

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII
CIVIL NO. 31552

WILLIAM S. MORIWAKI,
Plaintiff,

vs.

RALPH W. KONDO, Director
of Taxation of the State
of Hawaii,
Defendant.

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

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V. Chong
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FINDINGS OF FACT AND CONCLUSIONS OF LAW

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WILLIAM S. MORIWAKI,)
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 Plaintiff,)
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 vs.)
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 RALPH W. KONDO, Director)
 of Taxation of the State)
 of Hawaii,)
)
 Defendant.)
 _____)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court having considered the evidence adduced at the trial and the memoranda of the counsel for both parties, hereby makes and enters its findings of fact and conclusions of law, as follows:

FINDINGS OF FACT

1. Plaintiff, William S. Moriwaki was born in Wahiawa, Hawaii in 1918. His schooling ended at the intermediate school level and he worked at several jobs until 1945 when he enlisted in the U. S. Army. He separated from military service in December 1946.
2. In January 1947, plaintiff became a U. S. government employee and was assigned to Japan. He did not return to Hawaii until June 1970.
3. During the period 1947 - 1970 plaintiff remained a U. S. government employee, assigned to various places in Japan and Korea with some temporary duty assignments to Viet Nam and elsewhere.
4. While in Japan, plaintiff regularly resided

in private homes outside of military reservations, although military quarters were generally available to him.

5. In 1967 plaintiff married a Japanese national. Their son was born in Japan in 1968. Plaintiff purchased real estate in Japan intending to build a home and to retire there.

6. When plaintiff left Hawaii in 1947, his departure was complete. He left no property, assets, bank accounts or other ties. He has not voted in any political elections. From the time he left in 1947 plaintiff had no fixed or definite intention of returning to Hawaii. He intended his home to be wherever he was.

7. Plaintiff's return to Hawaii in 1970 was solely on account of governmental orders transferring his job assignment to Hawaii. Plaintiff had to accept the transfer if he wanted to keep his job and retain his retirement privileges. Plaintiff plans to retire from government service in a couple years and to return himself and his family to Japan to spend the remainder of his life.

8. On June 10, 1969, the Department of Taxation filed a certificate of state tax lien in the Hawaii Bureau of Conveyances claiming that plaintiff owed net income taxes to the State of Hawaii in the amount of \$5,915.61 for the period 1947-1963.

9. Plaintiff brought suit to enjoin defendant from collecting the tax set forth in the lien certificate, and defendant filed a counterclaim for the amount of the taxes.

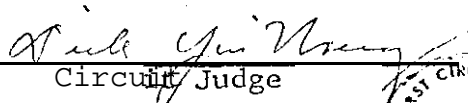
10. During the period 1947-1963, and until his return in 1970 plaintiff was not domiciled in Hawaii within the meaning of H.R.S., §231-33 nor a resident of Hawaii as defined in R.L.H. 1955, §115-37.5.

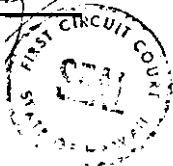
CONCLUSIONS OF LAW

1. During the period 1947-1963, plaintiff was domiciled in Japan, and not in Hawaii.
2. Nothing in the treaties or other agreements between the United States and Japan prohibited plaintiff from acquiring a domicile in Japan during that period.
3. Since plaintiff did not reside and was not domiciled in Hawaii during the period 1947-1963, the assessments set forth in defendant's certificate of state tax lien were illegal and should be cancelled.
4. Defendant takes nothing by his counterclaim and plaintiff is entitled to judgment cancelling and discharging the certificate of state tax lien filed by defendant on June 10, 1969.

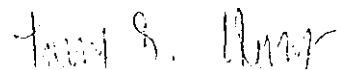
The Court will sign a judgment prepared in accordance herewith.

DATED: Honolulu, Hawaii, June ²⁹~~27~~, 1971


Circuit Judge



APPROVED AS TO FORM:


Deputy Attorney General

