

IRORO ILENGELANG, Plaintiff
v.
BAULES SECHELONG, Defendant
Civil Action No. 247
Trial Division of the High Court
Palau District
March 12, 1963

Action to determine rights in land in Airai Municipality, in which plaintiff claims under agreement with clan that plaintiff might use land so long as she fulfilled obligations as clan member. The Trial Division of the High Court, Chief Justice E. P. Furber, held that by disregarding her clan obligations and leaving land, plaintiff forfeited her use rights.

1. Palau Land Law—Clan Ownership—Use Rights

Under Palau custom, party who "goes out of the clan" may forfeit use rights in land belonging to clan.

2. Palau Land Law—Clan Ownership—Use Rights

Under Palau custom, party who "goes out of the clan" and forfeits use rights in land belonging to clan may reasonably hope to be given use of some clan land upon resuming to fulfill clan obligations and showing intention in good faith to continue to do so.

FURBER, Chief Justice

FINDINGS OF FACT

1. The plaintiff's stepfather Lebal merely administered the land in question for the Bedechal Clan.
2. At Lebal's request, the Bedechal Clan agreed that the plaintiff Iroro might use the land so long as she obeyed the head of the clan—that is, faithfully fulfilled her obligations as a clan member.
3. The plaintiff has "gone out of the clan"—that is, she has seriously disregarded her clan obligations and voluntarily left the land.

OPINION

[1, 2] By "going out of the clan", as the saying is, the plaintiff Iroro forfeited her use rights in this particular land. She is, however, still a member, although a weak one, of the Bedechal Clan and, as such, may reasonably hope to be given the use of some clan land upon resuming to fulfill her clan obligations and showing an intention in good faith to continue to do so.

JUDGMENT

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

1. As between the parties and all persons claiming under them, the easterly part of the land known as Ngeptuch located in Ngerusar Village, Airai Municipality, in the Palau District, claimed by the plaintiff Iroro and shown on the sketch attached to the pre-trial order in this action, is owned by the Bedechal Clan, represented in this action by the defendant Baules Sechelong, and is administered by Baules Sechelong for the clan subject to the right of the person holding the clan's highest male title of Buikbelau to use the land or control its possession and use if he wishes.

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

3. The defendant Baules Sechelong is awarded such costs, if any, of this action as he may have had which are taxable under the first sentence of Section 265 of the Trust Territory Code, provided he files a sworn itemized statement of them within ten (10) days after the entry of this judgment. Otherwise no costs will be allowed.