

FUAMETE

Denying Default Set Aside

Probate 49-71

Pele

RECEIVED THIS 15 DAY
OF OCT. 1979 P.M.

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U.S. PELE, ATT. AT LAW
BY: *[Signature]* SECRETARY

HIGH COURT OF AMERICAN SAMOA
FILED 10/15/79
[Signature]
CLERK OF THE HIGH COURT
OF AMERICAN SAMOA

IN THE HIGH COURT OF AMERICAN SAMOA
TRIAL DIVISION

LENA PRITCHARD KNEUBUHL,
Plaintiff,

-vs-

GLADIS PECAN, THELMA LEGALLEY,
JANE UHRLE, FRANK PRITCHARD,
WILLIAM PRITCHARD, MARY JEWETT
PRITCHARD, MARILYN P. WALKER,
ADELINE HUFF, RONALD E. PRITCHARD,
JR., DOROTHY PRITCHARD CROCKER,
ALBERT P. JENSEN, MATEEN JENSEN,
BERTEL JENSEN, PETRINA JENSEN,
RUBY GRISARD, ELIZABETH P. BROWN,
ALEXANDER JOHN PRITCHARD, DORA
PRITCHARD, PATRICIA P. WEINSTOCK
AND WILHEIMINA PRITCHARD,
Defendants.

CIVIL ACTION NO. 49-71

ORDER DENYING MOTION
TO SET ASIDE DEFAULT
JUDGMENT

Before Chief Justice RICHARD I. MIYAMOTO, presiding; and Associate Judges UPU'ESE GALOIA and ASUELU M. TA'AGA.

Counsel: For Plaintiff - Ivi S. Pele
For Defendants - Roy J. D. Hall, Jr.,
L. Su'esu'e Lutu and
Michael Kruse

MIYAMOTO, Chief Justice.

This is a Civil Action case concerning devolution of title to the parcel of land known as Fuamete, which constituted part of the estate of Alfred James Pritchard, deceased. An amended petition to partition real property was filed on October 6, 1972. On March 11, 1975 petitioner substituted a new

1 attorney, who filed a second amended complaint on May 20, 1975
2 Process was served by publication on July 5, 1975, notifying
3 defendants that they had two months and ten days from the date
4 of first publication to appear and defend. Defendants answered
5 on October 1, 1975, 16 days beyond the time permitted in which
6 to answer. Notice of trial was served by mail on February 13,
7 1976, informing defendants that trial was set for May 19, 1976.
8 On May 21, 1976, the Probate Division of the High Court awarded
9 default judgment to petitioner against defendants herein. This
10 judgment was filed May 24, 1976. An amended judgment was de-
11 clared on May 27 and filed May 28, 1976. Then on November 1,
12 1976, defendants moved for an order to vacate and set aside the
13 default judgment. Defendants submitted a brief, and oral argu-
14 ment was heard on January 22, 1979.

15 We find that plaintiff served notice upon defendants in ac-
16 cordance with the provisions of 11 ASC 2001-2003, and that de-
17 fendants, despite receiving adequate notice, failed to answer
18 to the time provided under 11 ASC 2002(b)(3) and failed to appear
19 at trial. The default judgment was properly entered against
20 defendants under High Court Rule 14, which provides as follows:

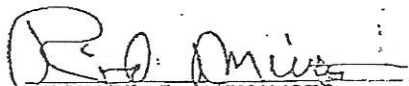
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22 Default Judgment may be entered at the discre-
23 tion of the presiding judge or justice in civil
24 cases in which the party against whom such default
25 is sought has made a general or special appearance
26 and fails to prosecute or defend his action at
the time set for trial; or has been served in ac-
cordance with Rule 6 of these rules and Rule 4,
Federal Rules of Civil Procedure and has failed
to answer within the time prescribed therein.

27 A default judgment may be entered upon motion of
28 a party to the case or without such motion at
the discretion of the presiding judge or justice.

