

MOSES, Plaintiff
v.
KITEREN, Defendant
Civil Action No. 5-73
Trial Division of the High Court
Ponape District
October 2, 1975

Dispute over title to land. The Trial Division of the High Court, Brown, Associate Justice, held that child born out of wedlock, not husband of child's mother, was entitled to land mother owned upon her death.

1. Ponape Land Law—Kapingamarangi—Family Ownership

Child born out of wedlock was entitled to her mother's land upon mother's death, as against claim of mother's husband that he was entitled to the land because he had supported his wife during their marriage.

2. Ponape Land Law—Kapingamarangi—Family Ownership

Under Kapingamarangi customary law, a husband is not entitled to compensation from his wife for supporting her during their marriage, and thus is not entitled on that ground to her solely-owned land upon her death.

<i>Master:</i>	CARL KOHLER, <i>Presiding District Court Judge</i>
<i>Reporter:</i>	LOIS ANSON
<i>Counsel for Plaintiff:</i>	ADONAI ADOL
<i>Counsel for Defendant:</i>	SAMWEL CHARLEY

BROWN, Associate Justice

This case comes before this court by way of the Pre-Trial Order and Findings of Fact made by the Master appointed herein.

The parties dispute the title to and ownership of a certain taro patch on the island of Are, Kapingamarangi Atoll.

It is established by stipulation or by a preponderance of the evidence that the taro patch, known as Ruwawa, is approximately thirty (30) feet wide and fifty (50) feet long. It originally was owned by Dikepa who died sometime

during the Japanese Administration. He had a daughter named Rusa who died sometime during this administration.

Rusa was married to plaintiff, Moses, and there was no legitimate issue of that marriage; but prior to her marrying Moses, Rusa gave birth to a daughter, Kiteren, who is the defendant.

Moses claims title to the taro patch upon the theory that he had supported Rusa during their marriage, that Rusa thus became indebted to him, and therefore plaintiff should take title to the taro patch.

Defendant claims title by way of inheritance from her mother who told her to work on the taro patch because she would inherit it, and defendant did such work.

[1, 2] The Master found and this court agrees, that defendant is entitled to be declared to be the owner of the said taro patch, which she inherited from her mother, and that title thereto passed to her as of the date of Rusa's death. Further, under Kapingamarangi customary law, plaintiff has no right, title, or interest in or to the said taro patch; for a husband is not entitled to compensation from his wife for supporting her during the marriage. Accordingly, it is hereby

Ordered, Adjudged and Decreed that

1. Judgment be, and it is in favor of Defendant and against Plaintiff;
2. Defendant, Kiteren, is declared to be, and she is the owner of and has title to the taro patch, Ruwawa, located on Are Island, Kapingamarangi Atoll, Ponape District;
3. This judgment shall not affect any rights of way there may be over, along, or upon said taro patch; and
4. Costs are awarded to Defendant herein.