

to this action cannot agree as to the amount of money or other personal property due to the plaintiff under this judgment, either party may apply to the High Court for a further hearing to determine the specific amounts or personal property, if any, there may be due to the plaintiff under this judgment.

This order shall not affect the rights of any other persons except those set forth in this order and is made only to settle disputes between the plaintiff and the defendant as to their rights to succeed *Iroj* Leben.

TITER, Plaintiff

v.

TEIFIS and KAPELEI, Defendants

Civil Action No. 374

Trial Division of the High Court

Truk District

January 31, 1969

Action to determine ownership of land on Losap Island, Truk District. The Trial Division of the High Court, H. W. Burnett, Associate Justice, held that where land in question was lineage land it could not be sold by individuals of the lineage.

Truk Land Law-Lineage Ownership-Sales

Where those under whom defendants claimed had occupied and used the land in question only as members of the lineage and not in their own right, possession was in the lineage and the land could not be sold by such individuals.

Counsel for Plaintiff:

TOSI

Counsel for Defendant Teifis:

SICTUS, B.

BURNETT, *Associate Justice*

This matter comes before the court upon the Master's Report entered August 7, 1968, by the Honorable Olaf W.,

Associate Judge of the Truk District Court. Hearing and oral argument on the Master's Report was held on October 18, 1968.

The action involves a dispute as to ownership of the land APINIMO located in Lewel, Losap Island, Truk District. The plaintiff Titer makes claim to the land on behalf of the Soualei lineage. The dispute arose when the defendant Teifis sold half of the property and, subsequently, defendant Kapelei sold the other half, each of them contending that they owned the land in their individual right and that it did not belong to the lineage. All parties to the action are members of the Soualei lineage.

The Master concluded, and specifically found, that those under whom defendants claim had occupied and used the land only as members of the lineage and not in their own right. He also found that, while the land APINIMO had once been divided into two parts, as contended by defendant Kapelei, when it came into the possession of the lineage, the division was no longer recognized and the lineage owned it as a whole.

Defendant Teifis objected to the findings, contending that the evidence "clearly shows" that Orlando and others from whom he claims had been in possession for an extended period of time. While this may be true, I hold, as did the Master, that such possession was in the name of the lineage.

The Master's Report and his Findings of Fact are based on extensive testimony taken by him on the 25th, 26th and 27th of April of 1967, on Losap Island. I have reviewed the testimony, and conclude from all of the evidence that the Master's Findings are supported by the weight of the evidence and the report is, therefore, approved.

It is, therefore, ordered, adjudged, and decreed:-

1. The land APINIMO, located in Lewel, Losap Island, Truk District, is the property of the Soualei lineage, repre-

sented in this action by the plaintiff Titer, and neither the defendant Teifis nor the defendant Kapelei has any individual or personal rights in such land and, therefore, cannot sell or take any other action with respect to it without the consent of the lineage.

2. No costs are assessed any party.

OUCHERECHAR CLAN, Represented by Brobesong, Plaintiff

v.

E. TERMETEET and NGIWAL MUNICIPALITY,
Represented by Ignacio Sadang, Magistrate, Defendants

Civil Action No. 341

UCHESBAI CLAN, Represented! by Kodep long, Plaintiff

v.

E. TERMETEET and .NGIWAL MUNICIPALITY,
Represented by Ignacio Sadang, Magistrate, Defendants

Civil Action No. 346

Trial Division of the High Court

Palau District

February 17, 1969

Actions to determine ownership to land in Ngiwal Municipality, Palau District. The Trial Division of the High -Court, D. Kelly Turner, Associate Justice, held that by not acting regarding the transactions involved for a period of twenty years any claim the various clans may have had to the land in question had been waived.

1. Palau Land Law—Clan Ownership-Use Rights

The assignment of clan or family land to an individual to use is commonly made under Palau custom for the remainder of that individual's life, and the mere fact that such an individual lives a long time and consequently enjoys the use of the land for a long period raises no presumption of ownership of anything more than the use rights assigned.

2. Palau Land Law-Japanese Survey-Rebuttal

Boundaries marked after a Japanese hearing on the subject would control over listing in *Tochi Daicho*.