

TAETIS MIKE, Plaintiff

v.

SRUE INTEKMA, Defendant

Civil Action No. 49

Trial Division of the High Court

Ponape District

December 11, 1953

Action to determine rights in land on Kusaie Island, in which stepson seeks to obtain use rights in land or compensation for plantings on land of stepmother made while he was living with her. The Trial Division of the High Court, Chief Justice E. P. Furber, held that stepson had no use rights in land or right to compensation under Kusaie custom.

Ponape Land Law—Kusaie—Use Rights

Under Kusaie custom, permission by stepmother for her stepson living with her to use land with understanding he is to support her is revocable when cohabitation ceases, and stepson has no rights in land, nor does stepmother have obligation to compensate him.

FURBER, *Chief Justice*

FINDINGS OF FACT

1. The defendant Srue Intekma gave the plaintiff Taetis Mike permission to plant the part of Kon in question and work Yemasrlun, on the understanding he would look out for her. The plaintiff, who was her stepson, was living with her as a member of her household at that time.

2. The defendant Srue never gave Yemasrlun to the plaintiff, nor agreed that if he planted the part of Kon in question he would own it.

3. The produce the plaintiff took from Yemasrlun and Kon from 1932 to 1947 or 1948, with the consent of the defendant, more than offset the value of anything he planted on the part of Kon in question.

CONCLUSIONS OF LAW

1. Under Kusaie custom, when a stepmother gives her stepson, who is living with her, permission to use certain land, take produce from it, and make further plantings on part of it with the understanding he is to look out for her, the presumption is that this is a revocable permission for their mutual benefit while they continue to live together and gives no rights of ownership in the land, unless there is clear evidence to the contrary. When they cease to live together, she may revoke the permission, and where, as in this case, he has received substantial benefits offsetting the value of anything he has planted, she is clearly under no obligation to compensate him further for what he has planted.

JUDGMENT

It is ordered, adjudged and decreed as follows:—

1. As between the parties and all persons claiming under them, the piece of land known as Yemasrlun, consisting of about three (3) acres, and the upper left hand corner (as one stands on the shore facing the land) of the land known as Kon, which corner was planted with coconuts by the plaintiff and consists of about an acre or more, both located in that part of Tafonsak, Kusaie, known as Sak, belong completely to the defendant Srue Intekma, who lives in Malam, Kusaie.

2. This judgment shall not affect any rights of way there may be over the land in question.

3. No costs are assessed against either party.