

**ARBEDUL, Plaintiff**  
v.  
**NGIRTURONG, Defendant**  
Civil Action No. 11  
Trial Division of the High Court  
Palau District  
September 2, 1953

Action to determine ownership of land in Ngaraard Municipality, in which plaintiff claims on behalf of family within clan which for many years owned land, and defendant claims as transferor from chief of that clan. The Trial Division of the High Court, Chief Justice E. P. Furber, held that chief of clan has no authority to dispose of land owned by family within clan without consent of such family.

**1. Palau Land Law—Family Ownership**

Under Palau system of clan and family organization, lands owned by individual families within clan constitute class of property distinct from lands owned by clan as a whole.

**2. Palau Land Law—Family Ownership**

Within Palau clan, status of both family property and clan property is clearly recognized.

**3. Palau Land Law—Family Ownership**

Under Palau custom, chief of clan has no authority to dispose of land owned by family within clan without consent of such family.

**4. Palau Land Law—Japanese Survey—Rebuttal**

Recognition by Japanese Government surveyors of purported transfer of land to individual is at most only some evidence that effective transfer has been made, and does not prevent court from inquiring into true situation.

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*FURBER, Chief Justice*

**FINDINGS OF FACT**

1. Iruang, the land in question in this action, has been owned for many years by the Romei family of the Idung clan. This is the plaintiff's family on whose behalf he makes claim in this action.

2. The Romei family have never consented to the transfer of the land in question to anyone.

3. Elebuchel, as Rebechong ra Idung (that being the title of the chief of the Idung clan) and also head of the Itelilii family of that clan, purported about 1941 to give the land in question to the defendant Ngirturong, in exchange for other land, without any authorization from anyone else in the clan. This exchange was later acquiesced in by at least some of the Itelilii family, but not by any of the Romei family.

4. The purported transfer by Elebuchel to the defendant, Ngirturong, was recognized by the Japanese Government surveyors.

CONCLUSIONS OF LAW

[1-3] 1. Under the Palauan system of clan and family organization, lands owned by the individual families within a clan constitute a class of property distinct from the lands owned by the clan as a whole. They may sometimes be loosely referred to by persons outside a particular clan as being lands of the clan, but within the clan the different status of these two kinds of property is clearly recognized. The chief of the clan has no authority to dispose of family land owned by a family within the clan without the consent of that particular family. It is not necessary in this case to determine the exact minimum requirements for a transfer of family land, since in this instance there has been no evidence of consent by anyone in the family or authorized to act for it. The term "family" is used in this action in the extended sense sometimes referred to as a "lineage".

[4] 2. The recognition by the Japanese Government surveyors of the purported transfer of this land to the defendant is at the most only some evidence that an effective transfer had been made. It does not prevent the court from inquiring into the true situation. In this instance any presumption that might arise from the recog-

dition by the Japanese surveyors has been effectively rebutted and shown to be in error.

#### JUDGMENT

It is ordered, adjudged and decreed as follows:—

1. As between the parties and all persons claiming under them, the parcel of land known as Iruang located in the Ngebuked Section of Ngaraard Municipality on Babelthaup Island in the Palau District, is owned by the Romei family of the Idung clan.

2. This judgment shall not affect any rights of way which may exist over or across the land in question.

3. No costs are assessed against either party.

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**NGIRCHONGERUNG, Plaintiff**

v.

**NGIRTURONG, Defendant**

Civil Action No. 8

Trial Division of the High Court

Palau District

September 3, 1953

Action to determine ownership of land in Ngaraard Municipality, in which former chief of clan purported to give land to individual who held use rights therein. The Trial Division of the High Court, Chief Justice E. P. Furber, held that under Palau customary law, if land at time of purported gift was family or clan land, chief had no authority to dispose of it without consent of family or clan owning land.

**1. Palau Land Law—Family Ownership**

Under Palau custom, chief of clan has no authority to dispose of family land owned by family within clan without consent of that particular family.

**2. Palau Land Law—Clan Ownership—Transfer**

Under Palau custom, chief of clan has no authority to dispose of clan land without consent of clan.