

**POOP SONTEN, Plaintiff**

**v.**

**EPEL, Defendant**

**Civil Action No. 103**

**Trial Division of the High Court**

**Ponape District**

**May 25, 1961**

Action to determine ownership of land on Ngatik Atoll, in which plaintiff claims he received gift of land from defendant. The Trial Division of the High Court, Chief Justice E. P. Furber, held that under Ngatik customary law, gift of land to close relative presumes condition of honor and support, and since plaintiff breached condition, gift was effectively revoked.

**1. Ponape Land Law—Ngatik—Gifts**

Under Ngatik custom, when land is given by one close relative to another, there is implied condition that relative receiving gift will honor donor and, if necessary, support him in old age.

**2. Ponape Land Law—Ngatik—Gifts**

Under Ngatik custom, condition of honor and support owing to donor relative from donee of land will pass down to heirs of donee.

**3. Ponape Land Law—Ngatik—Gifts**

Under Ngatik custom, where donee of land or his heirs have violated condition of honor and support owing to donor, donor is entitled to revoke gift.

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*Assessor:*

JUDGE ELTES RINGLEN

*Interpreter:*

LAUREANO RODRIGUEZ

*Counsel for the Plaintiff:*

PENIDE NEIOR

*Counsel for the Defendant:*

CARLES A. PHILIP

**FURBER, Chief Justice**

Counsel for the plaintiff argued that the plaintiff's wife, Emwa, had taken over all of her father, Tamiri's land after his death, including the land in dispute, which he alleged had been given Tamiri by Epel in exchange for other land. He further stated that Emwa was ready to treat Epel like a father, as she had Tamiri before his death.

Counsel for the defendant argued that whatever rights either Tamiri or Emwa had in the land in question were the result of a gift, or gifts, from Epel and that when Epel found that the plaintiff and his wife were trying to "push him out of his land" by causing great argument as to the boundary of the land in question, he was justified under Ngatik custom in cancelling whatever gift he had made of the land in question or any rights in it to either his brother, Tamiri, or to Tamiri's adopted daughter, Emwa.

#### OPINION

Although the source of the ownership of the land in question was originally disputed by the plaintiff, it was finally agreed that this land was bought by the defendant Epel from Bensmem, and the great weight of the evidence shows that whatever rights either Tamiri or Emwa obtained were by a gift within the family, Tamiri being Epel's brother and Emwa being the adopted daughter of Tamiri. Although this action is brought by Poop Sonten as plaintiff, it appears that he is claiming entirely on behalf of his wife, Emwa, and claims no rights in the land except such as he may have acquired through her. It further appears that whatever exchange of lands there may have been between Tamiri and Epel involved purely lands in which whatever rights Tamiri had were the result of gift from Epel.

[1-3] Under Ngatik custom, when land is "given" by one close relative to another, there is clearly an implied condition that the relative receiving the gift will honor, respect and cooperate fully with the relative making the gift and, if necessary, support him in his old age. It also appears that such a condition will pass down with the land to the heirs of the person receiving the gift, if that person has received any rights which may so pass. It is, therefore, unnecessary to decide in this case whether Epel

gave Tamiri anything more than a life estate in the land in question, since it is clear that Emwa, through her husband Poop Sonten, has violated the condition upon which either she or her father by adoption acquired their rights in this land under gift from Epel. In accordance with the condition of the gift, he is entitled to revoke it and has clearly done so.

The Master's Report is approved.

JUDGMENT

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

1. As between the parties and all persons claiming under them, the half of the land known as Likiri nearest the taro patch, located in the Liksarwei Section of the main island of Ngatik, in Ngatik Atoll, Ponape District, is owned by the defendant Epel who lives on Ngatik Island, Ngatik Atoll, and neither the plaintiff Poop Sonten nor his wife Emwa, both of whom live on Ngatik Island, has any rights of ownership therein, or any right to use said land except as Epel may permit.
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.
4. Time for appeal from this judgment is extended to and including August 18, 1961.