

**FORT PECK COURT OF APPEALS
ASSINIBOINE AND SIOUX TRIBES
FORT PECK INDIAN RESERVATION
POPLAR, MONTANA**

**JOHN TODD McCLAMMY AND
WILL JAMES McCLAMMY
Plaintiff/Appellant**

APPEAL No. 181

vs .

**RUSSELL KIRN,
Defendant/Appellee**

ORDER OF REMAND

In consideration of pleadings, J.egal briefs and oral arguments the Court now finds:

Counsel for Plaintiff/Appellant was not contemptuous or wilful, in failing to attend oral arguments in Tribal Court. Plaintiff set forth in its complaint, a good faith argument based on fact and ground in law.

This Court finds that Civil Complaint CV-P-2149 dated June 29, 1992, raises substantive legal issues of law. The salient issue being:

Whether Genevieve McClammy, was seized with the full ownership right to sell the building without the ratification of Plaintiff remain-dermen?

Collateral to this issue is the factual question.

Whether Genevieve McClammy sold the quonset as Personal Representative of the Estate of William T. McClammy or sold the quonset as her sole and separate property for her own benefit?

This Court is aware of the fact that Counsel for Plaintiff failed to attend oral arguments in

Tribal Court and is subject to sanctions for her actions; however, this Court is not willing to injure the individual Plaintiffs' in this matter because of the negligence of their counsel.

NOW THEREFORE THIS COURT ORDERS; this case be remanded to Tribal Court to determine the legal and factual issues above. Request for Attorneys' fees of Defendant/Appellant is hereby denied.

DATED this 13th day of October, 1993.

BY THE COURT OF APPEALS:

Gary M. Beaudry, Chief Justice

Gary J. Melbourne, Associate Justice
