

O'Sonis v. Truk

State Court (Truk)
Fritz C.J.
30 September 1988

Micronesian custom and tradition—husband as head of household—parties to litigation

Defendants sought to have proceedings struck out because the plaintiff is not the real party in interest although, in Trukese society, tradition dictates that the husband as head of household is responsible for his family's legal matters.

10 **HELD:**

The Constitution requires court decisions to be consistent with Micronesian customs and traditions. Either husband or wife may prosecute or defend a civil action in which either spouse may be a party provided each spouse has informed and full knowledge.

Legislation referred to in judgment:

Truk State Court Rules of Civil Procedure, rules 12 and 17
F.S.M. Constitution, articles V and XI
Truk State Charter, article XIII

Counsel:

20 *M. O'Sonis* for the plaintiff
J. H. Rayphand for the defendants

FRITZ C.J.

Judgment:

A motion for judgment on pleadings, as permitted by Rule 12(a) of the Truk State Court Rules of Civil Procedure, was filed in this action on 15 October 1987 by the defendants' attorney.

30 The defendants asserted that they are entitled to judgment on the pleadings: because the complaint filed in this action failed to state a claim against Truk State Government upon which relief can be granted; because the plaintiff is not the real party in interest and therefore not the proper plaintiff; because Truk State is not the proper defendant; and because the action is barred by the statute of limitations.

The Truk State Government, Jesse Mori, the Director of Finance, and Isauo Kuena, the Personnel Officer, are named as defendants in this lawsuit.

The general rule is that a lawsuit must be brought in the name of the real party in interest (Truk Civ. R. 17). The real party in interest is the party who has the right to sue under the law.

Truk State Court Rule of Civil Procedure 17, governing the rights of parties, is

40 silent on whether or not a married person may sue or be sued without his or her spouse being joined as a party. The rule neither expressly prohibits nor allows for the proposition that each spouse may defend or prosecute a civil action itself or on behalf of both spouses.

In Trukese society, tradition dictates that the husband, as the head of the household, customarily is responsible for taking care of the family's legal matters such as the signing of documents and overseeing of all financial affairs in which the family may be involved.

The F.S.M. Constitution recognizes that "Micronesian Tradition shall be considered a compelling social purpose warranting such governmental action" as to be protected by statute (F.S.M. Constitution, article V, section 2).

50 The plaintiff has not raised the issue regarding allowance providing that a husband may handle the legal matters of his spouse; however, even when the parties have not asserted that any principles of custom or tradition apply, the Court has an obligation of its own to consider custom and tradition.

The Constitution mandates that "Court decisions shall be consistent with the Constitution, Micronesian customs and traditions, and the social, geographical configuration of Micronesia" (F.S.M. Constitution, article XI, section 11).

The Court finds that either husband or wife may prosecute or defend a civil action in which one or both spouses may be a party, provided that each spouse has informed and full knowledge of the other spouse's representation of the fiduciary undertaken on behalf of the other spouse.

60 The defendants also asserted that the lease agreement, which is the subject of this litigation, was made and executed between the plaintiff Richko O'Sonis and the Trust Territory Government, but not the Truk State Government; therefore, Truk State Government is not the proper defendant in this action.

There is a question of fact concerning the possible legal liability of the Truk State Government in this case; therefore, this Court holds that the Truk State Government is the proper defendant in this case in accordance with article XIII, section 3 of the Truk State Charter.

70 The Court has reviewed the pleadings on file and considered the argument on the motion by counsel and feels that there exist disputed facts regarding the applicability of the statute of limitations and the lease agreement and it is not proper to resolve those questions by judgment on the pleadings without giving the parties opportunities to contest their claims on the merits of this case.

Conclusion

The motion for judgment on pleadings is hereby denied.

Reported by: D. V. W.