

ITELBANG, Appellant
v.
GABRINA, Appellee
Civil Action No. 210
Trial Division of the High Court
Palau District
April 6, 1961

Action for divorce in which Palau District Court granted divorce under Trust Territory Code and also ordered husband to make payments to wife in accordance with Palau customary law. On appeal, the Trial Division of the High Court, Chief Justice E. P. Furber, held that Trust Territory courts should not consider matters of *olmesumech* and "food money" in action for divorce and that divorce decree which says nothing about *olmesumech* for "food money" does not affect these obligations under Palau customary law.

Modified in part and affirmed in part.

1. Palau Custom—Divorce—"Olmesumech" and Food Money

Where two people are living in good faith under Palauan system of society, court should seldom, if ever, grant alimony in American sense of word as payment by one divorced spouse to other for her or his support.

2. Palau Custom—Divorce—"Olmesumech" and Food Money

Matters of *olmesumech* and food money under Palau custom are essentially different from alimony since they involve relatives of both husband and wife.

3. Palau Custom—Divorce—"Olmesumech" and Food Money

Under Palau custom, *olmesumech* and food money, if any, are due to same extent and under same circumstances after court divorce as after divorce under local custom.

4. Palau Custom—Divorce—"Olmesumech" and Food Money

Olmesumech and food money due under Palau custom should be handled as separate matter from divorce so far as courts are concerned.

5. Palau Custom—Divorce—"Olmesumech" and Food Money

Same opportunity should be given to settle matter of *olmesumech* and food money through traditional channels after court divorce as after divorce under Palau custom.

6. Palau Custom—Divorce.

Statements in American law books, to effect that divorce decree cuts off obligations between husband and wife not provided for in connection with it, are not properly applicable to group obligations under Palauan custom.

7. Palau Custom—Divorce—“Olmesumech” and Food Money

Where there is court divorce in Palau Islands between persons living in good faith under Palauan system of society, and decree says nothing about *olmesumech* or food money, these obligations under customary law are not affected.

8. Palau Custom—Divorce—“Olmesumech” and Food Money

Trust Territory courts should not consider Palau customary obligations of *olmesumech* or food money in divorce case.

9. Palau Custom—Divorce—“Olmesumech” and Food Money

Matters of *olmesumech* or food money in connection with divorce in Palau should be handled in separate action by wife's relatives authorized under law to receive money, if settlement through traditional channels proves impossible without use or threat of violence.

Assessor:

JUDGE R. FRITZ

Interpreter:

HARUO I. REMELIHK

Appellant Acted for Himself

Counsel for Appellee:

MOSES MOKOL

FURBER, *Chief Justice*

This is an appeal from judgment granting a divorce under the Trust Territory Code and ordering the appellant, who was the defendant in the District Court, to make certain payments in accordance with Palau custom, both parties being residents of the Palau Islands.

The appellant raises no objection to the divorce itself, but claims that the *olmesumech*—parting money under Palau custom—is excessive and that nothing is properly due as what is usually called “food money” although here referred to as “consideration of the good deeds on the part of the plaintiff’s relatives”.

Counsel for the appellee claims that the *olmesumech* is justified under all the circumstances, especially because of the conduct of the appellant in “displacing” his wife.

OPINION

This appeal is governed largely by the principles discussed in the opinion of this court in *Ngiramechelbang*

Ngeskesuk v. Dirraiwesei Moleul, 2 T.T.R. 188. The principal difference is that here the divorce was granted by a court instead of under local custom, so that the question comes up of how these customary payments should be considered in connection with a divorce action in court. Apparently the District Court considered these to be a form of, or substitute for, alimony.

[1, 2] Owing to the emphasis on matrilineal support under the Palauan system of society, there should seldom, if ever, be occasion for a court to grant alimony, in the American sense of the word as payment by one divorced spouse to the other for her or his support, in connection with a divorce between two people living in good faith under that system. The matters of *olmesumech* and food money, however, are essentially different from alimony and involve other people—that is, relatives of both the husband and the wife.

[3-6] It is believed that under Palauan customary law *olmesumech* and food money, if any, are due to the same extent and under the same circumstances after a court divorce as after a divorce under local custom, but that they should be handled as a separate matter from the divorce so far as the courts are concerned and the same opportunity should be given to settle them through traditional channels as after a divorce under local custom. This court is firmly of the opinion that statements in American law books to the effect that a divorce decree cuts off obligations between the husband and wife that are not provided for in connection with it, are not properly applicable to these group obligations under Palau custom which are so different from anything usual in the United States.

[7-9] The court therefore holds that a court divorce in the Palau Islands between persons living in good faith under the Palauan system of society, which says nothing

about *olmesumech* or food money, does not affect these obligations under the customary law and that the Trust Territory courts should not consider these in a divorce case, but should leave them to be handled in a separate action by the wife's relatives authorized under the custom to receive the money, if settlement through traditional channels proves impossible without the use or threat of violence.

JUDGMENT

1. Paragraphs 2 and 5 and the words "together with the \$50.00 mentioned in paragraph 5" in paragraph 6 are struck out from the judgment of the District Court for the Palau District in its Civil Action No. 750.

2. Said judgment, as so modified, is affirmed.

3. This judgment shall not preclude the relatives of the appellee Gabrina, who was the plaintiff in the District Court, from pressing for *olmesumech* and food money through traditional Palauan channels and, if that fails, bringing the matter to court in a separate action brought by the person authorized under Palau custom to receive such money.

4. No costs are assessed against either party in this appeal.