

**SIHDA SOHRAM, Plaintiff-Appellee**

**v.**

**ESKE SOHRAM, Defendant-Appellant**

**Civil Appeal No. 340**

**Appellate Division of the High Court**

**Ponape District**

**March 18, 1983**

Appeal of judgment in land ownership dispute. The Appellate Division of the High Court, per curiam, held that where appellant was not served with, or given an opportunity to review and comment on, Master's Reports which

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were the basis for the trial court judgment, appellant was denied due process and therefore judgment was vacated and the case remanded to the Trial Division.

**1. Constitutional Law—Due Process**

Notice and an opportunity to be heard are essential elements of due process of law guaranteed by the Trust Territory Bill of Rights. (1 TTC § 4)

**2. Constitutional Law—Due Process—Remedies for Deprivation**

Where defendant was never given an opportunity to review and comment upon Master's Reports, which were the basis for trial court judgment defendant was denied due process of law and judgment was vacated.

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*Counsel for Appellee:* MIGUEL MARQUEZ & CHARLES  
PHILLIP

*Counsel for Appellant:* LAVAIL HULL, MLSC, Ponape

Before BURNETT, *Chief Justice*, and NAKAMURA,  
*Associate Justice*

PER CURIAM

In April, 1970, plaintiff-appellee, Sihda Sohram, and defendant-appellant, Eske Sohram, became involved in an action in Ponape, seeking to determine the ownership of land located on Ngatik Atoll. In July, 1971, hearings on the matter were held in Ngatik Atoll before Carl Kohler, Presiding Judge, Ponape District, who was acting as a Master appointed by the late Associate Justice Arvin H. Brown.

A Master's Report and Findings of Fact were issued and served upon the parties on October 20, 1971. On January 6, 1977, an additional Master's Report was filed. On January 28, 1977, the late Associate Justice Brown asked several questions of the Master in order to clarify the Master's Report. In response to Justice Brown's inquiries, the Master issued a further report on February 8, 1977. The

Master's Reports of January 6, 1977, and February 8, 1977, were not served upon the appellant or appellant's counsel. In fact, copies of the reports could not have been served upon appellant's counsel, appellant's counsel having passed away in 1973.

On March 26, 1979, Associate Justice E. F. Gianotti, relying on the Master's Report and the clarification thereof, rendered on February 8, 1977, entered judgment against defendant-appellant. In rendering that judgment, the court stated that it found no reason to dispute said Master's Report, and the court noted that no objections to the report had been filed subsequent to February 8, 1977, a period of approximately two years.

[1] Title 1, chapter 1, section 4, of the Trust Territory Code states: "No person shall be deprived of life, liberty, or property without due process of law." Notice and an opportunity to be heard are essential elements of due process of law guaranteed by this section of the Trust Territory Bill of Rights. Cf. *Ichiro v. Bismark*, 1 T.T.R. 57 (Tr. Div. 1953).

[2] Since the appellant was not served with the Master's Reports of January 6, 1977, and February 8, 1977, appellant was never given an opportunity to review and comment on these Master's Reports. For this reason, appellant was not afforded proper notice and an opportunity to be heard and was, therefore, denied his right to due process of law.

For the aforementioned reasons, the judgment dated March 26, 1979, is hereby Vacated, and the instant action is Remanded to the Trial Division for hearings on the Master's Reports of January 6, 1977, and February 8, 1977, and for other proceedings not inconsistent with this opinion.