

**FILIMEW, Plaintiff**

**v.**

**PEDRO PONG, Defendant**

**Civil Action No. 1**

**District Court for the Yap District**

**September 18, 1951**

Action to determine ownership and use rights of *Gupin* land. The District Court for the District of Yap, District Judge, E. P. Furber, held that where clan for which defendant claims transferred use rights only for life of transferee, latter had no authority to control disposition of land or any rights in it after his death.

**1. Yap Land Law—Patrilineal Ownership—Use Rights**

Fact that Yappese clan permitted use rights to be exercised for many years by non-member of clan, that clan has had no meeting for several years and has no active leader, and that many members of clan have moved away, does not deprive clan of ownership of land.

**2. Yap Land Law—Patrilineal Ownership—Use Rights**

Where clan permitted use rights to be exercised for many years by non-member of clan, and transferee had no authority to dispose of land after his death, question of who shall now have use rights in land or what disposition shall be made of it can still be determined by clan meeting in accordance with Yap custom.

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**FURBER, District Judge**

**FINDINGS OF FACT**

1. The clan for which the defendant claims in this case was referred to in the pre-trial order and several times during the trial as the Faniif Clan, but its full name is Faniifinimaday.

2. The Faniifinimaday Clan gave the use-rights in the land in question under the clan to Rutmag for his life. It gave him no rights in the land extending beyond his death and he had no authority to control the disposition of the land or any rights in it after his death.

3. The Faniifnimaday Clan has not died out.

4. Since the death of Rutmag, the entire ownership of the land in question has been, and still is, in the Faniifnimaday Clan.

#### CONCLUSIONS OF LAW

[1] 1. Neither the fact that the Faniifnimaday Clan permitted the use-rights in the land in question to be exercised for many years by Rutmag who was not himself a member of the clan although his father was a member, nor the fact that the clan has not held any meeting for some years and has no active leader, nor the fact that a number of members of the clan have moved away from Tamiil, nor the combination of these facts, deprives the clan of its ownership of the land in question.

[2] 2. The question of who shall now have the use-rights in the land or what disposition the clan wishes to make of the land can still be determined by a meeting of the Faniifnimaday Clan in accordance with Yappese custom.

3. Attention is invited to the fact that there are only a few pieces of land in the Yap Islands of the kind known as "chief's land", which it was agreed this land is.

#### JUDGMENT

After trial, it is ordered, adjudged and decreed as follows:—

1. As between the parties and anyone claiming under them, the land Gupin belongs to the Faniifnimaday Clan.

2. The evidence introduced fails to show any lawful determination as to who should have the use-rights in this land under the Faniifnimaday Clan. The question of who should have these use-rights or what disposition the clan wishes to make of the land may be determined by a meeting of the Faniifnimaday Clan in accordance with Yappese

custom. So far as possible, all adult members of the Faniifnimaday Clan living in Tamiil shall be notified of any meeting called to decide about the use-rights in or disposition of Gupin, and all of them shall be allowed to attend.

3. Zaragan, Magistrate of Tamiil, is requested to:—

a. Try to see that all adult members of the Faniifnimaday Clan living in Tamiil know about the Court's decision in this case;

b. Try to see that all adult members of the Faniifnimaday Clan living in Tamiil are notified of any meeting to be held by the clan to determine who shall have the use-rights in Gupin or what disposition shall be made of it;

c. Notify Pitmag, Clerk of Courts for the Yap District, as soon as practical of any decision made by the Faniifnimaday Clan about the use-rights in Gupin or the disposition of it.

4. No costs are awarded in this action.