

INEK SEHK, Plaintiff

v.

OHANA SOHN, Defendant

Civil Action No. 270

Trial Division of the High Court

Ponape District

November 16, 1967

*See, also, 3 T.T.R. 420*

Action to determine ownership of taro patch on Pingelap Atoll, which Master found was transferred to defendant's predecessor in interest, in accordance with prevalent practice on Pingelap. The Trial Division of the High Court, Associate Justice Joseph W. Goss, held that Master's findings are sustained by the evidence, and that since defendant and her mother had successively worked taro patch for over one hundred years, indication of ownership is strong.

1. Ponape Land Law-Pingelap-Taro Patch

Under Pingelap custom, it is usual for one who makes outright gift of ownership of some part of taro patch to give, at same time, some dry land with it.

2. Ponape Land Law-Pingelap-Taro Patch

Transfer of taro patch by mother to her daughter is in accordance with prevalent practice of people of Pingelap.

3. Ponape Land Law—Pingelap—Taro Patch

Where party and her mother have successively worked taro patch on Pingelap Atoll for over one hundred years, indication of ownership is strong.

4. Former Administrations-Recognition of Established Rights

Where rights have persisted for many years under prior administration and party has failed to avail himself of agencies and courts of that administration, it is not proper function of courts of present administration to upset rights so long established and recognized by former administration.

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*Reporter:*

JOANES EDMUND

*counsel for Plaintiff:*

KAPUS DIOFILOS and NOEL

*Counsel for Defendant:*

ROBERT SAIRENIOS

GOSS, *Associate Justice*

This dispute comes before the High Court upon a Master's Report of hearings held on Pingelap Atoll, Carl Kohler, Presiding Judge of the Ponape District Court acting as Master.

This dispute involves title to an eight row taro patch known as Ahluhl which is located on the main Island of Pingelap Atoll. The parties were also involved in Ponape Civil Action No. 232.

OPINION

**[1]** The findings of the Master are sustained by the evidence presented at the hearings. Idinmen, the firsthusband of Emeli, was the owner of the taro patch Ahluhl and conveyed it to his true daughter Apikin to supplement the land Sakarakapw. This was in accord with Pingelap custom.

"It appears that under Pingelap custom it is usual for one who is making an outright gift of ownership of some part of a taro patch to give, at the same time, some dry land with it." *Ens v. Alisina*, 2 T.T.R. 362.

For a general discussion of the unique land law of Pingelap Atoll, see *Kelemend v. Mak*, 2 T.T.R. 55.

**[2]** Apikin transferred the taro patch to her daughter Ohana Sohn in accordance with the prevalent practice of the people of Pingelap.

Since Plaintiff has failed to show that the ownership of the taro patch was ever in his predecessor, Pelepel, the son of Emeli by a second husband, the testimony of the Plaintiff with respect to an oral will of Pelepel which allegedly transferred the land to the Plaintiff need not be considered.

**[3,4]** Finally, the Defendant and her mother, Apikin, have successively worked the taro patch for one hundred some years. What better indication of ownership can there be than evidence that the Defendant and her mother treated the land as being theirs for so long a period—*Aneten v. Olaf*, 1 T.T.R. 606. Where rights have persisted for many years under a prior administration and the Plaintiff has failed to avail himself of the agencies and courts of that administration, it is not the proper function of the courts of this present administration to upset rights so long established and recognized by former administrations. *Orijon v. Etjon*, 1 T.T.R. 101.

#### JUDGMENT

Upon consideration of the Master's Report and the transcript of evidence on file herein, the Master's Report is approved, and it is

Ordered, adjudged and decreed as follows:-

1. As between the parties and all persons claiming under them, the Defendant Ohana Sohn was the owner of

the taro patch consisting of eight rows and known as Ahluhllocated on the main Island of Pingelap Atoll, Ponape District. Said taro patch is supplementary to the land Sakarakapw.

2. This judgment shall not affect any rights of way there may be over the property.

3. No costs are assessed against either party.

4. Time for appeal from this judgment is extended to and including February 15, 1968.