

court will follow the ruling in *Serha Irons v. Petrus Mailo* 3 T.T.R. 194, and deny their recovery.

In accordance with the foregoing, it is

Ordered:

1. That appellant Penno has complied with the judgment order heretofore entered and that the appellee Katarina is denied the relief of a further order requiring Penno to vacate the land Neppeno.

2. That the request for costs submitted by Penno is denied.

INEK SEHK, Plaintiff

v.

OHANA SOHN, Defendant

Civil Action No. 232

Trial Division of the High Court

Ponape District

March 8, 1968

See, also, 3 T.T.R. 348

Action to determine ownership of land on main island of Pingelap. The Trial Division of the High Court, Joseph W. Goss, Temporary Judge, held that Master's finding that title was in defendant was supported by the evidence and also that working land for a great period of time raised a presumption of ownership without clear evidence to the contrary.

Master's Report approved.

1. Wills-Oral-Evidence

Hearsay evidence of plaintiff that his father, the beneficiary under an alleged will, had told him of its having been made, without other evidence is insufficient as a matter of law to show the existence of an oral will.

2. Real Property-Quiet Title--Presumption of Ownership

Working land for over one hundred years raises a presumption of ownership without clear evidence to the contrary.

SEHK v. SOHN

3. Former Administrations-Recognition of Established Rights

In the absence of something very specific which has happened to change rights in land since the end of the Japanese administration the court will not attempt to upset such right now.

4. Ponape Custom-Pingelap--"Wesik"

Wesik is the obligation of a donee to provide food to a donor under Pingelap custom.

<i>Master:</i>	CARL KOHLER
<i>Reporter:</i>	JOANES EDMUND
<i>Counsel for Plaintiff:</i>	KAPUS DIOFILOS
<i>Counsel for Defendant:</i>	ROBERT SmENIOS

[1] The only evidence of the will alleged by the Plaintiff was the hearsay evidence of the Plaintiff himself that his father, the beneficiary under the alleged will, had told him of its having been made. Without other evidence, this evidence is insufficient as a matter of law to show the existence of an oral will. See: 57 Am. Jur. Wills, § 851 and following.

[2,3] Further, Defendant and her mother have been working the land for over one hundred years. Working the land for this length of time raises a presumption of ownership without clear evidence to the contrary. *Kaii v. Kiyoshi*, 1 T.T.R. 609. Plaintiff is attempting to challenge rights in land which persisted during the entire Japanese administration. In the absence of "something very specific" which "has happened to change them since the end of the Japanese administration" this court will not attempt to upset them now. *Orijon v. Etjon*, 1 T.T.R. 101.

[4] Since the original gift was from Nwengesamworo, rather than from any predecessor of the Plaintiff, it is not necessary to consider Plaintiff's claim that the Defendant and her children have not performed *Wesik-the* obligation of a donee to provide food to a donor under Pingelap custom.

JUDGMENT

Upon consideration of the Master's Report and the transcript 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 thereunder, Defendant Ohana Sohn is the absolute owner of the southeastern half of the land Arasa, measuring some 100 feet long and 50 feet wide, on the main island of Pingelap in the Ponape District.