

WAIMEA FALLS PARK

Invites You To

the

EVICTION

of the

**last old-time
Hawaiian Family
from the valley**

ALOHA!

✳

For over fifty-five years our family has lived on and loved and taken care of this beautiful 'Aina (Land) in Waimea Valley. Over four generations have been raised here. Our roots go deep and bind our spirit to this land. Naturally, we do not want to move.

But our claim to this land lies not only in those feelings, nor in the fact that our ancestors' bones rest in caves along this mountainside -- we purchased this land in 1929. The following pages tell that story.

Waimea Falls Park claims to take pride in perpetuating the culture of the people who once inhabited this valley; however, its act to evict us after so many years of co-existence and cooperation, demonstrates the Park's real attitude toward the Hawaiian people and their culture.

BUT, YOU CAN HELP STOP THIS INJUSTICE!

- BOYCOTT Waimea Falls Park.
- PICKET: Grab a sign and join us on the line.
- CONTRIBUTE food for our supporters and/or money for our RESISTANCE FUND.
- CALL Charles Pietsch III, President of Waimea Falls Park, Inc. at home 734-6225 or at his office 538-3649 and ask why he is trying to grab our land.
- READ & SIGN a letter of support

to LUCY ANTONE MACARIO JOSEPH dated May 22, 1925 demonstrates that only she had interest in Grant 880.

May 6, 1930

ANTONE JOSEPH testifies before the Master appointed in the partition suit. His testimony verifies that there was an "agreement to sell with one of my wife's cousins, TIMOTHY BROWN, . . ."

No evidence of cancellation of Agreement of Sale

However, he implies that the contract was cancelled by mutual agreement. There is no evidence, except Mr. Joseph's implication, that the contract was indeed cancelled. Indeed, the affidavits of Timothy A. Brown, Francis A. Brown and Rachel Kemp all attest to the continuing collection of payments by LUCY JOSEPH from TIMOTHY A. BROWN until the full purchase price was paid.

Significantly, LUCY ANTONE MACARIO JOSEPH, was never asked to testify about the Agreement between Mr. Brown and herself and the payment made by the Master to distribute the proceeds from the sale of Grant 880 was to ANTONE JOSEPH.

Note: It is unclear whether LUCY JOSEPH knew of her husband's dealings or receipt of money from the sale of Grant 880.

Payment on Agreement of Sale continued to be made and collected

It is clear, however, according to the affidavits of TIMOTHY A. BROWN, FRANCIS BROWN AND RACHEL KEMP that payments continued to be collected from Mr. Brown by Lucy Joseph until the contract was paid in full.

May 26, 1930

Decree filed in partition suit and allocated a portion to be paid to ANTONE JOSEPH for his interest in Grant 880 but he appears to have had no interest to sell.

1930 . . .

(From TIMOTHY A. BROWN'S Affidavit of October 24, 1981)

Mr. Brown's reason for payment of "lease."

"During the 1920's and 1930's the islands were under a Territorial Government and the large landowners and corporations had predominance over ownership of property and land. It was during this period that Maialua Agricultural Company, Limited acquired all the property in Maimea Valley in one block grant. They also claimed ownership of the property that I had bought in fee. I tried in vain to talk and negotiate with them to get clear title to this property but to no avail. Their reason was that the property and its position at the entrance to the valley would impair their rights of way to the valley. Finally, under extreme duress to avoid future confusion and possible eviction I temporarily compromised a long lease so that I could still occupy and live on the property.

THE FACTS

1929

Brown Family move to the land they presently occupy in Waimea Valley, Oahu. Family members: Timothy A. Brown, Aileen E. Brown (wife), and five sons - Carl K., James R. Woods, Francis K., Benjamin K. and Harold K. The family has continuously occupied the land until the present, paid property taxes and improved the land.

March 26, 1929

TIMOTHY A. BROWN signed an Agreement of Sale with LUCY ANTONE MACARIO JOSEPH (first cousin of Aileen F. Brown) to purchase in fee her 1/98 interest in Royal Patent Grant No. 880 for \$1500.

Agreement not recorded.

At the time of the signing of the Agreement, Mr. Brown was not given a copy of the Agreement. Mrs. Joseph had agreed to record the agreement, but died before she could fulfill her promise.

Agreement paid in full.

