

KANTALARIA, Plaintiff
v.
ISIDRO TORRES, Defendant
Civil Action No. 7
Trial Division of the High Court
Ponape District
August 4, 1954

Action to determine ownership of land in Uh Municipality. The Trial Division of the High Court, Chief Justice E. P. Furber, held that daughter claiming right to land of her father could not inherit at time of his death and therefore title passed to deceased's older brother.

1. Ponape Land Law—German Land Title—Women's Rights

System of land inheritance for Ponape Island established by German Government in 1912 made no provision for inheritance by daughters as matter of right.

2. Ponape Land Law—German Land Title—Women's Rights

Where, at time of death of claimant's father, daughters could not inherit land under system of inheritance established by German Government for Ponape Island, title to land passed to father's brother and not to female claimant.

FURBER, Chief Justice

FACTS

1. The essential facts in this case are not disputed. The plaintiff Kantalaria introduced no evidence. She is endeavoring to establish that she owns the northern part of a lot on Ponape which was held under the standard form of title document issued by the German Government on Ponape in 1912. She bases her claim on the fact that she is the daughter and only surviving child of the man in whose name the title document for the entire lot was issued. He died about 1931, leaving no son or son's son, and leaving the defendant Isidro Torres as his oldest brother. In connection with the Japanese survey of private land on Ponape which began about 1941, the entire lot was divided at the request of the defendant Isidro, into

two parts, with the defendant Isidro Torres designated as owner of the northern part, which is that now in question, and the plaintiff Kantalaria designated as the owner of the southern part, which is not involved in this action. Kantalaria claims, however, that she inherited the whole lot on her father's death.

CONCLUSIONS OF LAW

[1, 2] 1. The system of private land ownership and inheritance established on Ponape by the German Government in 1912 and set forth in the standard form of title document covering the land in question, made no provision for the inheritance of land by daughters as a matter of right. No change which would affect this action had been made in that system up to the time of the death of the plaintiff's father. On the death of the plaintiff's father, the lot, of which the land in question is a part, passed in accordance with the terms of the title document to his older brother, the defendant Isidro Torres.

JUDGMENT

It is ordered, adjudged and decreed as follows:—

1. As between the parties and all persons claiming under them, the northern part (approximately one-half) of the lot known as Lepeir No. 200, located in the Takieu Section of the Municipality of U, is the property of the defendant Isidro Torres, a resident of the Takieu Section of U, with the benefit of and subject to all the rights and obligations imposed by the system of private land ownership set forth in the standard form of title document issued by the German Government on Ponape in 1912, as heretofore or hereafter modified by law. The dividing line between the northern part of Lepeir No. 200 and the southern part is marked by a pile of rocks located in approximately the center of the eastern boundary

line of Lepeir No. 200, another pile of rocks about 50 meters west of a road which crosses the land in a northerly and southerly direction, and a third pile of rocks located at approximately the center of the western boundary line of Lepeir No. 200.

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

3. No costs are assessed against either party.

THOMAS WEIRLAND, Plaintiff

v.

KENIO (also known as EUGENIO) WEIRLAND, Defendant

Civil Action No. 26

Trial Division of the High Court

Ponape District

August 4, 1954

Action to determine ownership of land in Net Municipality, in which petitioner claims right by inheritance to entire lands of deceased owner. The Trial Division of the High Court, Chief Justice E. P. Furber, held that land was properly divided between plaintiff and defendant, such division having been approved by *Nanmarki* and by official Japanese surveyor; rights of government in another plot of land will not be determined where government is not a party to suit, but party may continue in possession thereof pursuant to agreement in open court.

1. Ponape Land Law—German Land Title—Approval of Transfer

Where two parties, each claiming to be oldest son of deceased, holder of German land title, have agreed to divide land on Ponape Island, and division has been approved by *Nanmarki* and by Japanese surveyor, court will uphold division.

2. Ponape Land Law—German Land Title—Approval of Transfer

If land on Ponape Island has been divided with approval of *Nanmarki* and official Japanese surveyor, it makes little or no difference in whose name German title document was left or transferred to where government had given notice that it would be replaced by Japanese documents showing divisions.