

FILED

IN THE TRADITIONAL RIGHTS COURT
OF THE
REPUBLIC OF THE MARSHAL ISLANDS

DEC 17 2015

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHAL ISLANDS

ISABELLA SILK and ALFRED CAPELLE,)
)
PLAINTIFF(S),)
)
VS.)
)
ARINE JORTAK and MONEO OGAWA,)
)
DEFENDANT(S).)
_____)

CIVIL ACTION NO. 2009-191

OPINION AND ANSWER OF THE TRADITIONAL
RIGHTS COURT

MEMBERS OF THE TRC PANEL:

CHIEF/PRESIDING JUDGE WALTER K. ELBON
PRO TEM JUDGE LANINBO FRANK
ASSOCIATE JUDGE GRACE LEBAN

DATE OF HEARING(S): September 22, 24, 2015, and October 5, 2015

PLACE OF HEARING(S): ULIGA COURTHOUSE, MAJURO ATOLL

ACTION TAKEN:

The questions put before Panel of the Traditional Rights Court for answer are:

1. Who is the proper person to hold the alab title on Watuwelon Weto, Jabo Island, Arno Atoll?
2. Who is the proper person to hold the senior dri-jerbal title on Watuwelon Weto, Jabo Island, Arno Atoll?

ANSWER TO QUESTION NO. 1:

ISABELLA SILK

ANSWER TO QUESTION NO. 2:

MONEO OGAWA

INTRODUCTION:

This case started over a dispute within parties regarding the questions of who is the Alab and who is the Dri-jerbal (Senior Dri-jerbal) on Watuwelon Weto, Jabo Island, Arno Atoll, Marshall Islands.

The Plaintiffs, Isabella Silk says she is the Alab, and Alfred Capelle, says he is the Dri-jerbal. The Defendant, Arine Jortak, died before the hearing of the case. Defendant Moneo Ogawa went ahead and claimed that she holds both titles of Alab and Dri-jerbal on the weto in dispute today.

ISSUE(S) IN THIS CASE:

During the hearing in this matter, the TRC listened to all the testimony from witnesses on both sides, and considered all documentary evidence as presented, and decided that it is proper under Marshallese custom that Isabella Silk holds the Alab title on Watuwelon Weto on Jabo Island, Arno Atoll.

Both parties presented their menmenbwij (genealogy charts) as evidence in court. However, the menmenbwij differ from each other. There were no objections from either party on the differences of the menmenbwij. The Defendants' menmenbwij begins with Juion and it shows that Juion is the younger sister of Aelonin and that Juion adopted Obetea. The Defendants' menmenbwij does not show Aelonin, and whether he had other younger siblings. On the Plaintiffs' menmenbwij, it starts with Luwojwa and three of her children who are Laelonin, also known as Aelonin, Likojene, a female and Laieb, a male. On this menmenbwij Juion's name is not shown. It only shows Laieb's name and his child, Obetea. Also, on the Plaintiffs' menmenbwij, it shows that Likojene is the only female child of Luwojwa. The children of Likojene are Margaret or Maggie, the female, and Hermon, the male. And the children of Margaret are, Laturtur and Isabella. This menmenbwij also indicate that it is proper that Isabella should be the one to hold the title of Alab today on Watuwelon Weto, Jabo Island, Arno Atoll.

Defendants' Exhibit B, the Declaration that Leroij Lantimur signed, does not show the reason why she recognizes Moneo Ogawa as the Alab for Watuwelon Weto. Additionally, it does not mention the Plaintiffs. The Declaration is only in English and explains only that Leroij Langtimur recognizes Moneo Ogawa as the Alab on Watuwelon Weto and it does not mention Arine Jortak, during which time he was still alive, as the Alab. On the amended answer of the Defendants, which was filed on January 21, 2013, it shows that Arine Jortak is the Alab and Moneo Ogawa is the Senior Dri-jerbal. Defendants' Exhibit C is the Land Use Agreement which Moneo Ogawa signed as the Alab and Dri-jerbal on Watuwelon Weto. The Land Use Agreement was signed on January 9, 2012. The Plaintiffs filed their complaint on September 02, 2009. Defendants' Exhibit B, which is about "Aje Lok Maron" (giving of right), which was approved by Iroij Rilang Tarkeim, the TRC Panel recognized that this will is not binding

because at this time Iroij Rilang Tarkeim did not hold the title of an Iroijlaplap when he signed. See consolidated TRC Opinion on High Court Civil Action No. 2005-127 & 2007-217.

