

OBAK SNGAID, Plaintiff
v.
JONES NGORIAKL, Defendant
Civil Action No. 590
Trial Division of the High Court
Palau District
February 25, 1974

Quiet title action. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held in favor of defendant.

1. Palauan Land Law—Transfers

Transfer of clan land must have the unanimous approval of the strong senior members of the clan, and they must be given notice and opportunity to be heard, even those not living in the clan hamlet.

2. Palauan Land Law—Chief's Title Land—Use

Defendant disavowing any ownership interest in land he lived on with approval of clan chief did not need clan approval of chief's decision where the land was chief's title land and the chief was entitled to its exclusive use and control.

Counsel for Plaintiff:
Counsel for Defendant:

JONAS OLKERIL
FRANCISCO ARMALUUK

TURNER, *Associate Justice*

This was an action to quiet title to land known as Tehekii, chief's title land of the Tehekii Clan in Koror, Palau Islands. Plaintiff brought the action as representative of the clan even though the holder of the paramount title of the clan, the *Rechucher*, is Charley Gibbons.

Defendant was living on the land and the plaintiff sought his ejection in this motion.

Cancellation of a transfer to an individual of the parcel in question was accomplished by *Rechucher* Gibbons in 1955 in *Gibbons v. Kisaol*, 1 T.T.R. 219. The trial court decision ordering the ejection of Kisaol and setting aside

the attempted transfer to her was affirmed on appeal to the Appellate Division in *Kisaol v. Gibbons*, 1 T.T.R. 597.

[1] In these former decisions pertaining to this land two basic principles of Palauan customary land law were set forth. Both of these principles were the basis of plaintiff's action against Ngoriakl.

The first of these in the *Gibbons* case was that all of the senior clan members were not notified concerning a clan meeting at which the transfer was supposed to have been approved. Three clan members who were not notified of the meeting, including Gibbons, lived in Ngaraard, a village distant from Koror. The Court held that even though clan members were not living in the clan hamlet on Koror they were entitled to notice and an opportunity to be heard at the clan meeting.

The other principle of custom was the familiar one that transfer of clan land must have unanimous approval of the strong senior members of the clan.

The Court said in *Gibbons*:—

“The court holds, however, that chief's title land in the Palau Islands cannot be voluntarily transferred by a clan without the consent of at least every adult clan member in the maternal line living in the Palau Islands, given either personally or through someone entitled under Palau custom to represent him.”

The clan titleholder at the time of the attempted transfer to Kisaol was Ngoriyakl who later became the *Ibedul*, the paramount chief for the southern half of Palau. Gibbons succeeded him as clan title bearer. Ngoriyakl asked Gibbons to permit his son, the defendant, Jones, to live on the chief's title land. Gibbons agreed and defendant entered the land in 1969. No meeting was held nor approval granted for the action.

[2] Defendant disavowed any ownership interest in the parcel on which he was living. He was living on the land as

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a clan member with permission of the clan chief. Under the circumstances it was not necessary to obtain clan approval. Permission of the chief was sufficient because as was said in the Court's holding in the *Gibbons* decision:—

“The land known as Techekii . . . is chief's title land of the Techekii Clan, and the plaintiff, Charley Gibbons, as chief or *Rechucher* of the clan, is entitled to its exclusive use, if he wants it, and to the exclusive control of its use if he does not want to use it himself.”

In view of defendant's disavowal of any interest in the land except a use right granted by the title bearer, it is

Ordered, adjudged and decreed:—

1. That defendant may remain on and use the land known as Techekii as long as he fulfills his obligation to the clan and the permission to use and occupy granted by the *Rechucher* remains in effect.

MANUEL T. CRUZ, et al., Plaintiffs

v.

EDWARD E. JOHNSTON, individually and in his capacity as High
Commissioner of the Trust Territory of the Pacific Islands,
Defendant

Civil Action No. 46-73

Trial Division of the High Court

Mariana Islands District

March 1, 1974

Motion for orders in aid of judgment. The Trial Division of the High Court, Burnett, Chief Justice, issued orders in aid of the judgment.

Homesteads—Homestead Deed from Government

Government, which lost class action for conveyance of homesteader deeds and proceeded to issue deeds giving a lesser interest than previously issued deeds and referring to probable survey deficiencies, would be required to issue deeds similar to those previously issued.