

3. That the defendant Baules is denied recovery on his contract against co-defendant Western Carolines Trading Company.

4. That the defendant Baules is denied recovery upon an oral agreement against co-defendant Hideyos but such denial is without prejudice to any right of recovery he may have against the defendant Hideyos under Palauan custom.

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LLECHOLECH RECHEMANG, Plaintiff

v.

SABURO DULEI, Defendant

Civil Action No. 380

Trial Division of the High Court

Palau District

August 5, 1969

*See, also, 3 T.T.R. 552*

Order to show cause why defendant should not be held in contempt of court. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that defendant was in contempt of court where he had been ordered by court to leave land and his house forfeited to plaintiff unless plaintiff consented to his remaining on land and plaintiff ordered him to leave and he refused to do so.

Waste-Generally

Where person claimed right to cut certain trees on land in spite of court's judgment declaring that he had no interest in the land, he would be liable to owner in damages for waste committed.

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TURNER, *Associate Justice*

Hearing was held August 5, 1969, on the court's order to Saburo to show cause why he should not be punished for contempt for failing to obey the court's judgment order issued May 20, 1968, 3 T.T.R. 552. The order to show

cause was issued upon Llecholech's motion for an order in aid of the judgment.

Saburo had been named defendant in the original complaint but at the time of trial he stipulated through his counsel with the plaintiff and Joseph Belau, the intervening defendant, that he claimed no interest in the land in question but that he did own the house in which he was living on the land. The judgment order required him to vacate the land within ninety (90) days and upon failure to do so, his house would be forfeited to plaintiff unless plaintiff consented to his remaining on the land.

Petitioner Llecholech's testimony disclosed he had demanded of Saburo that he vacate the land, but that Saburo refused to do so. The testimony also indicated, and it was admitted by Saburo under claim of right, that Saburo had cut down and sold eight (8) btaches trees, one (1) ukall tree and one (1) bearing coconut palm. Also, all of the *taro* had been harvested in the *taro* patch on the land.

Some of the *taro* had been planted by Saburo's mother while married to Belau, the predecessor owner, who also planted the trees cut down by Saburo. Because Saburo's adoptive father had planted the trees, Saburo claimed the right to cut them in spite of the court's judgment declaring that he had no interest in the land.

Petitioner claimed damages for the waste committed in the amount of one hundred ten dollars (\$110.00). Petitioner also claimed forfeiture of the house, but after the hearing consented, and so stipulated to the court, to permitting Saburo to remove the house within sixty (60) days.

Accordingly, it is

Ordered that Saburo Dulei, be and hereby is declared to be in contempt of the court's judgment order and shall be punished therefor if he fails to comply with the judgment within sixty (60) days from the date hereof by vacating the land and removing his house therefrom.

It is further ordered that during the period of time Saburo Dulei was living on plaintiff's land he unlawfully committed waste by cutting down eight (8) btaches trees, one (1) ukall tree and one (1) coconut tree and by removal of *taro* and that Saburo Dulei be and hereby is ordered to pay Llecholech Rechemang the sum of seventy dollars (\$70.00) as and for compensation for the trees and *taro* plants cut and removed; that said payment shall be made within sixty (60) days from date hereof.

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KALISTO BWANUS, Plaintiff

v.

KIOSI METSIFISTA, and MARGARITA, Defendants

Civil Action No. 399

Trial Division of the High Court

Palau District

August 5, 1969

*See, also, 4 T.T.R. 407*

Action to determine boundaries to certain parcels in Tobi Municipality, Palau District. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that in the absence of a Japanese survey of land in question the Master properly applied customary land law to determine boundaries in question.

1. Palau Land Law-Japanese Survey-Tobi Island

The Japanese, during their administration, did not make a land survey on Tobi Island.

2. Palau Land Law-Generally

The customary land law on Tobi Island is similar to the customary law of Koror and Babelthaup Islands.

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