From the date of the signing of the Agreement TIMOTHY BROWN continued to make payments on the contract until it was paid in full (in approximately two years). Affidavits from TIMOTHY A. BROWN and RACHEL KEMP, the daughter of LUCY ANTONE MACARIO JOSEPH, attest to the fact that the contract to purchase was paid in full.

Agreement "lost" by Josephs.

TIMOTHY A. BROWN was not given a copy of the Agreement, however after the signing of the contract the Agreement was misplaced, lost or secreted by someone in the Joseph family or household.

NOTE: Because TIMOTHY A. BROWN did not have written evidence of the agreement of sale he would not be able to pursue his claim of ownership to the 1/98 interest in R. P. Grant No. 880.

May 18, 1929

WAIMEA LAND COMPANY, LIMITED filed suit in the First Circuit Court to partition Grant 880, to sell it and divide the proceeds of the sale among those who claimed interests in the grant. Lucy Joseph was not a party and the Browns were not notified of this proceeding. Court orders the sale of Grant 880.

December 20, 1929

February 19, 1930

Public auction to sell Grant 880 held.

March 12, 1930

Sale confirmed by order of the court to Waialua Agricultural Company, Limited and a deed was issued to Waialua Agricultural Company, Limited. This deed terminated only Antone Joseph's interest in Grant 880. Significantly, however, there is no evidence to show that ANTONE JOSEPH had any interest in Grant 880. The evidence in a deed from EVA KAMAKI KAHALEPAULF

Note: Succession of alleged ownership:
1930 - 1948 Waialua Agricultural Company, Limited
1948 - 1958 Helemano Company, Limited
1958 - 1971 Castle & Cooke
1971 - 1974 Bishop Corporation
1974 - now Waimea Falls Park (subsidiary of
Bishop Corporation)

- March, 1981 FRANCIS K. BROWN, son of TIMOTHY A. BROWN, during one of his normal visits to care for his aged parents, was shown a document signed by LUCY ANTONE MACARIO JOSEPH and TIMOTHY A. BROWN agreeing to the sale and purchase of the subject real property. FRANCIS K. BROWN was told by his mother who handed the document to him that she was given the document just a few days earlier by a relative of LUCY JOSEPH.
- Lost Agreement
returned to
Browns
- FRANCIS K. BROWN then sought legal counsel at the office of Yoshiro Nakamura who advised him to record the document.
- May 5, 1981 FRANCIS K. BROWN records the Agreement of March 26, 1929 between TIMOTHY A. BROWN and LUCY ANTONE MACARIO JOSEPH.
- April 3, 1982 TIMOTHY A. BROWN, by quitclaim deed, quitclaimed his 1/98th interest in Grant 880 to his son, FRANCIS K. BROWN.
- May 5, 1983 WAIMEA FALLS PARK files suit for Brown's homestead
December 23, 1983 WAIMEA FALLS PARK files motion for partial summary judgment.
- February 24, 1984 WAIMEA FALLS PARK obtains Order Granting Motion for Partial Summary Judgment and Judgment against the Browns
- March 5, 1984 FRANCIS K. BROWN filed motion to reconsider the decision of the court.
- April 18, 1984 Court denies motion for reconsideration.
- May 3, 1984 Notice of Appeal and Designation of Record on Appeal filed with Supreme Court
- (August 1, 1984 Date by when the Record on Appeal to be docketed)
- July 18, 1984 Writ of Possession was issued by Court.
- July 21, 1984 Sheriff served Writ on Browns saying that he will physically remove the Browns and their possessions by Tuesday, July 24, 1984.
- NOTE: WAIMEA FALLS PARK obtained the Writ of Possession without first notifying the Browns' attorney, Hayden F. Burgess. Waimea wishes to move the Browns out even before the Appeal is heard and while a supersedeas bond amount was still being negotiated.

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billing Tracy Perry.

FOR MORE INFORMATION OR TO GIVE
WORDS OF ENCOURAGEMENT

Call the BROWN FAMILY at
638-9123

or

In case of our arrest and/or evic-
tion, call our attorney, HAYDEN
F. BURGESS, at 696-6354.

Any monetary contributions should
be sent to BROWN FAMILY RESISTAN-
CE FUND, c/o Hayden F. Burgess,
86-120 Farrington Hwy., Waianae,
Hawaii 96792.