

FILED

DEC 29 2017

CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

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

HIROSHI V. YAMAMURA,)	HIGH COURT CIVIL ACTION 2012-077
)	
Plaintiff,)	
)	
Vs)	OPINION & ANSWER OF THE
)	TRADITIONAL RIGHTS COURT
HELEN aka ERBEJ BINEJAL)	
)	
Defendant,)	
_____)	

MEMBERS OF THE PANEL: Walter K. Elbon, Presiding Judge, TRC
Nixon David, Judge, TRC
Grace Leban, Judge, TRC

HEARING DATE(S): September 5, 6, 7, 8 and 22, 2017

PLACE OF HEARING: Uliga Village, Majuro Courthouse

CLAIMS OF BOTH PARTIES: The argument between the parties concerns the question of who the rightful and proper person is to hold the alap right on lands in Erkup Atoll, Marshall Islands. Also, whether Erkup Atoll lands are Bwij lands or Botoktok.

QUESTIONS REFERRED TO THE TRADITIONAL RIGHTS COURT:

1. Who between Hiroshi V. Yamamura and Helen Binejal (also known as Erbej Binejal) is the rightful and proper person pursuant to Marshallese custom to hold and exercise the Alap right on lands in question on Erkup Atoll, Marshall Islands?

2. Are the disputed lands on Erkup Atoll Bwij land or Botoktok land?

ANSWERS:

Answer to Question 1: Hiroshi V. Yamamura

Answer to Question 2: Lands in question are bwij land(s).

FACTUAL FINDINGS UPON WHICH THE OPINION AND ANSWER IS BASED: During the trial, there was evidence and testimony presented by each party. Plaintiff and Defendant both agreed on a genealogy chart that was submitted as evidence, Plaintiff's Exhibit A. This genealogy chart, uncontested, showed Hiroshi Yamamura as Manmaronron for the family of Carmen, his mother, and Mejjit, his grandmother, which is why it is right and proper for him to hold the Alap right.

Plaintiff's Exhibit A confirmed that the lands in Erkup Atoll, which are the subject matter of this case, are in fact bwij lands, according to the genealogy chart (Plaintiff's Exhibit A). As shown in this uncontested genealogy chart, Keju (male) exercised the Alap right. Keju had two younger sisters named Litarbo and Lijelik. According to Marshallese custom, females and their children, will inherit Alap rights as they are of the bwij, and the males and their children, will inherit dri-gerbal rights, as they are of the botoktok (blood line). Litarbo and her children are of the older bwij and Lijelik and her children are of the younger bwij.

Keju, Tarbo, and Lijelik are all in line to inherit and exercise the alap right. Keju was alap because he was older than Litarbo and Lijelik. If he were younger than the two, he would have been the Manmaronron for his sisters. Labwidrik was alap because he is the son of Litarbo, a female, and from the older bwij, not because he was of the botoktok or bloodline. Of Litarbo's children, only Labwidrik had both male and female children, namely Mejjit (female), Menini (male) and father of defendant Helen Erbej Binejal, and Capitol (male). It is proper for Labwidrik's children to hold the Alap right. The line of succession for the alap right will continue through Mejjit's children as they are children of a female and from the bwij. Menini and Capitol's children will inherit the ri-gerbal right as they are botoktok. The panel, after careful consideration of the evidence admitted during trial, found that Plaintiff's Exhibit A, the genealogy chart, confirmed that the Erkup lands disputed in this case are bwij lands and it is therefore proper that Hiroshi Yamamura, grandson of Mejjit (female) and son of Carmen (female) holds the Alap right at this time, as Manmaronron, while his older sister is still alive.

Plaintiff's Exhibit H, a transcript in High Court Civil Action No. 1993-028, revealed that Irojlaplap Murjel Hermios recognized Mejjit as alap for lands in Erkup Atoll. Plaintiff Exhibit F, a sworn statement by Ajnet Hermios, wife of late Irojlaplap Murjel Hermios, who lived alongside the Irojlaplap, confirmed in her statement that Irojlaplap Murjel Hermios did not recognize Helen Erbej Binejal as alap but rather recognized Mejjit and her children who were from the bwij.

NAMES OF WITNESSES FOR PLAINTIFF:

1. Hiroshi V. Yamamura
2. Justina Neko Yamamura

NAMES OF WITNESSES FOR DEFENDANT:

1. Helen Binejal
2. Boklon Zackios
3. Litokwa Tomeing

EVIDENCE ADMITTED:

1. Plaintiff Exhibit A – Menmenbwij
2. Plaintiff Exhibit B – Statement from Land Management
3. Plaintiff Exhibit C – Kalimur (Will) for Likej Weto
4. Plaintiff Exhibit D – Affidavit of Mejjit Labwidrik
5. Plaintiff Exhibit E – Tekla Debrum's Kalimur (Will)
6. Plaintiff Exhibit F – Affidavit of Ajnet Hermios
7. Plaintiff Exhibit G – Map of Erkup
8. Plaintiff Exhibit H - Transcript
9. Plaintiff Exhibit I – Objection to Conveyance of Alap Right
10. Plaintiff Exhibit L – Birth Certificate of Mela Menini

OTHERS MATTERS THE TRC PANEL BELIEVES SHOULD BE MENTIONED:

In defendant's closing argument, High Court Civil Action No. 2008-221, Jacob v. Hermios and Kendall was mentioned. The Traditional Rights Court panel that heard and decided High Court Civil Action No. 2008-221, based their opinion and answer on Plaintiff's Exhibit B, the genealogy chart of Lijelik and her family. In High Court Civil Action 2012-077, the panel that heard and decided the case based their opinion and answer on Plaintiff's Exhibit A, the uncontested genealogy which showed Lijelik had two older siblings, Keju (male), Litarbo (female), and Lijelik (female).

Date: December 22, 2017

/S/ Walter K. Elbon
Presiding Judge, TRC

/S/ Nixon David
Judge, TRC Panel

/S/ Grace Leban
Judge, TRC Panel