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REPUBLIC OF THE MARSHALL ISLANDS

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

HENSEY H. SORIMLE, BERTINE LAKJOHN,)
And EMY SORIMLE,)
)
Plaintiffs,)
)
VS.)
)
LIWOJ JERBAL,)
)
Defendant.)
_____)

CIVIL ACTION NO. 2016-143

OPINION AND ANSWER OF THE TRADITIONAL
RIGHTS COURT

MEMBERS OF THE PANEL: Presiding Chief Judge Walter Elbon
Associate Judge Nixon David
Associate Judge Grace Leban

PLACE: Uliga, Majuro Courthouse

DATE OF COURT PANEL'S HEARING: February 11-14, 19-21, & 26, 2019

THE PARTIES' CONTENTIONS:

It is the contention of the Plaintiff that there was a war in the ratak chain back in the 1850's-1860's where Lobeia, Lailik, and Jitiam came to the Ratak from Kabinmeto, in Ralik and fought a war with Murjel and Jortoka and won. Thus, Jortoka and Murjel surrendered Airok, Maloelap and Biken, Aur to Lobeia. Furthermore, the Plaintiffs claim that Airok, Maloelap and Biken, Aur are Morijinkwot Lands (Bok Maan Made-Toor in Botoktok), and that the mistake began when Namdrik was not supposed to exercise the title, but did so because he was married to Lijikit's daughter, Rontok, and because Namdrik used black magic he was able to retain the Irojlaplap title. Plaintiffs claim that they are the rightful holders of the Irojlaplap title for Airok, Maloelap and Biken, Aur, through Lailik.

It is the contention of the Defendant that Airok, Maloelap and Bikien, Aur are Bwij lands. They are bwij lands through Lijekwa who is the older sister of Likakom (Defendant's Exhibit E). The defendant claims

that the Irojlaplap title has been exercised by her family for more than 96 years, and the Irojlaplap right on Airok, Maloelap and Biken, Aur remains with the older bwij to date.

THE QUESTION REFERRED BY THE HIGH COURT:

Question: Who as between Hensey Sorimle and Liwoj Jermal is the proper person to hold the Irojlaplap and Iroj Edrik rights, title, and interest over Biken Island, Aur Atoll and Airok Island, Maloelap Atoll?

SUMMARY ANSWER:

Answer to Question: LIWOJ JERBAL

FACTUAL FINDINGS UPON WHICH THE OPINION IN ANSWER IS BASED:

During trial it was the testimonies of Plaintiffs' first witness, Bertine Sorimle Lakjohn, and later on Plaintiffs' third witness, Emy Sorimle, that Airok, Maloelap and Biken, Aur are *Morijinkwot* lands. According to Emy Sorimle, *Morijinkwot* is when an Iroj fights and wins a land, and/or an Iroj gives an alab lands for being victorious in battle. However, Defendant's expert witness, Tijen Dick, testified that according to his knowledge of Marshallese custom, *Morijinkwot* is the giving of land to a warrior for his bravery and for shielding the Irojlaplap from danger during war. It is a gift of land to a warrior, who is a commoner, by an Irojlaplap.

The Plaintiffs also claim that a war took place back in the 1800s when Lobeia and his brothers, Jitiam and Lailik came from Ralik to Ratak and fought a war against Jortoka and Murjel. Accordingly, Jortoka and Murjel were defeated, and as a result they surrendered Airok, Maloelap and Biken, Aur to Lobeia and his brothers. However, there are two testimonies that contradict this claim. According to Hemly Benjamin, Defendant's second witness, he testified that Lobeia, as shown on Defendant's Exhibit E, is from the 1900s. In addition, Plaintiffs' rebuttal witness, Philomina Asma Muller, when questioned by the Panel, she stated that according to Plaintiffs' Exhibit P-7, Lobeia is from the same generation as Laelan and Jeimata, whom the Panel takes judicial notice, were from the 1900s.

During trial both parties presented documents and witness testimony as evidence. The panel found information on Plaintiffs' Exhibits 5 & 7 to be inconsistent. On Exhibit P5 it lists Lobeia and six other siblings, but on Exhibit P7, there are only 3 other siblings of Lobeia. According to Plaintiffs, Exhibit P9 is a story by Namdrik Jeik, admitting that Airok and Biken were given to Lobeia by Jortoka and Murjel

when they lost the war. The Plaintiffs also claim that Namdrik wrongfully claimed the Irojlaplap right which his wife, Rontok, authorized him to hold in order to attend the Iroj meeting in Jaluit. If it is true that Namdrik wrongfully claimed the Irojlaplap title for Airok and Biken, after attending the Iroj meeting in Jaluit, then why didn't Namdrik mention this in his story (Plaintiffs' Exhibit P9)? Furthermore, the Panel finds there is lack of evidence as to the authenticity of Exhibit P9. There is no date as to when the document was written, and the signature of Namdrik does not match the signature on the March 30th, 1933 document admitted into evidence as Defendant's Exhibit T. The same goes to Plaintiffs' Exhibit P10, the panel finds lack of evidence as to its authenticity.

