

thereafter. To initiate such a requirement would impose an almost impossible burden on the police and open the door for attacks on every statement made by a defendant in a criminal case where there is interrogation at various times, and it is not clear whether the full rights were given to the defendant each time.

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FELIX RABULIMAN, Defendant-Appellant

v.

MARIANA M. MATAGOLAI, Plaintiff-Appellee

Civil Appeal No. 149

Appellate Division of the High Court

Mariana Islands District

June 3, 1976

Action to determine ownership of land. Appellate Division of the High Court, Williams, Associate Justice, held that where plaintiff claimed title and authority over land in question in accordance with Carolinian custom since she was oldest female descendant in line of succession, and defendant claimed use right to a portion of land in accordance with Carolinian custom, trial court's finding for plaintiff and that defendant lost any rights he may have had in land since he made no serious claim or use of property for approximately thirty years, was supported by evidence.

**1. Laches—Generally**

Whether laches applies to a given case depends upon circumstances of the case and is a question primarily addressed to discretion of trial court.

**2. Appeal and Error—Evidence—Conflicting Evidence**

It is the function of the trial court, not the appellate court, to resolve any conflicts in evidence.

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Before BURNETT, *Chief Justice*; BROWN, *Associate Justice*, and WILLIAMS, *Associate Justice*

WILLIAMS, *Associate Justice*

This is an appeal from a judgment entered in the Marianas District High Court Civil Action No. 84-73 in favor of the plaintiff.

The original action was filed by plaintiff-appellee to determine the ownership of Lots 1856 and 1910, Land Square Sections 2 and 3, Garapan, Saipan, Mariana Islands.

Plaintiff claimed to be vested with the title and authority over the land in question in accordance with the Carolinian custom since she is the oldest female descendant in the line of succession. Defendant-appellant claimed that in accordance with Carolinian custom, he had use rights in a portion of the land in question.

The Trial Court found that appellee did have title and authority over the land and that appellant lost any rights he may have had in the land since he made no serious claim or use of the property for approximately thirty (30) years.

[1] The doctrine of laches has been recognized by the Trial Courts of the Trust Territory for many years. *Kio v. Puesi*, 6 T.T.R. 12 (Tr. Div. 1972); *Oneitam v. Suain*, 4 T.T.R. 67 (Tr. Div. 1968); *Rochunap v. Yosochuno*, 2 T.T.R. 16 (Tr. Div. 1959). Whether laches applies to a given case depends upon the circumstances of the particular case and is a question primarily addressed to the discretion of the Trial Court. *Burnett v. New York Cent. R. Co.*, 380 U.S. 424, 13 L.Ed.2d 941, 85 S.Ct. 1050, (1965).

Appellant's principal contention in his appeal is that the facts presented at the trial do not support the Court's findings. We have reviewed the record, and it does appear that while there are some conflicts in the evidence

presented, it is clear these conflicts were resolved by the Trial Court in favor of the plaintiff.

[2] This Court has previously held that it is the function of the Trial Court, not the Appellate Court, to resolve any conflicts in the evidence. *Adelbai v. Ngircholeot*, 3 T.T.R. 619 (App. Div. 1968); *Fattun v. Trust Territory*, 3 T.T.R. 571 (App. Div. 1965).

We find the evidence is sufficient to support the finding of the Court and the judgment is therefore affirmed.

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In the Matter of NASIE AIRAM

Civil Appeal No. 141

Appellate Division of the High Court

Truk District

July 7, 1976

Petition for order declaring appellant as lawful spouse and heir of deceased. Truk District Court denied petition, which judgment was affirmed by Trial Division of the High Court. On appeal, the Appellate Division of the High Court, Brown, Associate Justice, affirmed, holding that marriage of petitioner, a citizen of Trust Territory, to non-citizen, which was solemnized by a feast, was consummated, and out of which a child was born to the couple, who lived together, was nevertheless not a valid marriage since it was not solemnized by one authorized by statute relating to marriages of citizens and non-citizens.

**1. Statutes—Construction—Construction with Other Laws**

Where a statute contains a given provision, the omission of such provision from a similar statute concerning a related subject is significant to show that a different intention existed. (39 TTC §§ 51-53)

**2. Statutes—Construction—Legislative Intent**

Judicial construction of a statute should be in keeping with the natural and probable legislative purpose.

**3. Domestic Relations—Marriage—Validity**

Congress of Micronesia intended to make marriages by custom valid only between Trust Territory citizens, and as to marriages in Trust Territory involving a citizen and a non-citizen, it exercised its power to regulate and require certain procedures and forms in celebration of marriages. (39 TTC §§ 51-53, 55)