Mr. Biti Lake, witness for the Defendants, who also owns lands on Jabo Island, on Arno Atoll, testified that he knows both parties. He testified that the Plaintiffs and their family own a weto on Jabo Island and that the weto is call Ratnil Wetu. The testimony of Biti Lake indicates that Plaintiffs do have land rights on parts of Jabo Island, Arno Atoll.

Plaintiffs Exhibit B, "Arno Ownership" 1959 Land Determination, shows that Herman, the son of Likojene, and Laturtur Capelle, the son of Margaret, who was the daughter of Likojene, were alabs and dri-jerbal on Ratnil Wetu and Watuwelon Wetu on Jabo Island, Arno Atoll. The testimony of Biti Lake and the Arno Ownership 1959 Land Determination do prove that the Plaintiffs have land rights on Jabo Island, Arno Atoll. Furthermore, the Complaint in this case is about Watuwelon Wetu and the TRC Panel, who heard this case, recognizes that Isabella Silk is the proper and rightful person to hold the Alab title on Watuwelon Wetu, Jabo Island, Arno Atoll.

The Plaintiffs also recognize Obetea as being on the bloodline from Laieb, and agree that his granddaughter, Moneo Ogawa, should hold the dri-jerbal (Senior Dri-jerbal) title on Watuwelon Wetu.

Therefore, the TRC Panel, who heard the case, and considered the evidence as presented, recognize that it is right and proper for Isabella Silk to hold the title of Alab, and Moneo Ogawa to hold the title of Dri-jerbal on Watuwelon Wetu, Jabo Island, Arno Atoll, Marshall Islands.

NAME(S) OF WITNESSES FOR PLAINTIFF:

1. Alfred Capelle

NAME(S) OF WITNESSES FOR DEFENDANT:

1. Moneo Ogawa
2. Biti Lake
3. Leonla Jortak
4. Haruo Ogawa

IMPORTANT ITEMS AND TANGIBLE AND DOCUMENTARY EVIDENCE RECEIVED:

1. Plaintiffs' Exhibit A – Menmenbwij (Geneology Chart)
2. Plaintiffs' Exhibit B – Arno Ownership 1959 Land Determination
3. Defendants' Exhibit A – Menmenbwij
4. Defendants' Exhibit B – Declaration signed by Leroij Langtimur

5. Defendants' Exhibit C – Land Use Agreement
6. Defendants' Exhibit D – 'Aje Lok Maron' (Will)

OTHER MATTERS THE COURT PANEL DEEMS IMPORTANT TO MAKE KNOWN:

On the menmenbwij of the Plaintiffs, Defendant Moneo Ogawa is shown as being from Luwojwa. It is also shown on this menmenbwij that Laieb, the son on Limwojwa who is younger than Aelonin (aka Laelonin) is the son of Likojene, who was the daughter of Liwojwa. The Plaintiffs' menmebwij indicates that Laieb is from the bloodline of the bwij, and the rights of the dri-jerbal should therefore go to Moneo Ogawa. Mr. Alfred Capelle who claims the senior dri-jerbal is happy to recognize Moneo Ogawa as the senior dri-jerbal, and not the alab on Watuwelon Weto, Arno Atoll.

Dated: 11/23/15

/s/

Walter K. Elbon
Presiding Chief Judge
Traditional Rights Court

/s/

Nixon David
Associate Judge
Traditional Rights Court

/s/

Grace Leban
Associate Judge
Traditional Rights Courts