

**In the Matter of the
ANGAUR TRUST FUND
Civil Action No. 477
Trial Division of the High Court
Palau District
May 11, 1970**

Petition to amend the Angaur Mining Trust Agreement. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, ordered the Trust agreement amended as agreed upon by the parties.

<i>Assessor:</i>	JUDGE PABLO RINGANG
<i>Interpreter:</i>	PETER NGIRAIBIOCHL
<i>Counsel for Petitioner:</i>	JAMES E. WHITE, ESQ., <i>District</i>
<i>Counsel for Angaur Clans and Municipality:</i>	<i>Attorney</i> By the <i>Chiefs and Magistrate</i>

TURNER, *Associate Justice*

Pursuant to notice given by posting and by personal service upon chiefs of all Angaur clans and the magistrate of Angaur Municipality, this matter came on for hearing upon the petition of Robert A. Hefner, the Attorney General, representing Edward E. Johnston, High Commissioner of the Trust Territory of the Pacific Islands and Trustee of the Angaur Mining Trust Fund, to amend the Trust Agreement in accordance with the amendments attached to this judgment.

All chiefs of the 18 Angaur clans and magistrate of Angaur Municipality were present and were given opportunity to express their views on the proposed amendment.

The Court being fully advised in the premises and no opposition having been expressed, it is

Ordered, adjudged, and decreed:—

1. That the Angaur Mining Trust Fund Agreement executed July 16, 1950, between the Supreme Commander for the Allied Powers, the High Commissioner of the Trust Territory of the Pacific Islands, and the people of the clans of the Island of Angaur, Palau District, be and the same is hereby amended in accordance with the amendments attached hereto and incorporated herein by reference as if fully set forth herein.

2. That an integrated draft of the Angaur Mining Trust Fund Agreement as amended in accordance with this judgment be prepared in English and Palauan and upon approval by the Court be distributed to the High Commissioner of the Trust Territory of the Pacific Islands, to the chiefs of the eighteen clans of Angaur Island and to the magistrate of Angaur Municipality.

1970 REVISION OF ANGAUR MINING TRUST AGREEMENT

This 1970 revision of the Angaur Mining Trust Agreement is entered into by and between the High Commissioner of the Trust Territory of the Pacific Islands as Trustee and the Chiefs, or recognized customary heads of all of the clans of Angaur, and the Magistrate of Angaur Municipality representing all of the beneficiaries of the Angaur Mining Trust Fund.

RECITALS

Whereas, the Angaur Mining Trust Agreement was entered into by the High Commissioner of the Trust Territory of the Pacific Islands and the Chiefs of the clans of Angaur on July 16, 1950; and

Whereas, since that time certain amendments to said Trust Agreement have been made and approved by the High Court of the Trust Territory; and

Whereas, the Trustee and Beneficiaries deem it advisable, proper and necessary to revise the Trust Agreement to meet the current needs and desires of the beneficiaries:

Now, Therefore, the parties hereto agree as follows:

IN RE ANGAUR TRUST FUND

MANAGEMENT OF THE ANGAUR MINING TRUST FUND

Article 2 of the July 16, 1950 Angaur Mining Trust Agreement is hereby amended to read as follows:

"Article 2. Management of the Angaur Mining Trust Fund.

The High Commissioner of the Trust Territory of the Pacific Islands, or his successor in office, shall be the Trustee for the Angaur Mining Trust Fund. The Trustee shall receive, manage, control, protect, and invest the trust assets in accordance with the principles of law governing trust funds and in accordance with the terms of this agreement. The Trustee shall retain professional investment advice from one of the following sources: investment counselors, registered security brokers or trust departments of national or state banks in the United States or in the Trust Territory of the Pacific Islands. Said professional investment advisors shall be entitled to the standard fee as is normally charged for such services and such fee shall be paid from the trust income.

The Trustee shall require the accounting department of the Government or the said investment advisors to prepare and submit to him with annual income of the Trust, financial statements, balance sheets, and other standard financial reports on the Angaur Trust Fund to be forwarded on or before January 31st of each year to each of the eighteen clan chiefs and the Magistrate of Angaur. In addition, the Trustee will obtain statements of all income, disbursements, and investments from any professional advisors retained, said statements to be provided the Trustee on a quarterly or semi-annual basis, and the Trustee shall submit copies of such statements to each of the eighteen clan chiefs and to the Magistrate of Angaur Municipality, within thirty days after receipt by him.