Namidrik Jeik, as stated by Plaintiffs' witness Emti Sorimle, cheated his way up to become an Irojlaplap of Airok and Biken. He claims that Rontok, Namdrik's wife, was the one holding the Iroj title, being the daughter of Lijikit. Emti Sorimle further claimed that Namdrik was sent to attend the meeting of Iroj in Jaluit by his wife, Rontok, to participate on behalf of Rontok and her mother. Defendant's Exhibit Y shows that it was Tojeie who attended the Jaluit meeting and not Namdrik. According to Defendant's rebuttal witness, Mike Zackras, he stated that he was adopted by his grandmother, Lijikit. He furthered stated that he used to see Lijikit receiving the Iroj edrik's money share, and not the Irojlaplap's share.

As claimed by the Plaintiffs, Lobeia was an Irojlaplap of Ralik who came to Ratak and fought with the Irojlaplaps of Ratak, Jortoka and Murjel. Plaintiffs' Exhibit P6 indicates Lobeia and Murjil signed the Treaty of Friendship between the Marshallese chiefs and the German Empire on October 25, 1885 on board the H.M. cruisers Nautilus in Aur lagoon. Exhibit P6 also indicates that some of the Iroj who signed the Treaty were not necessarily the title holders at the time of signing. For instance, from Majuro, three chiefs from Kaiboke's domain went aboard the Nautilus and signed the Treaty. They were Kaiboke, the reigning Chief at the time, and two others, Reme and Luet, who were next in line after Kaiboke. From Ebon, there were four chiefs who signed the Treaty, and Ebon has only two Iroj domains. According to the testimony of Defendant's witness, Hemly Benjamin, he stated that according to Defendant's Exhibit E, Lobeia was next in line after Tojeie, however, he never held the title, so it was passed on to Namdrik. Therefore, the Panel believes that Lobeia signed the Treaty as an Iroj next in line to the Irojlaplap, just as in the case of the Irojs who signed from Majuro and Ebon.

APPLICABLE CUSTOMARY LAW AND TRADITIONAL PRACTICE:

1. *Morijinkwot* – It is the most esteemed gift given by an Irojlaplap to a warrior.

2. *Bok Maan Made* – The act of a warrior, shielding the Irojlaplap from the enemy's deadly spears during war.
3. *Toor in Botoktok* - A warrior's flow of blood from an enemy's spear as a result of protecting the Irojlaplap during war.

ANALYSIS:

After a thorough consideration of the evidence presented during trial, the Panel finds that Liwoj Jerbal is currently the proper person to hold the Irojlaplap rights on Airok, Maloelap and Biken, Aur. The Panel finds there is a lack of authenticated evidence to prove that the Irojlaplap title on Airok, Maloelap and Biken, Aur was held by Lobeia and his descendants. Between the time Tojeie held the Irojlaplap rights until the time Namdrik succeeded Tojeie, there is lack of evidence that the descendants of Lobeia reigned on Airok or Biken. There were documents admitted as evidence whereby signature of Menaje Benjamin (Defendant's Exhibit V), R. Namdrik (Defendant's Exhibit T), and Tojeie (Defendant Exhibit S), but none signed by Lobeia's descendants. In any case, even if the court had considered in favor of the Plaintiffs, Hensey H. Sorimle could never be the proper person to hold the Irojlaplap right because according to his genealogy chart, Plaintiffs Exhibit P5, Lijikit who is from the older bwij has children who are still alive, and are one generation older than Hensey Sorimle.

