

*Kiep v. Rengiil*, 1 ROP Intrm. 193 (Tr. Div. 1985)  
**FRANCIS KIEP,**  
**Plaintiff,**

v.

**OMOTO J. RENGIL,**  
**Defendant,**

**SUMANG RENGIL,**  
**Intervenor.**

CIVIL ACTION NO. 46-84

Supreme Court, Trial Division  
Republic of Palau

Judgment

Decided: March 5, 1985

BEFORE: ALAN L. LANE, Associate Justice.

This matter came on regularly for trial on February 6, 7, 11 and 12, 1985, before the Honorable Alan L. Lane, Associate Justice Presiding. Kaleb Udui, Esq., appeared as counsel for the plaintiff. Johnson Toribiong, Esq., appeared as counsel for the defendant. Francisco Armaluuk appeared as counsel for the intervenor.

The issues were duly tried by the parties, and the Court, after having received all evidence and considered argument makes the following findings of fact and conclusions of law.

Intervenor Sumang Rengiil acquired ownership of the family residence located on Residential Lease No. 320 (Lot No. 40371), Koror, Palau, sometime in the year 1973 or 1974. At that time, the land lease was already in the name of Sumang Rengiil. Subsequently, intervenor left Palau (in about 1974) and requested that his family care for the house during his absence. Intervenor did not return to Palau until May 4, 1983.

Defendant Omoto Rengiil, with the permission of his sisters and since he is the brother of intervenor, moved into the house in question, rent free, and remained there from 1974 until April, 1983 when he left for Guam to attend school. Defendant made substantial improvements on the house during his occupancy.

**¶194** On March 28, 1983, defendant, prior to departing for Guam purported to sell the house in question to the plaintiff. Prior to the purported sale, and subsequent thereto, plaintiff and defendant negotiated various methods to pay the purchase price by plaintiff to defendant. The orally agreed sales price was \$22,000.00. The various methods of payment were: the proceeds from the sale of plaintiff's other house; a bank loan; an Ocheraol to be held in the future; and an

agreed monthly payment. Intervenor was not a party to these negotiations.

Although the terms of the agreement were oral and revised several times, defendant executed a document (plaintiff's exhibit 2) acknowledging that he sold the house to plaintiff for \$22,000.00 on March 28, 1983.

The defendant delivered this document to the plaintiff along with plaintiff's exhibit 1 which purports to transfer a lease for lot number 40373, Koror, Palau. Also delivered to plaintiff at that time was a list of household items located at the house (plaintiff's exhibit 3). Defendant denies that exhibits 1 and 3 were intended to be transferred to the plaintiff along with the house, and that the \$22,000.00 sales price was only for the house. He contends that exhibits 1 and 3 were prepared to assist plaintiff with his bank loan.

Plaintiff insists that defendant represented exhibit 1 to be for the leasehold on the land where the house in question is located. Furthermore, he contends that this lease, along with the household items on exhibit 3, were to be transferred to him for the \$22,000.00 sales price.

On July 18, 1983, after plaintiff exhausted all other methods of payment he had previously negotiated with defendant, defendant executed a memorandum (plaintiff's exhibit 4) that outlines the final method of payment orally agreed to by the parties in May or June, 1983. Plaintiff paid the defendant, pursuant to the understanding, a total sum of \$3,900.00 from June to and including October, 1983. In November, 1983, plaintiff discovered that the lease transferred to him by defendant was not the lease for the land where the house is located, but an adjoining land. Plaintiff stopped payment and demanded a solution from the defendant. Several letters were sent back and forth until this lawsuit was filed in March, 1984.

It is clear from the events surrounding this case that the intervenor has never relinquished his ownership rights to the house in question and he was not a party to the above described transactions. The defendant was attempting to sell a house and collect proceeds therefrom to which he did not own or have a right to sell. The plaintiff was an innocent purchaser L195 and moved into and commenced payment on the house in reliance on defendant's representations. It is unclear from the testimony whether defendant misrepresented the lease and the household goods, but none the less, he did misrepresent the house ownership. In fact, during the time that defendant was still in negotiations with plaintiff over the method of payment, he negotiated an instrument purporting to transfer the house and household goods back to intervenor (plaintiff's exhibit 7).

The Court, because of the lack of authority vested in the defendant to enter into a transaction with regard to the house in question, declares that the purported agreement between the parties is void. The Court further declares that intervenor is the true and rightful owner of the house. The Court considers the actions of the defendant to have been in bad faith, and the misrepresentations material. The parties should be restored to their status prior to them entering into these transactions.

Defendant counterclaims for rent from the plaintiff for his continued occupancy of the

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house to the present date. The Court rejects defendant's claim. Although defendant had a legitimate right to the use of the house by consent from his family, the Court will set any claim he may have for the rental value of the house as punitive damages for his intentional false misrepresentations made to the plaintiff. Furthermore, plaintiff should be given a reasonable time to vacate the premises.

It is, therefore,

HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff shall have judgment against defendant as follows:

- 1) Defendant shall pay to the plaintiff the sum of \$3,900.00 as reimbursement for the funds advanced by plaintiff for the purchase of the house in question.
- 2) Plaintiff shall be awarded free rent during his occupancy of the house from April, 1983 to May 1, 1985, as punitive damages against defendant. This order does not include utility or other costs associated with said occupancy.
- 3) Plaintiff shall vacate the residence no later than April 30, 1985.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that intervenor is declared the true and rightful owner of the house L196 in question herein, and shall be restored to said status on May 1, 1985.

All parties shall bear their own costs of suit.