

MAY 07 2018

CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

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

MANENE CLANRY,)
)
 Plaintiff,)
)
 VS.)
)
 LEIN ZEDKAIA,)
)
 Defendant.)
_____)

CIVIL ACTION NO. 2017-026

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: March 6 & 7, 2018

THE PARTIES' CONTENTIONS:

The matter arose when Manene removed the three families from Monworwor weto, Delap village, Majuro, Marshall Islands. It is the contention of the Plaintiff, Manene Clanry that he had rights to remove the families being the Irojedrik, Alab, and Drijerbal on Monworwor weto. Plaintiff claims that the families failed to pay tributes as accorded by custom, and that the families would only pay tributes when told to do so. According to Plaintiff, this is showing disrespect to him as the landowner of Monworwor weto, and so he served a letter to the families, notifying them to move out of his land. Furthermore, Plaintiff claims that Irojlaplap Lein Zedkaia is wrongfully withholding his rights on his 6 wetos in Delap, including Monworwor weto. Plaintiff also contends that Irojlaplap is withholding payments on three (3) of these wetos when this is not a dispute over land title, but a dispute over customary authority of land.

It is the contention of the Defendant that the problem started when Clanry, the Plaintiff, evicted the families without real reasons. Defendant claims that Clanry did not consult with the Irojlaplap, nor did he notify the Irojlaplap, but went ahead and sent letters of removal to the families from Monworwor weto.

THE QUESTION REFERRED BY THE HIGH COURT:

- Question 1: **Was it proper for Manene Clanry to require three families to move from their homes on Monworwor weto without obtaining the consent or approval of then Irojlaplap Jurelang Zedkaia?**
- Question 2: **Was it proper for then Irojlaplap Jurelang Zedkaia to refuse to recognize Manene Clanry's land rights on six wetos (Monworwor, Lokojob Rear, Lokojob Rilik, Lukon, Terrein, and Bolan) until such times as Manene Clanry allows the three displaced families to return to their homes?**
- Question 3: **Is it proper for current Irojlaplap Lein Zedkaia to refuse to recognize Manene Clanry's land rights on six wetos (Monworwor, Lokojob Rear, Lokojob Rilik, Lukon, Terrein, and Bolan) until such time as Manene Clanry allows the three displaced families to return to their homes?**

SUMMARY ANSWER:

Answer to Question 1: **No, it was not proper.**

Answer to Question 2: **Yes, it was proper.**

Answer to Question 3: **Yes, it is proper.**

FACTUAL FINDINGS UPON WHICH THE OPINION IN ANSWER IS BASED:

The dispute arose when Manene Clanry evicted 3 families from Monworwor weto, Delap Village, Majuro, Marshall Islands. During trial, Clanry testified that the late Irojlaplap Amata Kabua had made a Will, giving him the land title rights of Irojledrik, Alab, and Senior DriJerbai on Monworwor weto. (Plaintiff Exhibit A) He further testified that as the Irojledrik and Alab, he can put people on his land and can also remove people off the land. According to Clanry, the reason why he had removed the three families from Monworwor weto was because they did not obey his rules, which one of them was paying tributes and doing "mantin bwidrej" or "kakunana" (contribution) on the land. He stated that only when

they were told to do so, that they give contribution or donations. Therefore, he sent each family a letter informing them to move off the land on Monworwor weto. Clanry stated that he did not agree with the late Irojlaplap Jurelang Zedkaia when he withheld his share of land lease payments for Monworwor weto, and two other wetos, which Clanry holds land title rights on by birth. Clanry further stated that he does not agree with Irojlaplap Lein Zedkaia who continues to withhold his lease payment share like his elder brother Irojlaplap Jurelang Zedkaia did. Plaintiff's 3rd witness was Irojlaplap Lein Zedkaia, who pointed out in his testimony that he was only following what his predecessor, elder brother and late Irojlaplap Jurelang Zedkaia, did. Lein stated that his late elder brother, Jurelang, had told him that he had informed Clanry to allow back the people on the land, but Clanry refused to obey Jurelang, and for this reason, Clanry was prohibited of his lease payment shares on Monworwor weto and two other wetos, until such time he returns the evicted families back to their homes on Monworwor weto. According to Lein, the responsibility of an Irojedrik and Alab is to see through matters on land and inform the Irojlaplap of any changes or improvements made on land. And that all three rights on a land should discuss any land matters that arise on a land. Lein further added that it is only fair to put hold on Clanry's rights on other wetos because he does not consult with the Irojlaplap, and that Clanry's shares will be held on escrow account until he allows back the 3 evicted families on Monworwor weto. Lein concluded his testimony by stating that he does not recognize Clanry on any of his land. He stated that Jurelang was angry at Manene for acting as if he is the Irojlaplap on the land.

