

**ERNIS IOSEP, Plaintiff**

v.

**WELIANter and ERNER HADLEY, Defendants**

**Civil Action No. 76**

**Trial Division of the High Court**

**Ponape District**

**May 7, 1957**

Action to determine ownership of land in Metalanim Municipality, in which plaintiff claims ownership of land under German land title. The Trial Division of the High Court, Chief Justice E. P. Furber, held that defendant was owner as against all persons except government since he was purchaser of land with approval of *Nanmarki* from person who was shown by Japanese survey to have been donee of land in dispute as part of prior division of land.

**Ponape Land Law—German Land Title—Approval of Transfer**

Where owner sells land with approval of *Nanmarki* but not that of government, transferor has legal title pending further action by government, but transferee is entitled to be treated as owner as against all persons except government.

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**FURBER, Chief Justice**

**FINDINGS OF FACT**

1. Iosep purported to give Perez the part of Sallong which included the land in question in this action.

2. Perez purported to divide the part of Sallong given him as above and to give the land now in question to the defendant Welianter with the knowledge and acquiescence of the plaintiff Ernis.

3. The above division and the results of the above gifts were approved by the *Nanmarki* and by the official Japanese surveyors on behalf of the Head of the Ponape Branch Office in connection with the survey of private land on Ponape which began about 1941.

4. The defendant Welianter purported to sell the land in question to the defendant Erner Hadley during the American period of administration.

5. This sale from Welianter to Erner Hadley was approved by the *Nanmarki*, but no consent to it by the government has been shown beyond the action of the *Nanmarki* who was also Chief Magistrate of Metalanim at the time he gave his approval.

#### CONCLUSIONS OF LAW

1. This action involves the ownership of part of a larger lot of land on Ponape covered by a title document in the standard form issued by the German Government on Ponape in 1912. The plaintiff Ernis claims to have inherited the land as the oldest son of Iosep, to whom the title document for the larger tract was issued.

2. So far as the division of the lot, the gift of part of it to Perez and the gift of the land now in question to Welianter are concerned, this action is governed by the principles set forth by this court in its Conclusions of Law in *Teresita and Phelip v. Ioakim and Eneriko*, 1 T.T.R. 147, in the second paragraph of its Conclusions of Law in *Thomas Weirland v. Kenio Weirland*, 1 T.T.R. 201, in the second paragraph of its Conclusions of Law in *Belimina and Klaukus v. Pelimo*, 1 T.T.R. 210, and in the first paragraph of its Conclusions of Law in *Welenten Pernando v. Paulus and Liwi Siliver*, 1 T.T.R. 32.

3. So far as the sale from Welianter to Erner Hadley is concerned, the action is governed by the principles set forth in the fifth paragraph of the Conclusions of Law in *Godlieb v. Welten and Others*, 1 T.T.R. 175, and the fourth paragraph of the Conclusions of Law in *Fridorihg Lusama and Others v. Eunpeseun*, 1 T.T.R. 249. The defendant Welianter still has the legal title pending action by the government as to the sale, but until there is further action by the government the defendant Erner is entitled to be treated as the owner as against all persons, except the government.

JUDGMENT

It is ordered, adjudged, and decreed as follows:—

1. As between the parties and all persons claiming under them, the land located in the Temen Section of Metalanim, Ponape Island, designated as Lot No. 460 on the Japanese Government Survey Map of about 1942, and constituting a part of the tract known as Sallong, is to be treated as the property of the defendant Erner Hadley, who lives at the Metalanim Plantation, with the benefit of and subject to all the rights and obligations imposed by the system of private land ownership set forth in the standard form of title document issued by the German Government on Ponape in 1912, as heretofore or hereafter modified by law, unless and until the Government of the Trust Territory of the Pacific Islands takes action to upset or affirmatively disapprove the transfer of this land from Welianter to him.

2. The defendant Erner Hadley has as complete control over the land in question as he would have if a separate German title document had been issued for it.

3. This judgment shall not affect any rights of way there may be over the land in question.

4. No costs are assessed against any party.