

BAULECHONG ADELBELUU (Representing his Lineage),
Plaintiff

v.

NGIRMEKUR TUCHERMEL, Defendant

Civil Action No. 391

Trial Division of the High Court

Palau District

August 13, 1969

Action to determine ownership of land in Airai Municipality, Palau District, The Trial Division of the High Court, D. Kelly Turner, Associate Justice, ordered ownership of land divided according to listing in *Tochi Daicho*.

Assessor:

JUDGE PABLO RINGANG

Interpreter:

KAZUMOTO H. RENGULBAI

Counsel for Plaintiff:

ITELBANG LUII

Counsel for Defendant:

WILLIAM O. WALLY

TURNER, *Associate Justice*

RECORD OF HEARING

This matter came on for pre-trial conference this day. After a meeting and discussion between the parties and their counsel outside the court, agreement was reached upon facts necessary to support this judgment.

FINDINGS OF FACT

Upon stipulation of counsel, the court makes the following findings of fact:-

1. The *Tochi Daicho* listing of land and the Japanese land survey maps for Airai Municipality were lost or destroyed during or after the war.

2. The land known as Ngersung in Ngerusar Village in Airai Municipality was listed in the *Tochi Daicho* & comprising five separate parcels as follows:-

Lot No. 179, comprising 12,705 *tsubo* and listed as the individual land of the defendant, Ngirmekur Tuchermel.

Lot No. 177, comprising 1,763 *tsubo*, and

Lot No. 176, comprising 662 *tsubo*, and

Lot No. 992, comprising 1,443 *tsubo*, and

Lot No. 990, comprising 262 *tsubo*,

the last four lots above are listed as property of Bairrak Lineage, administered by Mengelil Ngirarebotel.

3. Mengelil was the uncle in the maternal line of both the plaintiff and the defendant.

4. Mengelil is now deceased and the plaintiff represents the lineage.

5. The *Tochi Daicho* information was obtained by the defendant from notes copied from the *Tochi Daicho* and dated December 18, 1941. The surveys and *Tochi Daicho* listings were made in Palau between 1938 and 1941.

6. Although the Japanese survey maps have been lost or destroyed, there is no dispute between the parties as to the boundaries of the five parcels. Many of the Japanese survey markers remain in place.

7. Emau is the sister of the plaintiff, Baulechong Adelbeluu, and both represent the lineage.

8. The defendant is a member of the lineage.

In accordance with the foregoing stipulated facts, it is Ordered, adjudged, and decreed:-

1. That portion of the land, Ngersung, located in Ngerusar Village, Airai Municipality, Palau District, presently occupied and used by the defendant and formerly listed in the Japanese *Tochi Daicho* land records as Lot No. 179, comprising 12,705 *tsubo*, be and the same is hereby declared to be the individual property of the defendant, Ngirmekur Tuchermel.

2. Those parcels of the land, Ngersung, located in Ngerusar Village, Airai Municipality, Palau District, formerly listed in the Japanese *Tochi Daicho* land records as:-

Lot No. 177, comprising 1,763 *tsubo*

Lot No. 176, comprising 662 *tsubo*

Lot No. 992, comprising 1,443 *tsubo*

Lot No. 990, comprising 262 *tsubo*,

be and the same are hereby declared to be the property of the Bairrak Lineage, of which plaintiff, Baulechong Adelbeluu, and his sister, Emau, are the representatives, and are hereby declared to be the administrators of said four parcels of land.

3. That defendant, Ngirmekur Tuchermel, is a member of the Bairrak Lineage.

4. That this judgment shall not change any rights-of-way which may exist over the said lands.

5. No costs are assessed.

AUGUSTO JOSEPH, Appellant

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 304

Trial Division of the High Court

Palau District

August 15, 1969

Appeal from conviction of reckless driving. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that evidence of appellant's excessive speed and resulting uncontrolled skid demonstrated his own reckless and wanton disregard of the safety of any other user of the highway.

Judgment affirmed.

1. Reckless Driving-Mutual Fault

On appeal from conviction of reckless driving court is not concerned with any ill-advised maneuver of the complaining witness as such a