

TRUST TERRITORY v. GILMAR

sion Decision 5509 awarded certain monies to the heirs of Joaquin Rogopes.

The appellants assert that Candilaria, their mother, was adopted by one Domitila and therefore they became the sole heirs of Joaquin Rogopes since Domitila was the adopted sister of Rogopes.

The Trial Court found no such adoption. The appellants claimed error in that the Trial Court rendered its decision contrary to the weight of the evidence.

A review of the record in this matter does not reveal any basis upon which to declare that the findings of the Trial Court are clearly erroneous, 6 TTC 355(2).

The Judgment of the Trial Court is AFFIRMED.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Plaintiff-
Appellee

v.

JESUS GILMAR, Defendant-Appellant

Criminal Appeal No. 66

Appellate Division of the High Court

Yap District

November 24, 1978

Appeal from conviction. The Appellate Division of the High Court, per curiam, held that where all records of the case in the trial and appellate divisions had been lost the conviction must be set aside.

Appeal and Error—Record on Review—Lost Records and Files

Where the very limited record on appeal from conviction indicated notice of appeal was filed and all records in trial and appellate divisions had been lost, the appeal must be allowed and the conviction would be set aside.

Counsel for Appellant:
Counsel for Appellee:

Public Defender's Office
District Attorney's Office

Before BURNETT, *Chief Justice*, GIANOTTI, *Associate Justice*, and LAURETA, *Temporary Justice by Appointment of the Secretary of Interior*

PER CURIAM

The very limited record available to us indicates that a Notice of Appeal was filed sometime in 1976, and that all records, both in the Trial and Appellate Divisions, appear to have been lost.

We need not inquire as to how this might have happened. We do conclude, however, that having nothing to review, the Appeal must be allowed, and conviction below be set aside.

FRANCISCA BALETO AGUON, et al., Plaintiffs-Appellants

v.

ROSA TORRES SAN MIGUEL, et al., Defendants-Appellees

Civil Appeal No. 200

Appellate Division of the High Court

Mariana Islands District

November 30, 1978

Plaintiffs appealed from judgment for co-defendant. The Appellate Division of the High Court, Hefner, Associate Justice, affirmed.

Trusteeship—Implied Trusts—Particular Cases

Where claims commission awarded money to man and woman, both signed releases and endorsed the checks issued for the award, they had been awarded the money as representatives of the heirs of a certain person and the heirs sued for the money, the man defaulted, and it was found that the woman disclaimed any interest in the property or the money and had not accepted any responsibility for the money and did not know the purpose of the checks or who was entitled to the money and allowed the man to have the money, the woman was not liable as a trustee or fiduciary.

Counsel for Appellant:
Counsel for Appellee:

MICHAEL A. WHITE, ESQ.
DOUGLAS F. CUSHNIE, ESQ.