

members, all in accordance with Palauan traditional custom.

4. Each administrator shall continue living in the house he is presently living in and shall not be disturbed in such use and possession except by appropriate clan action removing him as administrator, all in accordance with Palauan traditional custom.

5. All Ngerdelang Clan members shall have access to and use of as a burial site, the stone platform of the clan located on Lot No. 1857.

6. This judgment shall not affect any rights-of-way that may exist across the land in question.

7. No costs are assessed.

EBIL ADELBAI, NGIR AUSUI, KALUU, and UCHEL BESANG,
Appellants

v.

ADELBAI NGIRCHOTEOT, and NGILAS, Appellees

Civil Appeal No. 26

Trial Division of the High Court

Palau District

August 20, 1969

Appellate Court Opinion-3 T.T.R. 619

Petition for motion in aid of judgment. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that agreement reached as a result of meetings directed by High Court was in accordance with the provisions of that judgment and that appellee had lost whatever privileges he had by his failure to cooperate with the clan in such meetings.

Palau Land Law-Clan Ownership-Use Rights'

Appellee lost the privilege of remaining in his house, built on clan land, by his conduct and refusal to meet with or cooperate with the clan members.

TURNER, *Associate Justice*

The Appellate Division Judgment in this case, 3 T.T.R. 619, required the Ibuuch Clan to determine the use rights of the land in question on which the appellee, Adelbai Ngirchoteot, has built his house in spite of objection at the time of construction by the appellants. The appeal judgment held that the land was neither chief's title land, as claimed by appellants, nor was it Oteot Lineage land as claimed by the appellees, but that it was clan land.

The judgment also provided that if a use determination had not been made by the clan within six (6) months, further aid of this court should be asked. A petition for motion in aid of judgment was filed by appellants after six months and hearing on the petition was commenced March 10, 1969. When it appeared that clan meetings had been called without a decision being reached because of the absence of appellee, Adelbai Ngirchoteot, who refused to attend the meetings, the court ordered the hearing continued and instructed the petitioners to call a clan meeting, arrive at a decision as to the use of the land and to report back to the court.

Hearing was then held August 15, 1969, with all parties present and represented by counsel.

Ngirausui, who bears the principal title of the Ibuuch Clan, Ngiraibuuch, testified he had called six clan meetings and that Adelbai Ngirchoteot, title bearer of one of four lineages in the clan, had refused to attend, including the night before the hearing. At that meeting, the title bearers and some members of each of the other three lineages in the Ibuuch Clan, namely: 1) Ylou, 2) Ngeremelatked or Kerekur, and 3) Telealmekesong or Sorech, met and decided that Ngirchoteot should remove his house from the land in question. They further decided to build a chief's title house on the land, thus changing the chief's title land

from Lot No. 1334, *Tochi Daicho* reference, to the land in question, Lot No. 1206.

Ngirchoteot did not dispute the appellants' testimony, nor did he present evidence of his own. He only asked, through his counsel, to be allowed to remain in his house on the land in question until it was "worn out". Unfortunately for him, he lost the privilege of remaining in his house by his conduct and refusal to meet with or cooperate with the clan members.

It also is noted that the appellee, Adelbai Ngirchoteot, stipulated with the appellants in Palau District Court Civil Action No. 1055 that if he lost the High Court suit in which he claimed lineage ownership of the land in question that he would promptly remove his house from the land. His failure to keep his promise made to the District Court and his failure to participate in clan meetings in accordance with the mandate of the Appellate Division does not warrant treatment of Adelbai with any special consideration.

It was not until the sixth meeting held the night before the hearing that the clan leaders decided to require Ngirchoteot to remove his house. The witness, Ebil, who bears the highest female title, *Mlechei*, in the Ibuuch Clan testified that if Adelbai had asked to live on the land at the first clan meeting after the court decision "he could have done so". He did not ask permission and the clan has decided he must remove his house.

This decision is in complete accordance with the provisions of the judgment entered by the Appellate Division. Accordingly, it is

Ordered:-

.1. That within ninety (90) days from date hereof, Adelbai Ngirchoteot shall remove his house from the Ibuuch Clan land described in the *Tochi Daicho* as Lot No. 1206,

and that upon failure to do so, the house shall be deemed abandoned by the owner and shall become the property of the Ibuuch Clan.

2. That Adelbai Ngirchoteot and those claiming under him be forever barred from interfering with the use and occupancy of said land as may be authorized by the Ibuuch Clan.

BINA JETNIL, Plaintiff

v.

BUONMAR and ANJUA, Defendants

Civil Action No. 274

Trial Division of the High Court

Marshall Islands District

September 17, 1969

Action to determine who should succeed to title of *iroij lablab* on Island of Takleb, Arno Atoll. The Trial Division of the High Court, Chief Justice, R. K. Shoecraft, held that while plaintiff was entitled to succeed to the title the defendants had authority from plaintiff to act for her as long as they paid her the *iroij lablab* share from the *weto8* in question.

1. Marshalls Custom-"Iroij Lablab"-Succession

The position of *iroij lablab* is primarily one of trust and responsibility, the succession to which depends upon a combination of birth and recognized ability, and it is not a merely personal right which can be given away or abolished at will by one holding it.

2. Marshalls Custom-"Iroij Lablab"-Succession

The expressed wishes of one *iroij lablab* as to the selection of his or her successor may have great influence with his people, but it cannot bind them in such a way as to relieve them from obligations assumed after his or her death.

3. Marshalls Land Law-Generally

All the different levels of owners have rights which the courts will recognize, but they also have obligations to each other, thus there is a duty of loyalty all the way up the line *dr̄i jermal*, to *alab*, to *iroij erik*, to *iroij lablab*, a corresponding duty of protection of the welfare of subordinates running down the line, and a strong obligation of cooperation running both ways.