

CIROIT, Plaintiff  
v.  
PAHINGAI, Defendant  
Civil Action No. 208  
Trial Division of the High Court  
Ponape District  
October 19, 1967

Action to determine ownership of land on Kapingamarangi Atoll, in which plaintiff claims as transferee in line originating with prior owner's son. The Trial Division of the High Court, Associate Justice Joseph W. Goss, held that oldest son's inheritance of title of landholder is in accordance with Kapingamarangi custom and therefore title is in defendant.

1. Ponape Land Law-Kapingamarangi-Family Ownership

Under Kapingamarangi custom, land is held privately by individuals who then act as trustee or manager for benefit of entire family.

2. Ponape Land Law-Kapingamarangi-Family Ownership

Under Kapingamarangi custom, each non-holder of land in family has certain use rights in land, which include right to place to live and to share of produce.

3. Ponape Land Law-Kapingamarangi-Transfers

Under Kapingamarangi custom, landholder receives title to land by gift or, more often, by oral instructions made when previous holder is ill and feels death is imminent.

4. Ponape Land Law-Kapingamarangi-Transfers

Under Kapingamarangi custom, although there is only slight preference of man over woman as recipient of title to land, oldest son of previous holder would be very likely candidate for landholder.

5. Ponape Land Law-Kapingamarangi-Transfers

Where party claims land as transferee in line originating with prior owner's son, and line has remained in possession of that line for long period of time, and son's inheritance of title of landholder is in accordance with Kapingamarangi custom, court will not upset finding of master that land belonged to such party.

*Reporter:* JOANES EDMUND  
*Counsel for Defendant:* SAMUEL

GOSS, *Associate Justice*

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

The dispute involves land known as Ipwipw on the eastern part of the Island Ueru in the Kapingamarangi Atoll of the Ponape District.

OPINION

Both parties agree that the land was originally owned by Haiat. Plaintiff asserts that the land was left by oral instructions to Kanipel, the daughter of Haiat, who in turn left it to Herik, who in turn left it to the Plaintiff. Defendant claims the land was left by Haiat to Tohit, his oldest son, who in turn left it to Tairok, who in turn left it to the Defendant. Defendant and his predecessors have been in possession of the land and have worked it for a period of years. Plaintiff has never worked the land.

[1-4] Under Kapingamarangi custom, land is held privately by individuals who then act as trustee or manager for the benefit of the entire family. Each non-holder has certain use rights in the land which include the right to a place to live and to a share of the produce. The landholder receives title to the land by gift or, more often, by oral instructions made when the previous holder is ill and feels death is imminent. Although there is only a slight preference of man over woman as the recipient of title, the oldest son of the previous holder would be a very likely candidate for landholder. See Keneth P. Emory, *Kapingamarangi: Social and Religious Life of a Polynesian Atoll*, p. 119, 120.

[5] The Master found that the land of Haiat had passed to his oldest son Tohit. Since Tohit's line has remained in possession for a long period of time, and since his inheritance of the title of landholder is certainly in accordance with Kapingamarangi custom, this court sees no reason to upset the finding of the Master. The further findings that the land passed from Tohit to Tairok and from Tairok to Defendant are accordingly upheld. This finding does not upset any use rights in other members of the family which may be established under Kapingamarangi custom.

#### JUDGMENT

Upon consideration of the Master's Report and the transcripts 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 Pahingal is the landholder (known as Taki under Kapingamarangi custom) of the land known as Ipwipw on the eastern part of the Island of Ueru, Kapingamarangi Atoll, Ponape District. The land is approximately 120 feet wide by 120 feet long.
2. The Defendant's title and right to possession are subject to use rights in other members of his family in accordance with Kapingamarangi custom.
3. This judgment shall not affect any rights of way there may be over the property.
4. No costs are assessed against either party.
5. Time for appeal from this judgment is extended to and including January 18, 1968.