The Trustee agrees to invite a representative of the beneficiaries to attend all the meetings of the Trust Fund Advisory Board, or its successor, at which the Angaur Mining Trust Fund is discussed or considered and said representative shall be considered a regular member of the Trust Fund Advisory Board for all matters concerning the Angaur Mining Trust Fund. The beneficiaries shall notify the Chairman of the Trust Fund Advisory Board of the name and address of their representative or alternate representative(s) who shall be chosen by a majority of the eighteen clan chiefs.

The Trustee shall continue to seek the advice and general recommendations of the Trust Fund Advisory Board or its successor so that the representative of the beneficiaries can keep the Trustee

advised of the wishes of the beneficiaries concerning the Trust Fund. In the event the Trust Fund Advisory Board is eliminated and no successor is established, the Trustee shall continue to seek the advice and general policy recommendations of the beneficiaries. This requirement to seek the advice of the beneficiaries shall not include advice as to specific investment for which professional advice is already obtained under the terms of this agreement but shall be limited to general policy matters concerning the Trust Fund and general investment policy.

DISTRIBUTION OF BUSINESS AND CATASTROPHE ACCOUNTS AND
INVESTMENT OF REMAINING TRUST ASSETS

Article 3 of the July 16, 1950 Angaur Mining Trust Agreement is hereby amended to read as follows:

“Article 3. *Trust Assets.*

The Catastrophe and Business Accounts, as established by the July 16, 1950 Agreement, shall be terminated and distributed as described herein. The parties agree that the principal balance of these accounts totaling \$55,000 (Business Account, \$30,000 and Catastrophe Account, \$25,000) shall be distributed to a Board of seven persons who shall be selected by the eighteen clan chiefs of Angaur and the Magistrate of Angaur Municipality. Upon notification in writing signed by all the eighteen clan chiefs and the Magistrate of Angaur Municipality that the Board has been established, the Trustee shall deliver over to the Board the assets currently held by the Trustee in the Business and Catastrophe Accounts, including any accrued interest thereon. The beneficiaries expressly agree that upon the delivery of said assets, the responsibilities and liabilities of the Trustee to manage, control, invest or otherwise act as Trustee shall terminate. As a matter of record, and not to impose any obligation upon the Trustee once the assets are delivered to the Board, the funds shall be used by the Board for municipal projects on the island of Angaur, business loans and for relief in the event of natural disasters as determined by the Board.

The balance of the trust assets, referred to in the July 16, 1950 Angaur Mining Trust Agreement as the Investment Account, shall be managed, controlled and invested by the Trustee as designated in Article 2 as amended herein and as the Trustee deems advisable and prudent, and shall be distributed in accordance with the terms described herein.”

IN RE ANGAUR TRUST FUND

DISTRIBUTION

Article 4 of the July 16, 1950 Angaur Mining Trust Agreement is hereby amended to read as follows:

"Article 4. Distribution.

Distributions by the Trustee shall be made annually. On or before January 31st of 1971, the distribution for the calendar year 1970 shall be made to the beneficiaries and each annual distribution thereafter will be made on or before January 31st of each succeeding year.

The Trustee shall, commencing with the 1970 distribution, distribute the sum of \$40,000 annually; however, if the net income of the trust fund is less than \$40,000.00 the Trustee shall notify the beneficiaries and unless the Trustee receives a request in writing from a majority of the clan chiefs for the distribution of \$40,000, the Trustee shall distribute only the net income to the beneficiaries. At the time the fair market value of the trust assets equals or exceeds \$1,061,000, a majority of the clan chiefs may request the Trustee to increase the annual distribution and the Trustee may pay the requested amount. Also, after the trust assets equal or exceed \$1,061,000, if all the eighteen clan chiefs and the Magistrate of Angaur Municipality so request in writing, the Trustee may pay additional amounts of net income in excess of \$40,000 per year to the account of the Board established under the provisions of Article 3 as amended herein.

All distributions except those authorized to be made to the Board shall be divided and distributed according to the schedule set forth in the decree of Civil Action No. 286, Palau District and as modified by the decree in Civil Action 372; provided that the accumulated undistributed income of Mrs. Ues Pedro shall become part of the trust assets and all future distributions to such account shall become part of the principal for reinvestment. Said schedule shall remain in effect until a revised schedule is, or revised schedules are, decreed by a court, having jurisdiction, to be an equitable distribution under the applicable customs and laws of Angaur and the laws of the Trust Territory.

