

KAI, et al., Appellants

v.

KIYOSHI, et al., Appellees

Civil Appeal No. 5

Appellate Division of the High Court

September 24, 1957

Appeal from the Trial Division of the High Court, Truk District, involving title to land. The Appellate Division of the High Court, in a Per Curiam opinion, held that long time possession by one party and failure to appeal to Japanese authorities by other party is sufficient to determine title.

Affirmed.

1. Former Administrations—Recognition of Established Rights

Where land claimants treat land as being owned by them, this is indication of ownership and court will assume that German and Japanese Administrations would have corrected injustices.

2. Former Administrations—Recognition of Established Rights

Where there is no evidence of appeal to Japanese authorities when dispute arose over thirty years ago, it is now too late for review by present courts.

Counsel for Appellee: RU
Counsel for Appellant: MORI

Before SHRIVER, MANIBUSAN, *Temporary Judges*

PER CURIAM

This is an appeal from the Truk District. The trial court decreed that title to the island of Herit, except the portion known as Fanana, in the Truk Atoll, is in the appellee group. This decree is amply supported by the evidence taken at any extensive trial and by the pre-trial order which recites that the appellee group have had possession of Herit Island from 1922 to the date of the order.

The principal contention of the appellants is that such possession was obtained by force, although there is evidence in the record to the effect that there had been a

previous understanding among the interested groups that the appellee group or their ancestors were entitled to the island.

[1] As we said in *Aneten v. Olaf*, 1 T.T.R. 606, also from the Truk District:

What better indication of ownership can there be than evidence that the appellee group treated this land as being owned by them? The appellant group contends that this was accomplished by force and fear but we cannot assume that the German and Japanese administrations would not have corrected any injustices or that we have facilities which will reach into a distant past to correct any injustices which may have existed.

[2] The appellants contend in this case that any effort to obtain justice would have been useless because the ancestor of the appellees was part Japanese but there is no indication that they made any appeal to the Japanese authorities. It is now too late to expect the courts to do that which the appellants should have done over thirty years ago.

The decree of the trial court is affirmed.