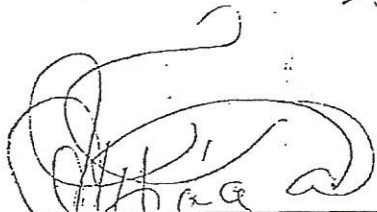
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30 As the default judgment was entered in accordance with the rule,
31 it must stand. The motion to vacate and set aside the default
32 judgment is therefore DENIED.

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DATED: Oct 12, 1979


RICHARD I. MIYAMOTO
Chief Justice

UPU'ESE GALOIA
Associate Judge


ASNELU M. TA'AGA
Associate Judge

Reed
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A

Clark of the High Court
of American Samoa

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IN THE HIGH COURT OF AMERICAN SAMOA
TRIAL DIVISION

LENA PRITCHARD KNEUBUHL,)	
)	Probate No. 49-71
Plaintiff,)	
)	AMENDED ORDER OF DISTRIBUTION
vs.)	
)	
GLADIS PECAN, THELMA LEGALLEY, JANE)	
UHRLE, FRANK PRITCHARD, WILLIAM)	
PRITCHARD, MARY JEWETT PRITCHARD,)	
MARILYN P. WALKER, ADELINE HUFF,)	
RONALD E. PRITCHARD, JR., DOROTHY)	
PRITCHARD CROCKER, ALBERT P. JENSEN,)	
MATEEN JENSEN, BERTEL JENSEN,)	
PETRINA JENSEN, RUBY GRISARD,)	
ELIZABETH P. BROWN, ALEXANDER JOHN)	
PRITCHARD, DORA PRITCHARD, PATRICIA)	
P. WEINSTOCK AND WILHEIMINA PRITCHARD.)	
)	
Defendants.)	

On May 21, 1976 before the Probate Division of the High Court of American Samoa, Acting Chief Justice Leslie N. Jochimsen, presiding; the plaintiff, Lena P. Kneubuhl appearing with her counsel Pele Ivi S. and Richard A. Higbi, the defendants Thelma Legalley, Jane Uhrle, Gladis Pecan, Frank Pritchard, William Pritchard and Keila Pritchard appearing through their counsel L. Suesue Lutu.

All parties having been served or appearing, evidence was presented by both parties and the court makes its Judgment as follows:

That default be entered against all parties as follows:

- Mary Jewett Pritchard
- Marilyn P. Walker
- Adeline Huff
- Ronald E. Pritchard, Jr.
- Dorothy Pritchard Crocker

Probate No. 49-71
AMENDED ORDER OF DISTRIBUTION

✓ 128176 DOCKET
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Albert P. Jensen
Mateen Jensen
Bertel Jensen
Petrina Jensen
Ruby Grisard
Elizabeth P. Brown
Alexander John Pritchard
Dora Pritchard
Patricia P. Weinstock and
Wilheimina Pritchard

That the freehold land described in the Court Grant, pages 122-125 known as "FUAMETE" in the vicinity of Leone now standing in the name of Alfred James Pritchard is the property of the following parties:

- (a) A one third undivided interest to the plaintiff, Lena P. Kneubuhl as daughter of Alfred James Pritchard.
- (b) A one third undivided interest to Gladis Pecan, Thelma Legalley, Jane Uhrle, Frank Pritchard, Jr., William Pritchard and Keila Pritchard to share and share alike.
- (c) A one third undivided interest to Ronald E. Pritchard, Jr., Dorothy P. Crocker, Mary Jewett Pritchard, Marilyn P. Walker and Adeline Huff to share and share alike.

That deeds be prepared by the parties and that the Clerk of this Court be empowered to sign those deeds and record them with the Territorial Registrar's Office.

Dated this 27th day of May, 1976.

BY THE COURT:



LESLIE N. JOCHIMSEN
ACTING CHIEF JUSTICE

