

IN THE MATTER OF THE ADOPTION OF
ANTONINO MERS IYAR

Civil Action No. 267

Trial Division of the High Court

Palau District

September 25, 1962

Action to confirm adoption of child who was adopted in accordance with recognized Palau custom. The Trial Division of the High Court, Chief Justice E. P. Furber, took judicial notice that variation in names of those concerned was result of mixture of Palau tradition, Christian practice, and contact with Japanese and American Administrations.

Adoption confirmed.

1. Palau Custom—Adoption

Variation in names of those concerned with adoption of child will not bar confirmation of customary Palauan adoption authorized by Trust Territory law. (T.T.C., Sec. 715)

2. Palau Custom—Adoption

Where adoption is effected in accordance with recognized Palau custom, it will be confirmed as of date of customary adoption. (T.T.C., Sec. 715)

FURBER, *Chief Justice*

[1, 2] This matter having come on for hearing upon the sworn petition of Johanes M. Iyar and Niebes M. Iyar (sometimes spelled Nieves M. Iyar), supported by the affidavit of Edwardo Salii and Conception Salii, the court, after taking evidence thereon, finds as follows:—

1. A male child named Antonino was born August 22, 1952, at Angaur Island, in the Palau District of the Trust Territory of the Pacific Islands, to Chiarly Edward, otherwise known as Edwardo Salii, and his wife, whose maiden name was Ngkeruker Kosepsion, sometimes written Kosepsion Ngkeruker, and who is now known as Conception Salii, both of the parents being then residents of the Palau District.

2. On November 14, 1952, said Antonino was legally adopted in said Palau District, in accordance with recog-

nized custom then and there in effect, by his maternal aunt Niebes M. Iyar, otherwise known as Nieves Ngeream Mers, and husband Johanes M. Iyar, otherwise known as Mers Iyar, who were then residents of the Palau District, but are now residents of Guam, Mariana Islands, and who are the petitioners herein.

3. Said adoption was effected with the consent of Antonino's natural parents, and with notice to all his living relatives entitled to such notice under the custom then and there in effect, and none of them has ever raised any objection thereto or questioned the adoption in any way.

4. Following said adoption the petitioners named said child Antonino Mers Iyar, and he has been commonly and publicly known by that name and has remained in the custody of the petitioners, ever since said adoption.

In connection with the variations in the names of those concerned in this matter, which may seem strange to those not familiar with Palauan customs, the Court takes judicial notice of the following facts:—

1. Before extensive contact with Christian missionaries, it was customary for a Palauan to have only one name, and no change was made in a woman's name when she married. In later life those given titles were regularly known by their titles rather than their names, but that fact is not of significance in this case.

2. As Palauans were converted to Christianity, it became customary to also give each a Christian or baptismal name at the time of baptism. A person's Palauan name and his Christian name were used separately, however, and almost never in combination. Furthermore, the Christian names were regularly written phonetically according to the ideas of each writer without any consistent effort to follow Biblical spelling.

3. During Japanese times many students whose Palauan or Christian names were hard for the Japanese to pronounce, were given Japanese names, but these again were used separately and not in combination with either their Palauan or Christian names.

4. During the period of administration by the United States, after extended contact with the idea a person should have at least two names used in combination, many Palauans adopted the practice of using their Palauan and Christian names in combination, but at first there was no uniformity about which should come first. The same person would sometimes use the Palauan name first and at other times the Christian name first.

5. Later a number of Palauans adopted the practice of adding their father's name as a last name, using their Christian name as a first name and their Palauan name as a middle name, and a number of married women—particularly those in frequent contact with Americans—adopted the practice of adding one or more of their husband's names as their own last name or names. It also became common among those familiar with English to revise the spelling of their Christian names to accord with the usual English spelling.

Now, therefore, pursuant to Section 715 of the Code of the Trust Territory of the Pacific Islands, it is,

Ordered, adjudged, and decreed as follows:—

1. The adoption of Antonina Mers Iyar by Johanes M. Iyar and his wife, Niebes M. Iyar, effected in the Palau District of the Trust Territory of the Pacific Islands, in accordance with recognized custom, on November 14, 1952, is hereby confirmed.

2. Said Antonina Mers Iyar has been since November 14, 1952, and still is, the legally adopted child of said Johanes M. Iyar and Niebes M. Iyar (sometimes spelled Nieves M. Iyar).

3. This decree shall not become absolute until the period for appealing therefrom has expired without any appeal having been filed or until any appeal taken shall have been finally disposed of.

MOBEL DELEMEL, and Others, Appellants

v.

TRUST TERRITORY OF THE PACIFIC ISLANDS, Appellee

Criminal Case No. 234

Trial Division of the High Court

Palau District

October 4, 1962

Defendant was convicted in Palau District Court of fishing with dynamite, in violation of T.T.C., Sec. 780. On appeal, sole point raised by defendant was whether evidence was sufficient to support findings. The Trial Division of the High Court, Chief Justice E. P. Furber, held that evidence in record was sufficient to support findings, and that facts alleged by counsel in their arguments which were not covered by evidence or introduced at trial will be completely disregarded.

Affirmed.

1. Criminal Law—Appeals—Scope of Review

In criminal prosecution, whether alleged facts not covered by evidence are true or not, they have no proper place in consideration of appeal.

2. Criminal Law—Appeals—Scope of Review

Where there is no indication that alleged facts raised in argument on appeal of criminal case were introduced at trial or included in record, or that counsel made motion that trial court hear evidence, appellate court will completely disregard such alleged facts. (Rules of Crim. Proc., Rule 31e)

Assessor:

JUDGE R. FRITZ

Interpreter:

HARUO I. REMELIUK

Counsel for Appellants:

WILLIAM O. WALLY

Counsel for Appellee:

AGUSTO UCHEL

FURBER, Chief Justice

This is an appeal from convictions of fishing with dynamite in violation of Trust Territory Code Section 780.