



**FILE
START**

Computer # _____

TRUST TERRITORY OF THE PACIFIC ISLANDS--ARCHIVES SURVEY FORM

Primary Branch, Department, Bureau, or Office producing materials:

R&D

Subgroup of the above:

LAN

Author/Title/Date of publication (if any) of specific materials:

Subject of materials: (See schedule in TTPI Files System Manual)

LAN 3

Brief description:

Civil Appeal (Truk)

Geographic area dealt with in materials:

TTPI at large:

Individual districts: ✓

Individual governments:

Individual islands:

Other:

Span of years covered by materials: 1974-1975

Format of information:

Correspondence: ✓

Reports: ✓

Clippings:

Other:

Physical arrangement of materials: (How are they organized within the file?)

Geographically:

Chronologically: ✓

By subjects:

By organization:

Other:

Physical location of materials: (Area where presently located)

Office: R & D

File cabinet number: 97813 Subgroup: LAN

Drawer number: 2

File folder number: 178, 82.6

Estimated quantity of materials: 1 folder

Recorded by: BN

Date: 10/7/81

Disposition of originals:

Microfilm roll No.:

5

Frame #:

Computer # _____

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Microfilm roll No.: *B*

Frame #:

Disted Truk

July 30, 1975
Serial LCT 710

Senior Land Commissioner, Truk

Return of Public Lands, Namonuito and Western Islands

On 21 April 1975 in the Truk District High Court an Agreed Amended Agreement was filed as Civil Action No. 219 wherein the Truk Territory of the Pacific Islands relinquished all claim to ownership of any land on the island of Ulul, and Civil Action 72-73 was filed which relinquished TT Gov't interest in the island of Pulusuk and granted quiet title to the Southern half of the island to the clans named therein. These actions are not concurred in by the Chief, Lands and Surveys, who by law is charged with the responsibility for the administration and regulation of Public Land within the TTPI.

It has been brought to my attention that similar agreement which would in effect relinquish the TT Government claim to Public Lands on Negur and Alet are being prepared and will be submitted to the court at a later date.

Relinquishing Public Land to individual municipalities in this manner appears to circumvent the Public Lands Return Program and certainly does nothing to ingratiate the administration in the hearts of the people.

It is recommended that the Chief, Lands and Surveys be consulted prior to negotiating further agreements concerning the return of public land.

Joseph M. Vosmik
Joseph M. Vosmik

cc: Chief, Lands and Surveys

MAM

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CH. L&S.

IN THE
TRIAL DIVISION OF THE HIGH COURT
TRUST TERRITORY OF THE PACIFIC ISLANDS
TRUK DISTRICT

BEING, et al.,) Civil Action No. 72-73
Plaintiffs,)
vs.)
TRUST TERRITORY OF THE)
PACIFIC ISLANDS, et al.,)
Defendants.)

AGREED ORDER FOR RELEASE OF
DEFENDERS' CLAIMS AND TO
QUIT TITLE

LAW OFFICES, MICRONESIAN LEGAL SERVICES CORPORATION

This matter having come on regularly before this Court, the parties agreeing that a trial on this matter is unnecessary and that settlement would be beneficial to the parties and to the Court and should therefore be permitted, the Court being fully advised in the premises, now therefore it is hereby

ORDERED that the Defendants Trust Territory of the Pacific Islands and Richard J. ... as All Property Custodian-release forever and forever and all claims to ownership of or rights in lands located on the southern half of the island of Pulusuk, Truk District, Trust Territory of the Pacific Islands the subject matter of this lawsuit; and it is hereby

ORDERED that title to lands located on the southern half of the island of Pulusuk, Truk District, Trust Territory of the Pacific Islands, the subject matter of this lawsuit, is quieted in the People of Pulusuk according to the division of said land among the clans on Pulusuk who have by tradition inherited and been in continuous possession of said land, and who have agreed that that division party awarded below is true and correct.

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July 30, 1975
Serial No. 710

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ClanHead (Mastan): IGNASIO

Clan (Einang): HOUELAI

Clan land (Fonuwan):

Lefetin

Lukunimail

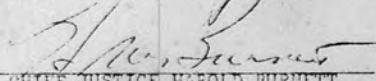
Awal

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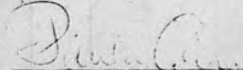
Lukanear

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DONE IN OPEN COURT this 21 day of April, 1975.

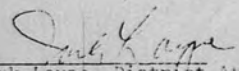

CHIEF JUSTICE HAROLD BURNETT

Presented by:


Paula Casey
Attorney for Plaintiffs



Copy Received, Approved for
Entry, Notice of Presentation
Waived:


Jack Layne, District Attorney
Attorney for Defendants

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ORDER TO QUIET TITLE

TRUST TERRITORY OF THE PACIFIC ISLANDS
TRIAL DIVISION OF THE HIGH COURT

TRUK DISTRICT

CIVIL ACTION NO. 17-74

IN THE MATTER)

OF)

MAX NUOKUS)

ORDER

The government seeks judicial relief from an adverse decision of the Trust Territory Personnel Board. Pleading was originally characterized as an "appeal" from said decision.

An Order issued June 14 setting hearing on the matter and particularly requesting counsel's advice as to whether the government has a right to such appeal and whether the court has jurisdiction to entertain such an action.

Subsequent to said Order, petitioner requested leave to amend its pleadings to pray for "judicial review" of the Personnel Board's decision.

As support for its contention that absence of statutory provision does not absolutely foreclose the availability of judicial review, petitioner accurately quotes Klassen vs. Regier, 403 P. 2d 106,:

However, courts are always open to hear meritorious complaints against illegal or oppressive acts of nonjudicial public boards and officials, either at the instance of the state or of a private citizen especially aggrieved thereby.

Such a notion is analogous to the "grand reservoir of equitable power to do justice in a particular case" available to the court upon motion under TTRCP Rule 18(e). Delemel vs. Tulop, 3 TTR 469 (1968).

Yet, judicial relief in such instances calls for the exercise of an extraordinary remedy in the face of equally extraordinary circumstances.

As the court in Klassen, supra, stated in the same paragraph from which petitioner quoted:

Regardless of the legal remedy followed, where fact-finding powers have been conferred on public boards and officials, their determinations and orders will not be set aside unless an abuse of discretion is pleaded and proved, that is, unless it is both alleged and proved that the officials acted arbitrarily, capriciously or fraudulently.

Neither petitioner's pleadings and affidavit, nor anything in the case file suggest the existence of circumstances which would warrant judicial action

178-82.6

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178.82.6

TRUCK DISTRICT

-2-

CIVIL ACTION NO. 17-74

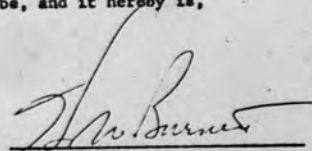
not statutorily provided for in matters of this sort. Rather, petitioner is essentially challenging the exercise of judgment legally and prudently administered.

The Personnel Board is an administrative agency created and authorized to exercise its judgment and discretion to protect the public interest in its area of concern. Such an agency is to remain free from the intrusion of judicial action unless the public interest cannot otherwise be protected and upheld.

In the absence of statutory mandate, or circumstances which require the contrary, the government is not entitled to appeal from nor judicial review of final determinations by the Personnel Board. Nor can I find in this action, however it may be denominated, allegations sufficient to invoke the jurisdiction of the court.

It is, therefore, Ordered, that this action be, and it hereby is, Dismissed.

Entered: 22 July 1974


Harold W. Burnett
Chief Justice



**FILE
END**