

NUSIA, Plaintiff  
v.  
SAK, Defendant  
Civil Action No. 79  
Trial Division of the High Court  
Truk District  
June 30, 1958

Action to determine ownership of land held by matrilineal lineage on Moen Island. The Trial Division of the High Court, Chief Justice E. P. Furber, held that issue of male members of lineage had no ownership rights in absence of agreement to transfer title by all members of lineage or clear acquiescence in definite transfer; where male issue used land with other members, Court may find a life use but will not find any transfer of title.

1. **Truk Land Law—Lineage Ownership**

Matrilineal family or lineage ownership is most common form of ownership on Truk Atoll.

2. **Truk Land Law—Lineage Ownership—Transfers**

Under Truk custom, transfer of matrilineally held land to issue of male members is not to be presumed without showing of positive agreement by entire lineage or clear acquiescence in definite transfer.

3. **Truk Land Law—Lineage Ownership—Use Rights**

Under Truk custom, use of lineage land by *afokur* is in accord with custom, but rights of *afokur* extend no further than particular permission granted.

4. **Truk Land Law—Lineage Ownership—Use Rights**

Under Truk custom, granting of permission to *afokur* to use land for his lifetime does not imply any loss of ownership by lineage.

5. **Truk Land Law—Lineage Ownership—Use Rights**

Under Truk custom, where lineage members actively use land with *afokur*, evidence is clearly insufficient to show any transfer of title to land to him.

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FURBER, *Chief Justice*

FINDINGS OF FACT

1. The land in question has been worked by members of Kefit's lineage, under claim of ownership, at least since German times.

2. This lineage has allowed certain of Kefit's grandchildren and great-great-grandchildren, including the plaintiff Nusia, to work the land with them, live on it and own particular trees there, but the plaintiff has not sustained the burden of showing any transfer of ownership of the land from the lineage.

3. The lineage has agreed that the defendant Sak, as one of its members, should have principal responsibility for the land within the lineage.

#### CONCLUSIONS OF LAW

[1] 1. The type of matrilineal family or lineage ownership of land involved here is traditionally, the commonest, most naturally to be expected, form of ownership of land in the islands of the Truk Atoll. See Section 5 in "Report: Native Land Tenure in the Truk District", dated 6 June 1950 by John L. Fischer, Anthropological Field Consultant.

[2] 2. Transfer of land so owned to the issue of male members of the lineage is not to be presumed without a showing of positive agreement by the lineage as a whole, or clear acquiescence in a definite transfer.

[3, 4] 3. A certain amount of use of lineage land by "*afokur*" (issue of male members of the lineage), with the consent of the lineage, is to be expected, and is in accord with custom, but their rights are strictly dependant on the permission of the lineage, extending no further than the particular permission granted. The granting of such permission for the lifetime of a particular "*afokur*" does not imply any loss of ownership by the lineage, even if the "*afokur*" happens to live a long time.

[5] 4. In the present case, where the lineage members were actively using the land with the "*afokur*", the evi-

dence is considered clearly insufficient to show any transfer of title to the land.

#### JUDGMENT

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

1. As between the parties and all persons claiming under them:—

a. The land known as Mechen, located in Tunuk Village on Moen Island, Truk District, is owned by the lineage now consisting of the descendants in the female line of Lepichion, represented in this action by the defendant Sak, who lives in Tunuk Village, and to whom the lineage has assigned principal responsibility for this land.

b. The plaintiff Nusia, who also lives in Tunuk Village, has no rights in the land in question, except the right to use it with the defendant Sak in accordance with permission granted by him on behalf of the lineage, and the right to go on the land to care for and harvest from particular trees owned by her on the land in question.

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

3. No costs are assessed against either party.