Plaintiff(s) Witnesses:

1. Liwoj Jerbal
2. Bertine Sormile Lakjohn
3. Emtý Sormile
4. Henchi Sorimle
5. Namdrik Labi
6. Walter Tartios

Plaintiffs Rebuttal Witnesses:

1. Philomina Asma Muller
2. Martha Sorimle
3. Mike Zackras

Defendant(s) Witnesses:

1. Rebecca Jello
2. Hemly Benjamin
3. Tijen Dick
4. Liwoj Jerbal
5. Irojlaplap Boklon Zackios

EXHIBITS AND TANGIBLE EVIDENCE:

Plaintiff(s) Exhibits:

1. Plaintiffs' Exhibit P1 - Letter to Irojlaplap Kotak Loeak (11/22/95)
2. Plaintiffs' Exhibit P2 – Letter to Jiba Kabua (2/19/96)
3. Plaintiffs' Exhibit P3 – Letter to Irojlaplap Kotak Loeak (3/27/98)
4. Plaintiffs' Exhibit P4 – Letter to Hiroshi Yamamura (3/2/99)
5. Plaintiffs' Exhibit P5 – Genealogy Chart of Mamjilan & Wanlur (Bok Maan Made Toor in Botoktok)
6. Plaintiffs' Exhibit P6 – 1885 Treaty of Friendship between the Marshallese Chiefs & the German Empire
7. Plaintiffs' Exhibit P7 – The Royal Genealogy of the Marshall Islands Ralik Chain
8. Plaintiffs' Exhibit P8 – Map of Maloelap and Aur Atolls
9. Plaintiffs' Exhibit P9 – Jibikbik In Kakobaba an Namidrik Jeik
10. Plaintiffs' Exhibit P10 – Documented Story by B.N.
11. Plaintiffs' Exhibit P11 –
12. Plaintiffs' Exhibit P12 – Lobeia & Limejko Genealogy

Defendant(s) Exhibits:

1. Defendant's Exhibit A – May 10, 2007 Memo: re-Certification of Approval-Biken Island, Aur Atoll
2. Defendant's Exhibit B – Certificate of Death for Laelang Lelwoj
3. Defendant's Exhibit C – 1999 Biken Island Lease Agreement
4. Defendant's Exhibit D – February 15, 2005 Memo: re- Certification of Approval-Ronald Lelwoj
5. Defendant's Exhibit E – Genealogy Chart: Lobeia Tonuwia #17
6. Defendant's Exhibit F – High Court CA2008-238 Final Judgement
7. Defendant's Exhibit G – High Court CA2016-143 Affidavit of Rebecca Jello

8. Defendant's Exhibit H – High Court CA2016-143 Affidavit of Brojki Edmond
9. Defendant's Exhibit I – High Court CA2016-143 Affidavit in Support
10. Defendant's Exhibit J – High Court CA2016-143 Affidavit of Boklong Zackious
11. Defendant's Exhibit K – March 10, 2000 Memo: re- Land Lease Payment/Bikien Islands, Aur Atoll
for Oct. 1999-September 2000
12. Defendant's Exhibit L – Biken Land Payment
13. Defendant's Exhibit M – Death Certificate of Namdrik
14. Defendant's Exhibit N – Death Certificate of Andrew Benjamin
15. Defendant's Exhibit O – Death Certificate of Menasse Benjamin
16. Defendant's Exhibit P – Death Certificate of Oduj Benjamin
17. Defendant's Exhibit Q – Death Certificate of Ronald Lelwoj
18. Defendant's Exhibit R – Birth Certificate of Liwoj aka Loies Lelwoj
19. Defendant's Exhibit S – Nov. 21, 1923 Kamol of Tojeie
20. Defendant's Exhibit T – March 30, 1933 R. Namirik Lands document
21. Defendant's Exhibit U – June 23, 1970 Land Use Agreement on Airok, Maloelap
22. Defendant's Exhibit V – Aug. 21, 1976 Menaje B's Will
23. Defendant's Exhibit W – 2/08/19 RMI Check History
24. Defendant's Exhibit X – 2/08/19 RMI Check History
25. Defendant's Exhibit Y – 3/16/15 The Marshall Islands in 1921 (facebook.com/Pashifika Renaissance/photo)

OTHER MATTERS THE PANEL BELIEVES SHOULD BE MENTIONED:

During trial the issue of having two Irojlaplaps on Biken was mentioned. According to Irojlaplap Boklon Zakious' testimony, he does not have any rights on Airok, Maolelap, but he does have rights on Biken, Aur. Testimonies shows that two Irojlaplaps on Biken, Aur only started in 1999 when the Lease Agreement of Biken was signed.

With regards to the information on the war between Lobeia and his younger brothers, and Jortoka and Murjel, the Panel believes that during ancient time when two Irojs fought in a war, the losing Iroj would also lose all his rights on all of his lands to the winning Iroj. This is the thought of the Panel with regards to traditional ancient wars.

Dated: May 3, 2019

_____/s/_____

Associate Judge Nixon David – Traditional Rights Court

_____/s/_____

Associate Judge Grace Leban – Traditional Rights Court