

**THOL THEO, Appellant**  
**v.**  
**TRUST TERRITORY OF THE PACIFIC ISLANDS, and**  
**its ALIEN PROPERTY CUSTODIAN, Appellees**

Civil Action No. 186

Trial Division of the High Court

Palau District

October 25, 1960

Appeal from District Land Title Determination which is inconsistent with findings of fact and opinion of Title Officer. The Trial Division of the High Court, Chief Justice E. P. Furber, held that where District Land Title Officer's decision is dictated or made for him by his administrative superiors, new trial or reversal will be granted on appeal unless appellant is not prejudiced thereby.

Remanded.

**1. Administrative Law—Land Title Determination**

District Land Title Officer, when making determination of ownership, is acting in quasi-judicial capacity.

**2. Administrative Law—Land Title Determination—Hearing Officer**

District Land Title Officer, when making determination of ownership, is expected to exercise his own honest best judgment in determining facts from evidence and applying law thereto.

**3. Administrative Law—Land Title Determination—Hearing Officer**

If there is room for reasonable difference of opinion in regard to making determination of ownership, either as to facts or applicable law, parties are entitled to District Land Title Officer's own opinion.

**4. Administrative Law—Land Title Determination—Hearing Officer**

In making determination of ownership, District Land Title Officer's decisions cannot properly be dictated or made for him by his administrative superiors.

**5. Administrative Law—Land Title Determination—Hearing Officer**

Where District Land Title Officer's decision in making determination of ownership is shown to have been dictated or made for him by his administrative superiors, new trial or reversal will be granted on appeal, unless it is clear that appellant is not prejudiced thereby.

*Assessor:* JUDGE PABLO RINGANG  
*Interpreter:* SYLVESTER P. ALONZ  
*Counsel for Appellant:* GEORGE W. GROVER, ESQ.,  
*Public Defender,*  
and NOBUO S. WILEY  
*Counsel for Appellees:* ALFRED J. GERGELY, ESQ.,  
*District Attorney*

FURBER, *Chief Justice*

This is an appeal under Office of Land Management Regulation No. 1.

It was agreed by counsel that this appeal be considered upon the information in the Land Title Officer's file and oral arguments in this court.

The Alien Property Custodian of the Trust Territory was joined as an additional appellee without objection by either of the original parties, and Mr. Gergely stated that he appeared for both appellees.

Both counsel submitted oral argument and indicated that they would prefer a new trial in this court rather than have the matter referred back to the Title Officer for further hearing, if the court felt further evidence was needed. From an examination of the record in the Title Officer's file, it clearly appeared that the Determination of Ownership and Release is inconsistent with the finding of facts and opinion of the Title Officer and can hardly have been the result of the free exercise of his own judgment. Furthermore, it appeared to the court that the evidence in the record was not so conclusive that a fair determination on the merits could be made without the taking of further evidence.

#### OPINION

[1-5] The court is firmly of the opinion that a District Land Title Officer, when making a Determination of Ownership under Office of Land Management Regulation No. 1, is acting in a quasi-judicial capacity and is expected

to exercise his own honest best judgment in determining the facts from the evidence presented and in applying the law thereto. If there is room for any reasonable difference of opinion, either as to the facts or the applicable law, the parties are entitled to the Title Officer's own opinion, and his decisions cannot properly be dictated or made for him by his administrative superiors. If they are shown to have been so dictated or made, a new trial or a reversal will be granted by this court on appeal, unless it is clear the appellant was not prejudiced thereby. 42 Am. Jur., Public Administrative Law, § 141, note 9.

ORDER

Trial de novo on this appeal is granted subject to the consideration of all evidence in the Title Officer's file without its being reintroduced.

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OSIMA, Plaintiff

v.

RENGIL and RECHESENGEL, Defendants

Civil Action No. 126

Trial Division of the High Court

Palau District

November 17, 1960

Action to determine ownership of land in Ngaraard Municipality, in which plaintiff claims on behalf of clan and defendant claims as successor in interest of person listed in Japanese survey as individual owner. The Trial Division of the High Court, Chief Justice E. P. Furber, held that since plaintiff failed to sustain burden of showing survey determination was wrong, survey listing controls.

**1. Palau Land Law—Japanese Survey—Presumptions**

Determinations made in official Japanese land survey of 1941, while not conclusive, are entitled to great weight.

**2. Palau Land Law—Japanese Survey—Presumptions**

Burden is on party who disputes determination made in Japanese land survey to show that it is wrong.