

the evidence, is in accordance with applicable custom, and the conclusion that defendant Secharmidal is *Rengil* of Eluil clan, Arkabesang Island, Palau District, is affirmed.

NGIRMENGANGED, Appellant

v.

TMODRANG NGIRAKIMIM, Appellee

Civil Action No. 474

Trial Division of the High Court

Palau District

May 25, 1973

Appeal from two separate District Court judgments involving the same claim. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that the difficulties which arose after entry of small claims judgment were due to lack of representation and the ill-advised and uninformed actions of the parties and that personnel of Clerk of Court's office should not advise litigants or potential litigants how or what to plead.

1. Courts—Clerks of Court—Powers and Duties

Clerk of Courts office personnel should under no circumstances advise litigants or potential litigants how or what to plead, though they may, time permitting, accommodate litigants by typing and translating their pleadings.

2. Courts—District Court—Representation of Parties

District court judges should not permit individuals to impose upon their time and duties by coming before them unrepresented and ill-advised and uninformed, and the court should insist that they obtain representation if the proceedings go further than the entry of a small claims judgment.

3. Courts—District Court—Small Claims

Small claims cases are intended to be handled by the parties without representation.

TURNER, *Associate Justice*

This was an appeal from two separate judgments involving the same claim which were entered in the District

Court. It appears neither party was represented by counsel. The case is a good illustration of the unfortunate circumstances which can arise when individuals venture into courts without adequate knowledge of their own and without obtaining competent representation.

The appellee filed a complaint against appellant in 1966 for the sum of \$100.00. The action was brought and heard by the District Court, in accordance with the Small Claims Procedure set forth in Rule 22, Rules of Civil Procedure.

The appellee, who was plaintiff in the District Court, claimed he purchased twelve asbestos-cement pipes from appellant in Ngerdmau, Babelthaop Island. He hired a boat to bring them to Koror. When he got here the district government promptly seized them, claiming them to be government property. Appellee's subsequent judgment required appellant to pay the sale price and the boat rental to appellee.

Appellant failed to make payment, and appellee (with the help of the Clerk of Courts) filed a motion for an order in aid of judgment. Appellant then filed an affidavit claiming he had a right to sell the pipe and, since the pipe had not been returned to him, he didn't owe the purchase price. On the record, appellant needed legal advice at that point. But it was not so. He convinced both the appellee and the District Court judge the "dispute" should be "settled." Accordingly, the motion for the order in aid of judgment was dismissed on motion of the appellee.

Again appellee wound up with nothing and, instead of filing a new motion for aid, he again got the Clerk's office to help him and filed a District Court complaint (Civil Action No. 1455) to enforce his District Court small claims judgment entered in Civil Action No. 2106. Finally, in 1970, the case again came to trial and the District Court, after analyzing the record, properly treated the new complaint as a motion for an order in aid of the original judg-

ment. The order issued was both simple and eminently proper.

The appellant was ordered, in the alternative, to recover the pipe from the government and deliver it to the appellee, or to pay appellee the judgment amount.

Again, with the help of the Clerk's office and without advice of counsel, appellant filed his notice of appeal, in which he claimed the order was improper because the "complaint" (he meant the small claims judgment) had been dismissed on appellee's motion. The record clearly discloses the impropriety of this ground for appeal.

This lengthy recitation of the chain of events which brought the matter to the Trial Division of the High Court has been given to illustrate the admonition now given to the Clerk's office personnel and to the judges of the District Court.

[1] The Clerk's office personnel may, if they have time, accommodate litigants by typing (and translating) their pleadings. Under no circumstances should they advise litigants or potential litigants how or what to plead. In the Palau District there are excellent, experienced trial assistants, as well as a staffed District Attorney and Public Defender's office who are available to provide advice, if not representation, and, at present, a Micronesian Legal Services office with two attorneys and one or more trial assistants available.

[2, 3] The District Court judges should not permit individuals to impose upon their time and court duties by coming before them as ill-advised and as uninformed as these two litigants. The court should insist they obtain representation as soon as the proceedings move on from the entry of the small claims judgment. Small claims cases are intended to be handled by the parties without representation.

This court has prepared this opinion in order to extend the admonition to both Clerks of Courts and District Court judges elsewhere than in the Palau District.

It is Ordered that the appeal is dismissed, that the District Court order entered March 25, 1970, is reinstated; that appellant shall have an additional thirty days in which to comply with it and, if appellant fails to comply with the order, the appellee shall file a motion for an order to show cause why appellant should not be punished for contempt, and, in that event, both parties shall be represented by counsel.

RECHELBANG UCHEL and MAD KDES AU, Plaintiffs

v.

OKETOL NGIRACHEBAED, Defendant

Civil Action No. 574

Trial Division of the High Court

Palau District

May 25, 1973

TURNER, Associate Justice

At the time set for hearing plaintiffs' motion for default judgment, the defendant with his counsel, as well as the plaintiffs and their counsel, appeared. Defendant stated he did not claim any interest in the land in question except as a member of his clan, and that he would not contest his right to the land as against plaintiff Mad Kdesau. Defendant requested, and plaintiffs did not object, to a ninety day period within which to remove his house from the land. It is, therefore,

Ordered, adjudged and decreed:—