

**BAULES SECHELONG, successor to ARUKOI TECHELTOECH,
deceased,
and
BENHART ARURANG and MATSKO ARURANG,
his wife, Plaintiffs**

v.

**ROSANG SUNGIYAMA and BECHESERRAK, Defendants
and
TRUST TERRITORY, Third-Party Defendant**

Civil Action No. 501

Trial Division of the High Court

Palau District

February 25, 1974

Ejectment action. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, after reference of the case to a Master and agreement by all parties, except the government, to Master's solution, entered judgment based on Master's solution.

Counsel for Plaintiff

Baules Sechelong:

PRO SE

Counsel for Plaintiff

Benhart Arurang:

BELHAIM SAKUMA

Counsel for Defendant

Becheserrak:

ROMAN TMETUHL

Counsel for Trust

Territory:

BENJAMIN N. OITERONG

TURNER, Associate Justice

This case was ordered referred to a Master for hearing and report. Hearing was held by Francisco Morei, Associate Judge of the Palau District Court, who made his report to this Court December 19, 1973. Hearing on the Master's report with the parties and their counsel present was held before this Court January 14, 1974.

The original parties did not include Benhart Arurang and his wife nor the Trust Territory government. The Aru-

rangs were made party plaintiffs upon their motion to intervene as against Becheserrak. The Trust Territory was made a party by order when it appeared that the government erroneously released the land in question.

Counsel for the government agreed the land office had erred in releasing the land and that the office was seeking a solution to the error. The government is authorized to exchange public for private lands by 67 TTC § 3. Although the government has not used or occupied private land for which it is authorized under the statute to exchange public land, it has technically occupied the land by releasing it to an individual, Rosang Sungiyama, when neither the government nor the individual owned the land.

The land in question is part of Tochi Daicho surveyed and designated lot No. 914. The parcel in dispute is approximately 200 *tsubo*. The division of lot 914 into two parcels resulted from construction of a road through it.

The disputed parcel adjoins Tochi Daicho lot No. 887, originally occupied by a Japanese national. The Trust Territory government, as the successor administration to the Japanese acquired a title to No. 887. This point is agreed to by all sides.

The difficulties arose when the government released lot No. 887 to the pre-Japanese owner, Rosang Sungiyama, after sustaining her claim as against the Alien Property Custodian. The government included in the release that portion of lot 914 which adjoined lot 887.

Rosang sold the disputed parcel to Becheserrak who constructed a valuable house on it. In 1970, one year after the sale, Arukoi Techeltoech brought an ejectment action against Rosang and Becheserrak, claiming ownership of lot No. 914.

After the death of Arukoi, upon motion, Benhart Arurang was allowed to intervene on the grounds that he purchased lot 914 from Arukoi in September, 1969. His motion

to intervene was not filed until 1972. Benhart alleged he had been residing in Guam and was unaware of the disputes and proceedings.

Baules Sechelong appears as the successor plaintiff to Arukoi in the Court's order for hearing on Benhart's motion to intervene and for pretrial conference. There is nothing in the record showing Baules' entitlement to succeed Arukoi but at the hearing on the Master's report it was stated lot 914 was lineage land rather than the individual property of Arukoi and that Baules was the successor in the lineage to Arukoi. The Tochi Daicho registration shows lot 914 to belong to Milong Lineage with Olkeriil its administrator. The Master found Arukoi succeeded Olkeriil.

In an attempt to untangle this web of conflicting interests the parties were in general agreement at the hearing before this Court on the Master's report. The crux of their agreement is for the government to rectify its error by replacing equivalent land to the 200 *tsubo* purchased by Becheserrak from Rosang.

The stipulation was not complete in that it made no mention of the \$600.00 Rosang received from Becheserrak when she sold the portion of lot 914 which she did not own.

Because Benhart and his wife bought all of lot 914 from Arukoi he has been deprived of 200 *tsubo* having a value of \$600 as evidenced by the sale to Becheserrak by Rosang. He is entitled to be made whole.

The Master found that the senior members of the Milong Lineage authorized the sale by Arukoi to Benhart for the sum of \$2,000. Part of the consideration, the Master held, was Benhart's promise to build a lineage house on the larger portion of lot 914 south of the road which is only incidentally involved in the dispute. The Master proposed Becheserrak should retain the portion of lot 914 he pur-

chased from Rosang "because he has invested about \$14,600.00 on the land."

Counsel being in general agreement with the Master's report, except counsel for the Trust Territory who was not convinced the government should rectify its error by making 200 *tsubo* of government land available, it is accordingly,

Ordered, adjudged and decreed:—

1. That the 200 *tsubo* portion of Tochi Daicho lot No. 914, lying north of the main road in Idid Hamlet, Koror Municipality, Palau District, is the property of Becheserrak Tmilchol.

2. That Rosang Sungiyama shall pay the sum of \$600.00, the amount received from Becheserrak, to Baules Sechelong as administrator of the Milong Lineage.

3. That the Trust Territory government shall transfer approximately 200 *tsubo* of land which is acceptable to Benhart Arurang and Matsko Arurang, his wife, but that if acceptable land is not transferred to him the Milong Lineage shall pay him the \$600.00 received from Rosang Sungiyama.

4. That in the event the Milong Lineage shall pay Benhart Arurang and Matsko Arurang the sum of \$600.00 as set forth above, then the Milong Lineage shall receive from the Trust Territory government approximately 200 *tsubo* of land transferred as replacement for the release to Rosang Sungiyama the triangle of lot No. 914 north of the road and adjacent to Tochi Daicho lot No. 887.