During the testimonies of Ali Lanwe, Marie Kare Lang, Don Lang, and Langmos Hermios, it was testified respectively that Clanry evicted each of the families over a church dispute, for being angry with Lang's mother for leaving to the US, and for Hermios' lack of respect for the custom. Defendant claims that each of the families were brought to live on Monworwor weto by the late Irojlaplap Amata Kabua, who had willed Clanry the Irojedrik, the Alab, and the Senior Drijerbal titles on Monworwor weto. In his closing argument, Defendant claims that Clanry did not have, what is customarily considered as valid reasons to evict the families from the land. Defendant further states that Clanry did not consult with the three families, but went ahead and sent each a letter, informing them to leave their houses. During Defendant's expert witness, Mr. Tijen Dick's testimony, he stated that according to Marshallese custom, before removing the families, Clanry should have informed the Irojlaplap. Dick also stated that it was proper for Irojlaplap Jurelang Zedkaia and Irojlaplap Lein Zedkaia to take away Manene's land rights because he refuses to bring back the families and not because there was a bwilok. If there was a bwilok,

it would be considered as “bwilok in konnat”, because even if Clanry is being restrained of his rights, he is not banished from the land.

APPLICABLE CUSTOMARY LAW AND TRADITIONAL PRACTICE:

1. Mantin ion bwidrej – Roles and responsibilities of members of society on land to keep order, peace, and harmony.
2. Kakunana – Contributions, tributes
3. Bwilok in konnat – Not completely banished...still holding rights over land.
4. Iroj im jela – Iroj knows what is best.

ANALYSIS:

After a thorough consideration of all evidence presented before this court, the panel concludes that under Marshallese custom, even though Manene Clanry is the rightful Irojedrik, Alab, and Senior DriJerbak on Monworwor weto, and even if it is his rightful responsibility to place and remove people on land, it is also his duty to inform and consult with the Irojlaplap, of his decisions to remove people off the land, like in this case on Monworwor weto. The Irojlaplap is responsible for caring, keeping peace, and harmonizing the land. According to the testimony of Irojlaplap Lein Zedkaia, his predecessor, late Irojlaplap Jurelang Zedkaia had refused to recognize Manene Clanry’s rights on all six wetos after Clanry refused to allow back the families he had evicted on Monworwor weto. The reason why Irojlaplap Jurelang did not agree with Clanry was because the families were placed on Monworwor weto by the late Irojlaplap Amata Kabua. Furthermore, some of the displaced families are relatives of both Irojlaplap Zedkaia and Clanry. Therefore, as the Irojlaplap of Monworwor weto, Irojlaplap Jurelang had the right not to recognize Clanry on the six wetos until such time Clanry could comply with the Irojlaplap’s wishes. The Panel believes Irojlaplap Jurelang Zedkaia made a valid decision since there was no extreme and good reason for the eviction of the families. It is only proper that Irojlaplap Lein Zedkaia follow what had been set by his predecessor and thus gave Clanry the same conditions whereby withholding his lease payments until an agreement is reached between Irojlaplap Lein Zedkaia and Manene Clanry. It is after all the Irojlaplap’s land, and Clanry was recognized by Irojlaplap Lein’s predecessors as the Irojedrik for Monworwor weto through a Kalimur (Will).

Plaintiff(s) Witnesses:

1. Manene Clanry
2. Kierry Clanry
3. Lein Zedkaia
4. Albert Albertter

Defendant(s) Witnesses:

1. Ali Lanwe
2. Marie Kare Lang
3. Don Lang
4. Langmos Hermios
5. Tijen Dick
6. Belmar Graham

EXHIBITS AND TANGIBLE EVIDENCE:

Plaintiff(s) Exhibits:

1. Plaintiff Exhibit A – Bujen Kalimur by Irojlaplap Amata Kabua (July 3, 1992)

Defendant(s) Exhibits:

1. Defendant's Exhibit 1 – Letter from Manene to Ali Lanwe
2. Defendant's Exhibit 2 – Photo of Ali Lanwe's house on Monworwor weto
3. Defendant's Exhibit 3 – Photo of Marie Kare Lang's house on Monworwor weto
4. Defendant's Exhibit 4 – Photo of Langmos Hermios' house on Monworwor weto

OTHER MATTERS THE PANEL BELIEVES SHOULD BE MENTIONED:

It is the belief of the Panel that under Marshallese custom it is now the responsibility of Manene Clanry to approach Irojlaplap Lein Zedkaia to discuss how they both can best resolve this matter, and after Clanry has complied with the Irojlaplap's wishes, then it is only proper under Marshallese custom for Irojlaplap Lein Zedkaia, as peace keeper of the land, to return Clanry's rights on all six wetos, including

any payments withheld. As the Irojlaplap of the lands in question, the Irojlaplap knows what is in the best interest of his people and his land for he is an "Iroj Im Jela".

Dated: May 4, 2018

A handwritten signature in black ink, appearing to read "Walter K. Elbon", written over a horizontal line.

Chief Judge and Presiding Judge Walter K. Elbon
Traditional Rights Court

A handwritten signature in black ink, appearing to read "Nixon David", written over a horizontal line.

Assoc. Judge Nixon David – Traditional Rights Court

A handwritten signature in black ink, appearing to read "Grace Leban", written over a horizontal line.

Assoc. Judge Grace Leban – Traditional Rights Court