

DAINA PITER, Plaintiff
v.
PELEP POHL, Defendant
Civil Action No. 267
Trial Division of the High Court
Ponape District
May 25, 1966

Action to determine rights in land on Pingelap Atoll, in which adopted daughter claims land as against one whom her deceased father had asked to take care of land in his absence. The Trial Division of the High Court, Chief Justice E. P. Furber, held that daughter was adopted in accordance with Pingelap customary law, that care of land in owner's absence did not create rights in land, and that benefits received from working land were adequate compensation for work.

1. Ponape Land Law-Pingelap-Taro Patch

Under Pingelap custom, fact that person has taken care of land and taro patches for absent relative for number of years does not ordinarily give him any rights in land.

2. Ponape Land Law-Pingelap-Taro Patch

Under Pingelap custom, where person has taken care of land and taro patches for absent relative for number of years, benefits he has received from land are normally considered to adequately compensate him for his work.

<i>Assessor:</i>	JUDGE ANTONIO RAITONG
<i>Interpreter:</i>	IOANES EDMUND
<i>Counsel for Plaintiff:</i>	CARLES PHILIP
<i>Counsel for Defendant:</i>	KAPUS DIOFILOS

FURBER, *Chief Justice*

This action came on to be heard at Kolonia, Ponape, before me August 2, 1965 upon the Master's Report. Neither party offered any evidence other than the Master's Report and the transcript of evidence taken by him.

The defendant objects to the Master's Report on three grounds: (1) that the plaintiff Daina was not adopted by Daiki and that the family didn't claim that she had been

until ten years after Daiki died, during which time the defendant Pelep was working the lands and taro patches involved, (2) Daina should have made a feast to Pelep as well as to Kulion and failed to do so, and (3) under Pinglap custom, when a couple adopt a child, they should give her land at that time.

The plaintiff argued that there was no error in the Master's Report, that the people of Pinglap are very patient, that the fact that Pelep had taken care of the land for a long time should not defeat or weaken the plaintiff Daina's rights, and that Daina and her true mother, Melina, had made a feast for Kulion and Pelep on their arrival at Pinglap four months after Daiki died, but that Pelep refused to accept anything from it.

In response to the argument for the plaintiff, counsel for the defendant claimed that Kulion had chased Pelep away from the feast, while counsel for the plaintiff pointed out that the share from the feast which Pelep had refused had been given to those who had gone in search for Daiki's body which was believed lost at sea. "

OPINION

After consideration of the pleadings, the Master's Report, the entire transcript of testimony taken by him, and the arguments of counsel, the court considers that the testimony is sufficient to support the Master's findings, particularly that the child Daina had been truly adopted by Daiki and his wife, Desina, and that all the requirements of both Bonape and Pinglap custom in regard thereto had been fulfilled. While it is clear that Pelep did not share in the traditional feast to confirm Daina's adoption, the great weight of the evidence tends to show that this was due purely to his own refusal, and the court considers that this put him on notice of the adoption just as fully as if he had shared in the food.

[1,2] The court is further satisfied that under Pinglap custom, the fact that a person has taken care of the land and taro patches for an absent relative for a number of years does not ordinarily give him any rights in the land since the benefits he received from the land are normally considered to adequately compensate him for his work.

The Master's Report is therefore approved.

JUDGMENT

It is ordered, adjudged, and decreed as follows: -

1. As between the parties and all persons claiming under them, the plaintiff Daina Piter, who lives in Kolonia, Ponape District, is the owner of the lands known as Dahmap A and Dahmap B (sometimes known as Dahmap Pah and Dahmap Powe), Persenok, and Sikoru, and the three rows formerly owned by Melihter in the taro patch Kapweiak, the four rows formerly owned by Melihter in the taro patch Prihmwei, the four rows formerly owned by Melihter in the taro patch Makahlapalap, and the four rows formerly owned by Daiki in the taro patch Inpahreu, all located on the main island of Pinglap Atoll, Ponape District, and the defendant Pelep Pohl, who lives in the Pohnlangas Section of Madolenihmw Municipality, Ponape District, has no rights in any of them except such as Daina Piter may permit him to exercise.

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

3. The plaintiff Daina Piter is awarded such costs as she may have had which are taxable under the first sentence of Section 265 of the Trust Territory Code, provided she files a sworn itemized statement of them within thirty (30) days after the entry of this judgment; otherwise only three dollars and fifty cents (\$3.50) costs will be allowed to cover the filing fee and the trial fee.