

Title 27.

Aliens.

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CHAPTER 1.

ALIEN PROPERTY.

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§ 1. Defined. — Alien property, as used in this chapter, includes property situated in the Trust Territory which was formerly owned by private Japanese nationals, by private Japanese organizations, by the Japanese government, or by Japanese government organizations, agencies, quasi-corporations or government-subsidized corporations. Such property shall be deemed to include tangible and intangible assets, as well as any right, title or interest therein. (Code 1966, § 532; Code 1970, tit. 27, § 1.)

Interests of Japanese government in land vested in alien property custodian. — Under former interim regulations nos. 4-48, 6-48 and 3-50, any interest previously owned or held by

Japanese government in land or other property in the Trust Territory is vested in the alien property custodian. *Wasisang v. Trust Territory*, 1 TTR 14 (1952).

§ 2. Custodian. — (1) The Attorney General shall act as alien property custodian, and as such is authorized and empowered to vest title of all alien property as defined in this chapter in the alien property custodian and to take immediate possession of all alien property in the Trust Territory.

Under such vesting order, the alien property custodian is empowered to hold, use, administer, liquidate, sell or otherwise deal with alien property in the interest and for the benefit of the indigenous inhabitants of the Trust Territory, in accordance with the terms of the trusteeship agreement, and is further empowered to direct, manage, supervise and control any business enterprises connected with such property.

(2) The alien property custodian is empowered to assume custody, distinguished from title, of all property in the Trust Territory owned by allied governments or nationals sequestered by the enemy and of all other property owned by non-Japanese persons who are absent from the Trust Territory, are making no attempt to assert possession thereover and who have no agent present in the area. With reference to such property, the alien property custodian shall:

- (a) Provide protection and security for the property;
- (b) Assume full authority for the direction, management and operation of the property;
- (c) Utilize the property to the best interests of the government of the Trust Territory and of the indigenous inhabitants of the area; and
- (d) In the management of such property, act in accordance with the principle of usufruct for the benefit of the indigenous inhabitants of the Trust Territory.

(3) The alien property custodian is authorized and empowered to take such action as he deems necessary in the interest of all persons concerned to direct manage, supervise and control all properties which come within the purview of this chapter. He is further empowered to issue all such orders, rules regulations or other instructions as may be requisite for executing or carrying out the provisions of this chapter, subject to the approval of the High Commissioner. (Code 1966, § 533; Code 1970, tit. 27, § 2.)

Position of alien property custodian is that of prior bona fide purchaser. — Although no consideration was paid by Trust Territory's alien property custodian for transfer of property from Japanese national to him, and therefore he does not fulfill all requirements of bona fide purchaser, he is entitled to same position as was occupied by prior bona fide purchaser. *Ngirkelau v. Trust Territory*, 1 TTR 543 (1958).

Interests of Japanese government in land vested in alien property custodian. — Under former interim regulations nos. 4-48, 6-48 and 3-50, any interest previously owned or held by Japanese government in land or other property in the Trust Territory is vested in the alien property custodian. *Wasisang v. Trust Territory*, 1 TTR 14 (1952).

Any interest previously owned or held by Japanese government in any land or other property in Trust Territory is vested in alien property custodian. *Catholic Mission v. Trust Territory*, 2 TTR 251 (1961).

Interests in land previously held by Japanese government vested in predecessor of alien property custodian. — Any interest previously owned or held by Japanese government in any land in Trust Territory is vested in predecessor of alien property custodian of Trust Territory. *Ngikleb v. Trust Territory*, 2 TTR 139 (1960).

Passage of title to alien property custodian. — Japanese national's title to property in Palau Islands passed to Trust Territory's alien property custodian just as effectively as if made in appropriate deed of conveyance. *Ngirkelau v. Trust Territory*, 1 TTR 543 (1958).

Power of alien property custodian to vest title in himself. — Trust Territory's alien property custodian is empowered to vest in himself title to alien property, including property formerly owned by private Japanese

national. *Ngirkelau v. Trust Territory*, 1 TTR 543 (1958).

Property confiscated by German government vested in alien property custodian. — Since the legality of the German government's confiscation of the whole of Pakein Atoll in the Sokaes municipality, Ponape District, must be decided according to the law at the time such confiscation took place, and no such showing of illegality was made, the property in question was deemed to belong to the alien property custodian. As it is not a proper function of the courts of the present administration to right wrongs which may have occurred during former administrations and which persisted for many years during the previous administrations, the decision announced would hold even if it had been proven that such confiscation was illegal at the time it was made. *Christopher v. Trust Territory*, 1 TTR 150 (1954).

Effect of revocable permit from American administration. — A revocable permit from the American administration to use land on Ponape Island authorizes the exercise of only such rights in land as the alien property custodian might have, and is not a determination of who should succeed to vacant title. *Francisca v. Ladore*, 1 TTR 303 (1957)

No determination of rights made when parties are not party to action. — Where neither the Trust Territory nor the alien property custodian is a party to the action, no determination is made as to their rights in land. *Francisca v. Ladore*, 1 TTR 303 (1957).

Where Trust Territory government or alien property custodian are not party to action for determination of ownership of land in Truk, no determination is made as to rights of government. *Tosiko v. Upuili*, 1 TTR 436 (1958).

§ 3. District property custodians. — (1) There shall be a district property custodian appointed for each district of the Trust Territory by the High Commissioner from nominations submitted by the district administrators and approved by the Attorney General.

(2) District property custodians, under the supervision of the alien property custodian, shall be responsible for the control and administration of all alien property in the district for which they are appointed, including responsibility for conducting investigations to locate alien property, and representing the

Trust Territory in all legal actions involving alien or suspected alien property. (Code 1966, § 534; Code 1970, tit. 27, § 3.)

§ 4. Prohibited acts. — Any person who knowingly and without lawful authority: (1) interferes with or obstructs the alien property custodian or his assistants in the exercise of any of the functions prescribed by this chapter; or (2) interferes with, removes, damages, conceals or makes away with any property which the alien property custodian has vested or is authorized to take into his control; or (3) interferes with, removes, damages, conceals or makes away with any property with intent to defeat, evade or avoid any responsibility, fine or punishment; or (4) withholds any information or document which the alien property custodian is entitled to receive, or makes any false statements, or uses or refers to any false document in order to mislead the alien property custodian as to any of the purposes of this chapter; or (5) violates any other provisions, orders, rules or regulations issued pursuant to this chapter, shall be tried before a court of proper jurisdiction and upon conviction shall be imprisoned for a period of not more than one year, or fined not more than one thousand dollars, or both. (Code 1966, § 535; Code 1970, tit. 27, § 4.)

§ 5. Power of custodian to void transactions. — The alien property custodian may, upon approval of the High Commissioner, by order, direct that any transaction or commitment made at any time with regard to property under his jurisdiction be set aside and held null and void, if, in his opinion, the transaction was made to defeat, evade or avoid any provision of this chapter, or any lawful responsibility, fine or punishment imposed or to be imposed on any person. (Code 1966, § 536; Code 1970, tit. 27, § 5.)