TERMINATION OF THE ANGAUR MINING TRUST

Article 9 of the July 16, 1950 Angaur Mining Trust Agreement is hereby amended to read as follows:

“Article 9. *Duration of the Angaur Mining Trust.*

The Angaur Mining Trust shall terminate at midnight December 31, 1994, unless all of the eighteen clan chiefs of Angaur and the Magistrate of Angaur Municipality provide for an extension of the life of the trust agreement. Upon the termination of the trust, the Trustee shall distribute all the principal and income to the beneficiaries according to the distribution schedule then in effect.”

ADOPTION AND EFFECT OF THIS REVISION

The parties hereto agree and understand that this Revision must be presented to the High Court of the Trust Territory of the Pacific Islands for approval before it shall become effective. By signing this Revision the parties authorize the High Commissioner or his duly designated representative to petition said court for approval on behalf of the beneficiaries of the trust without the requirement of having the Chiefs and the Magistrate join in the petition. It is further agreed that although the High Commissioner or his representative shall cause notices to be provided for said hearing, the undersigned hereby expressly waive any further notice requirements of said court hearing.

In Witness Whereof the parties have set their hands this 10th day of February, 1970.

/s/ Ucherbelau K. Joseph
ORAKIBLAI CLAN

/s/ Gregorio Naoru Ramon
KEDIDAI CLAN

/s/ Setsuo Admeseb
BOSAOL CLAN

/s/ Edward Salii
OKEDERAOL CLAN

/s/ Orenge
SOWEI CLAN

/s/ Isechal
BLIUB CLAN

/s/ Adelbai Ongino
OCHEDARUCHEI CLAN

/s/ Martin Merep
SECHEDUI CLAN

/s/ Renguruchel Takisang
NGEUDEL CLAN

/s/ Kulibert Joseph
OURAUR CLAN

/s/ Josep Dlemel
NGERBUUCH CLAN

/s/ Blau
NGERECHELBUCH EB CLAN

IN RE ANGAUR TRUST FUND

/s/ Iderrech

KEDAM CLAN

/s/ Ngiradonges

IBELKUNGEL CLAN

/s/ Smau A.

METUKER CLAN

/s/ Obak Temengil

UCHELIOU CLAN

/s/ Omuik

NGEUCH CLAN

/s/ Tomei

NGERUCHELBELUU CLAN

/s/ Adelbai Ongino

MAGISTRATE OF ANGAUR
MUNICIPALITY

WITNESSES:

/s/ Andres Ucherbelau

Signed this 14th day of April, 1970.

/s/ Edward E. Johnston

Edward E. Johnston
High Commissioner of the Trust
Territory of the Pacific Islands,
Trustee

STATEMENT

I, Lazarus Salii, a citizen of the Trust Territory and Senator, Congress of Micronesia, state and declare that I was a witness to the signing of the within document and that further I personally saw Isechal, Chief of the Bliub Clan and Tomei, Chief of the Ngeruchelbeluu Clan sign their marks, they being persons unable to read or write; that before affixing their marks to the said document I personally read to them the contents of the document and that they fully understood same and executed the document as their free and voluntary act and deed.

IN WITNESS WHEREOF, I hereunder set my hand this 13th day of March, 1970.

/s/ Lazarus Salii

Lazarus Salii

CERTIFICATION AS TO TRANSLATION

I, Lazarus Salii, a citizen of the Trust Territory and Senator, Congress of Micronesia, hereby certify that to the best of my knowledge and ability, I correctly and accurately interpreted and translated the provisions of the within agreement from the English language into the Palauan language; that I am familiar, conversant and have a working knowledge of both languages; that I answered all questions relating to the terms and provisions of the agreement asked by the within named Beneficiaries of the Angaur Mining Trust Agreement to their complete satisfaction and that the within named Beneficiaries of the Angaur Mining Trust Agreement indicated to me that they understood fully the contents of the within agreement.

IN WITNESS WHEREOF, I hereunder set my hand this 13th day of March, 1970.

/s/ Lazarus Salii

Lazarus Salii

OTTO and PIU, Plaintiffs

v.

KONANG, Defendant

Civil Action No. 429

Trial Division of the High Court

Truk District

May 19, 1970

Action to determine ownership of land on Moen Island, Truk District. The Trial Division of the High Court, H. W. Burnett, Associate Justice, held that land in question had been the subject of a determination of ownership and as no appeal had been taken from that determination that finding would control.

1. Trust Territory—Land Law—Determination of Ownership

A determination of ownership, from which no appeal is taken, has a standing similar to a judgment between the parties.

2. Trust Territory—Land Law—Determination of Ownership

When a determination of ownership becomes final it is as conclusive as if it were embodied in a judgment of the court, and cannot be reopened and the issues relitigated.