

JEDRKE and BROTHERS, Plaintiffs

v.

ALIMINA, Defendant

Civil Action No. 331

Trial Division of the High Court

Marshall Islands District

October 13, 1970

SHOECRAFT, *Chief Justice*

OPINION

This case was heard on April 24, 1970, on Likiep Atoll, by the Honorable Solomon Lenebi, of the Marshall Islands District Court, as Master. The Master's Report was entered on July 21, 1970, and copies were furnished to the parties, along with notice that said Report would be for hearing before the High Court during its September session. Neither party has requested to be heard, nor has any written exception to the Report been taken. However, a written argument was filed by counsel for the plaintiff.

This is an action in which the plaintiff claims that the defendant did not get plaintiff's permission to make copra on Lejouleb *weto*, Emijwa Island, Likiep Atoll, and that the defendant refused to give to the plaintiff the *alab's* share of proceeds from the copra.

After examination of the transcript of the hearing, the court is of the opinion that the Report of the Master is amply supported by the evidence and said Report is hereby approved.

Plaintiff has failed to prove that he is entitled to act as *alab* on said land or to receive a share of the proceeds therefrom. On the contrary, the evidence shows, and the Master's Report so finds, that Drebal, the oldest son of the

former *alab* is the rightful holder of the *alab*'s position. However, Drebal is not a party to this action.

It is ordered, adjudged, and decreed that plaintiff's complaint be and the same is hereby dismissed.

TRUST TERRITORY OF THE PACIFIC ISLANDS

v.

ESTHER CRUZ RASA

Criminal Case No. 245

Trial Division of the High Court

Mariana Islands District

November 30, 1970

Prosecution for the crime of involuntary manslaughter. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that under the Trust Territory statute involuntary manslaughter consisted of the commission of an unlawful act not amounting to a felony and thus the determination that the defendant was exceeding the speed limit when she lost control of her car with death resulting, or a finding that in attempting to pass another vehicle the defendant violated a section of the code relating to such action, also with death resulting, would in either event be sufficient to establish the defendant's guilt.

1. Homicide—Involuntary Manslaughter—Generally

To render a person guilty of manslaughter the negligent act which caused the death must have been the personal act of the party charged and not the act of another. (T.T.C., Sec. 383)

2. Homicide—Involuntary Manslaughter—Elements of Offense

Under the Trust Territory statute, involuntary manslaughter consists of commission of an unlawful act not amounting to a felony and a single act is all that is required. (T.T.C., Sec. 383)

3. Homicide—Involuntary Manslaughter—Elements of Offense

A determination by the court that the defendant was exceeding the speed limit when she lost control of her car with death resulting would be sufficient to find the defendant guilty of involuntary manslaughter. (T.T.C., Sec. 383)

4. Homicide—Involuntary Manslaughter—Elements of Offense

A finding that in attempting to pass another car the defendant violated the provisions of Section 814(b) of the Trust Territory Code with death resulting would suffice to sustain a verdict of guilty of involuntary manslaughter. (T.T.C., Secs. 814(b), 383)

5. Homicide—Involuntary Manslaughter—Elements of Offense

While criminal negligence is not an element of the Trust Territory statute on manslaughter, culpable or so-called criminal negligence, when