

and transfer were specifically conditioned by an agreement for support which was violated, the court confirmed cancellation and transfer to another person.

[3] In this case, evidence as to a specific agreement, as conditioning the transfer, is slight. I find, however, that, under recognized custom in Ponape, a division and transfer of land by a father to his children carries with it a clear obligation to care for and support the father during his lifetime. Obviously this was Charley's understanding; it seems equally clear that Welter so understood it as well, in view of his seeking permission, on at least one occasion, to enter the land to make copra.

Charley's will effectively revoked the original transfer, and gave the right of inheritance to Rainet David; Rainet succeeded to ownership upon the death of Charley.

It is therefore ordered, adjudged, and decreed:—

1. As between these parties and all persons claiming under them, Lot No. 507 of the land Ponkola, Leak Section, Madolenimw, Ponape District, is the property of, and owned by, Rainet David. The defendant Welter David has no rights therein, notwithstanding registration of said lot in his name in District Land Office records.

2. No costs are assessed against any party.

PIUS IREWEI, Plaintiff

v.

OMUHUWONG, Defendant

Civil Action No. 542

Trial Division of the High Court

Palau District

July 7, 1970

Action to determine right to use lineage land in Koror Municipality. The Trial Division of the High Court, H. W. Burnett, Associate Justice, held that pursuant to a prior judgment where there was a lineage adminis-

IREWEI v. OMUHUWONG

trator of the land, no assignment of it or right to use it could be made over the administrator's objection without the joint concurrence of both the male and female heads of the clan.

1. Judgments—Summary Judgment

Where no material issue of fact is present, the court may proceed to decide the dispute as a matter of law.

2. Palau Land Law—Chief's Title Land—Transfer

Whatever might be required to grant use rights in chief's title land to a member of the lineage, it is clear that there must be approval of the lineage itself and if the administrator of such land objects no assignment of land, or right to use it, can be made without the joint concurrence of both the male and female heads of the clan.

<i>Assessor:</i>	JUDGE PABLO RINGANG
<i>Interpreter:</i>	KAZUMOTO H. RENGULBAI
<i>Counsel for Plaintiff:</i>	ITELBANG LUIH
<i>Counsel for Defendant:</i>	PRO SE

BURNETT, *Associate Justice*

Plaintiff brought this action to stop defendant from occupying and building on the land known as Itungelbai, recorded as Lot No. 860 in the *Tochi Daicho*. Defendant claims that, as a member of the Itungelbai Lineage, which owns the land, and with the consent of Bilung, female head of Idid Clan, of which Itungelbai is a part, she has the right to use the land.

[1] The facts, as developed by the pleadings and on pre-trial conference, are not in dispute. In such case, where no material issue of fact is present, the court may proceed to decide the dispute as a matter of law. Plaintiff has moved for entry of summary judgment.

Lot No. 860 was the subject of dispute in a previous action, in which the plaintiff herein was defendant, *Medaliwal v. Pius Irewei*, 2 T.T.R. 546. The judgment in that action held that the land “. . . is owned by the Itungelbai Lineage (within the Idid Clan) as chief's title land; the defendant Pius Irewei, who lives in Koror, is

entitled to administer it unless and until the lineage, with the approval of the male and female heads of the Idid Clan, makes some other arrangement about it,”

There is no suggestion by defendant that any “other arrangement” has been made with respect to administration of the land. It follows that plaintiff remains as administrator.

[2] The previous action dealt with an attempted sale of Lot No. 860 and held that no sale of the chief’s title land could be effective without the consent of the “strong senior members” of the lineage, as well as the male and female head of the clan. Whatever might be required to grant use rights in the land to a member of the lineage, it seems clear that there must be approval of the lineage itself. If the administrator objects, as plaintiff does here, no assignment of the land, or right to use it, can be made without the joint concurrence of both the male and female heads of the clan, which would, in effect, constitute the “other arrangement” referred to in the prior judgment.

In the absence of action to remove rights of administration from plaintiff, he is entitled to control use of the land.

It is therefore ordered, adjudged, and decreed:—

1. As between these parties and all persons claiming under them, the land Itungelbai, Koror Municipality, Palau District, listed as Lot No. 860 in the *Tochi Daicho*, is owned by the Itungelbai Lineage, of the Idid Clan, as chief’s title land, and the plaintiff Pius Irewei is entitled to administer it. The defendant Omuhuwong has no rights therein without first obtaining the consent of the lineage, which she does not now have.

2. No costs are assessed.