrive at a decision as to the use of the land and to report back to the court.

Hearing was then held August 15, 1969, with all parties present and represented by counsel.

Ngirausui, who bears the principal title of the Ibuuch Clan, Ngiraibuuch, testified he had called six clan meetings and that Adelbai Ngirchoteot, title bearer of one of four lineages in the clan, had refused to attend, including the night before the hearing. At that meeting, the title bearers and some members of each of the other three lineages in the Ibuuch Clan, namely: 1) Ylou, 2) Ngeremelatked or Kerekur, and 3) Telealmekesong or Sorech, met and decided that Ngirchoteot should remove his house from the land in question. They further decided to build a chief's title house on the land, thus changing the chief's title land

from Lot No. 1334, *Tochi Daicho* reference, to the land in question, Lot No. 1206.

Ngirchoteot did not dispute the appellants' testimony, nor did he present evidence of his own. He only asked, through his counsel, to be allowed to remain in his house on the land in question until it was "worn out". Unfortunately for him, he lost the privilege of remaining in his house by his conduct and refusal to meet with or cooperate with the clan members.

It also is noted that the appellee, Adelbai Ngirchoteot, stipulated with the appellants in Palau District Court Civil Action No. 1055 that if he lost the High Court suit in which he claimed lineage ownership of the land in question that he would promptly remove his house from the land. His failure to keep his promise made to the District Court and his failure to participate in clan meetings in accordance with the mandate of the Appellate Division does not warrant treatment of Adelbai with any special consideration.

It was not until the sixth meeting held the night before the hearing that the clan leaders decided to require Ngirchoteot to remove his house. The witness, Ebil, who bears the highest female title, *Mlechei*, in the Ibuuch Clan testified that if Adelbai had asked to live on the land at the first clan meeting after the court decision "he could have done so". He did not ask permission and the clan has decided he must remove his house.

This decision is in complete accordance with the provisions of the judgment entered by the Appellate Division. Accordingly, it is

Ordered:-

.1. That within ninety (90) days from date hereof, Adelbai Ngirchoteot shall remove his house from the Ibuuch Clan land described in the *Tochi Daicho* as Lot No. 1206,

and that upon failure to do so, the house shall be deemed abandoned by the owner and shall become the property of the Ibuuch Clan.

2. That Adelbai Ngirchoteot and those claiming under him be forever barred from interfering with the use and occupancy of said land as may be authorized by the Ibuuch Clan.