

**ILILAU, Appellant**  
v.  
**IDUB, Appellee**  
Civil Action No. 201  
Trial Division of the High Court  
Palau District  
April 6, 1961

Appellant was given opportunity to present further evidence regarding appeal in Civil Action No. 132, Trial Division of High Court for Palau District. The Trial Division of the High Court, Chief Justice E. P. Furber, held that since appellant failed to show error in inference drawn by trial court, previous opinion on appeal sufficiently covers matter.

Affirmed.

**Appeal and Error—Notice and Filing of Appeal—Excuse for Late Filing**

Where appellant on appeal from judgment in District Court is given opportunity to present further evidence and fails to show error in inference or assumption drawn by trial court, trial court's assumption is taken to be correct.

*Assessor:*

JUDGE PABLO RINGANG

*Interpreter:*

SYLVESTER F. ALONZ

*Counsel for Appellant:*

JOHN O. NGRAKED

*Counsel for Appellee:*

BENJAMIN MERSAI

**FURBER, Chief Justice**

It appears from the record that the appellant, after opportunity to present further evidence in accordance with the previous opinion of this court, has failed to show that there was any error in the inference or assumption drawn by the trial court which was the occasion for this court's granting an opportunity for further evidence. The court therefore believes that its previous opinion in Palau District Civil Action No. 132 sufficiently covers the matter and that the trial court's assumption in question must now be taken to be correct.

## JUDGMENT

The judgment of the District Court for the Palau District, entered November 1, 1960, in its Civil Action No. 189 is affirmed without costs.

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**NGIRATKEL ETPISON, Appellant**

v.

**RUDIMCH INDALECIO, Appellee**

Civil Action No. 203

Trial Division of the High Court

Palau District

April 6, 1961

Appeal from judgment in Palau District Court for damages arising out of automobile accident. Defendant claims accident was caused by negligence of plaintiff's driver. The Trial Division of the High Court, Chief Justice E. P. Furber, held that doctrine of last clear chance applies where defendant's driver had reasonable opportunity to avoid accident in spite of previous negligence of plaintiff's driver.

Affirmed.

**1. Torts—Negligence**

Where suit arising out of automobile accident is not covered by local custom, it is governed by rules of common law expressed in restatements of American Law Institute to extent these rules are expressed. (T.T.C., Sec. 22)

**2. Torts—Negligence—Last Clear Chance**

Where party's driver had reasonable opportunity to avoid automobile accident in spite of previous negligence of other party involved in accident, doctrine of last clear chance is applicable.

**3. Torts—Negligence—Last Clear Chance**

Doctrine of last clear chance constitutes exception to general rule that if automobile accident is caused partly by negligence of both parties, neither can recover.

**4. Torts—Negligence**

Fact that one party suffers more damage than the other has no bearing on question of liability for automobile accident.