



INTERIOR BOARD OF INDIAN APPEALS

Richard Obi

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United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ADMINISTRATIVE APPEAL OF

RICHARD OBI

IBIA 74-31-A

Decided February 28, 1974

Appeal from an administrative decision denying an application for the sale and purchase of land.

Reversed.

Indian Lands: Allotments: Alienation

When an Indian wishes to sell his allotment to his Indian mother who has ample means and the seller is in need, the Area Director must have cogent reasons for disapproval of the sale.

OPINION BY MR. McKEE

This is an appeal filed by Richard Obi from the decision of the Area Director, Portland, issued October 11, 1973, which in turn affirmed the Superintendent's decision of July 24, 1973, wherein application by the appellant to sell his Quinault allotment to Cecelia Obi, his mother, \was denied.

The appeal was transferred to this Office pursuant to the delegation of authority issued December 14, 1973, amending 211 DM 13.7. The transmittal from the Area Director in Portland dated December 3, 1973, indicates that the appeal was timely filed although no date is mentioned. The appeal itself is undated, but it does bear the receiving date stamp of the Area Office of the Bureau of Indian Affairs showing November 12, 1973. The record discloses that the Area Director's decision of October 11, 1973, was misaddressed to the appellant at Renton, Washington, whereas it should have been sent to Seattle, Washington. There is nothing to indicate when or how it was delivered to the appellant.

A finding is made that the appeal was timely filed and NOTICE IS HEREBY GIVEN that this appeal is hereby docketed by this Board for decision.

A further finding is made that although the record does not include copies of the application for sale of the allotment signed by Richard Obi or any document signed by Cecelia Obi, said record is sufficient upon which to base a decision. This appeal will therefore be disposed of immediately without requiring a filing of legal briefs or further statements.

The Superintendent's memorandum of November 28, 1973, to the Area Director includes the following statement, "His motivation for the above sale, at least in part, we believe has been a face-saving device." A review of the appeal itself lends considerable weight to this opinion although the appellant's motivation might be better described as an effort to preserve the self-respect which is essential to him.

The Area Director's statement that the appellant's mother is almost 95 years old and that she has in excess of \$200,000 in her individual Indian money account with ample current income to meet her needs, would suggest that the payment of \$8,250 for the appellant's allotment could not jeopardize her financial position. There is no suggestion in the Area Director's decision that Cecelia Obi is in any way incompetent, despite her age, and there is an indication that she has been generous to the appellant in the past.

Whether or not he is indebted to her for some unstated amount is of no consequence.

The appellant states in his appeal, "Officials declare she is not in the land business, has no use for the land. I say that though she has land, I prefer to give her collateral for this sum rather than accept another outright gift." (Emphasis supplied.) The appellant proceeds to describe his need for money.

It appears without contradiction: that the appellant does need funds; that he has a valuable asset which he is willing to sell to gain the needed cash; that the purchase of the land by Cecelia Obi would in no way jeopardize her financial position; and that it is the desire of both parties to complete the transaction. No cogent reason for disapproving the application to sell has been stated by the Area Director.

A finding is made that the denial of the application to sell the land and to expend money to purchase the same are legal property rights of the appellant and his mother the exercise of which has been thwarted by the ruling of the Area Director. He has overreached in this matter. It is our conclusion that the transaction should be permitted to go forward at the earliest possible date.

