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REPUBLIC OF THE MARSHALL ISLANDS

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

NOAH NOAH and ALEXANDER NOAH,)
)
 Plaintiffs,)
)
 VS.)
)
 AQUA PATRICK and QUINCY CALEP,)
)
 Defendants,)
)
 BATLE LATDRIK,)
)
 Intervenor.)

CIVIL ACTION NO. 2015-095

OPINION AND ANSWER OF THE
TRADITIONAL RIGHTS COURT

MEMBERS OF THE PANEL: Acting Presiding Judge Grace Leban
Associate Judge Nixon David
Pro Tem Associate Judge Caios Lucky

PLACE OF HEARING: Majuro Courthouse

DATE: November 22 & 28, 2018; May 7, 2019; November 29, 2019

THE PARTIES' CONTENTIONS:

Plaintiffs argue that they hold both Alap and Senior Dri Jerbal rights on all of Lokejbar weto. They claim that Lokejbar was a bwij land, but was given to their father, Bojan Noah, as an imon ninnin by his father, Noah Ronol. According to Plaintiffs, before their father, Bojan Noah, passed, he made a kalimur, giving all of Lokejbar weto to his children, including Noah Noah and Alex Noah.

Defendants contend that Bojan Noah, made a kalimur, giving the lagoon side of Lokejbar weto to Aqua Patrick, for taking care of, and looking after him and his wife when they sought medical care in Hawaii.

The Intervener Batle claims that Lokejbar weto was originally a bwij land from Lijeri, mother of Liolet and Kejon. Lijeri was the person who originally held alab rights on Lokejbar weto and other wetos. After Lijeri's death, and before the Land Determination of 1959, Liolet inherited the Alab rights on Lokejbar and other wetos. Liolet was succeeded by Anjo, and Anjo was succeeded by Laninbit and then Rimond Latdrik, the older brother of Intervener Batle. Now Batle claims he is the proper person to hold the Alab right on all of Lokejbar weto.

THE QUESTION(S) REFERRED BY THE HIGH COURT:

- 1. As between Noah Noah, Aqua Patrick and Batle Latdrik, and those claiming through them, who is the alap over the lagoon side of Lokejbar weto, Delap Island, Majuro Atoll, Republic of the Marshall Islands?**
- 2. As between Noah Noah and Batle Ladrik, and those claiming through them, who is the alap over the ocean side of Lokejbar weto, Delap Island, Majuro Atoll, Republic of the Marshall Islands?**
- 3. As between Alexander Noah and Quincy Calep, and those claiming through them, who is the senior dri jermal over the lagoon side of Lokejbar weto, Delap Island, Majuro Atoll, Republic of the Marshall Islands?**

SUMMARY ANSWER(S):

Answer to Question 1: **AQUA PATRICK**
Answer to Question 2: **NOAH NOAH**
Answer to Question 3: **QUINCY CALEP**

FACTUAL FINDINGS UPON WHICH THE OPINION IN ANSWER IS BASED:

All parties agree that Irojlaplap Lein Patrick Zedkaia is currently exercising the Irojlaplap rights and interests on Lokejbar weto. And all three parties agree that in 1959, the person exercising the Alab rights was Liolet.

The Plaintiffs claim that Noah Noah is the Alab and Alexander Noah is the Senior Dri Jerbal on Lokejbar weto. Plaintiffs testified that Lokejbar weto is imon ninnin from their father, Bojan Noah, and to Bojan from his father, Noah Ronol. Plaintiffs also testified that before Bojan passed he made a kalimur bequeathing his rights on Lokejbar weto to his children (Plaintiffs Exhibit P1), and that this kalimur supersedes the kalimur made to Aqua. Plaintiffs' witnesses, Ain Kabua, Lojan Todring, and Rosalie Aten Konou, who are from the neighboring wetos of Lokejbar weto, all testified that they had grown up in their respective wetos seeing Bojan living on Lokejbar weto, and paying annual tributes to the Irojlaplaps of Lokejbar weto. They all stated that they saw Bojan exercising the Alab and Senior Dri Jerbal on Lokejbar weto when he was alive. It is the argument of the Plaintiffs that since Liolet's time, Bojan Noah and his family have lived and worked on Lokejbar weto, but not Batle, nor Aqua.

The Defendants argue that they hold Alab and Senior Dri Jerbal rights on the lagoon side of Lokejbar weto. They claim Bojan Noah made a kalimur on January 18, 2002, allotting 1.5246 acre of land on the lagoon side of Lokejbar weto, where the O.C.F International Co., LTD had leased, as shown in Defendants' Exhibit A. The kalimur states that the Alab and Senior Dri Jerbal rights on the stated piece of land is to go to Aqua and her descendants. The Defendants also presented into evidence a copy of three checks written out to Tony deBrum in the total amount of US fifteen thousand dollars (US\$15,000) as reimbursement to O.C.F. International Co., LTD's land lease on the same piece of land on Lokejbar weto. According to testimony of witness Aqua Patrick and Quincy Calep, Bojan Noah had given the lagoon side of Lokejbar weto to Aqua as a way of showing gratitude for her kindness when she took care and looked after Bojan and his wife when they were in Hawaii, seeking medical care. Defendants argue that there is a possibility that the reason why Bojan Noah had made two kalimurs with the consent of the same Irojlaplap Atama Zedkaia, is that the first kalimur made to Aqua is only for the lagoon side of Lokejbar weto, and the second kalimur made to the children of Bojan Noah, is for the remaining parts of Lokejbar weto. The Defendants also argue that there is discrepancy with the second kalimur in favor of the Plaintiffs, with regards to the dates, as indicated on Plaintiff Exhibit P1. The second kalimur was supposedly signed on February, 2002, but was filed with the High Court on March, 2003, and filed with the Land Registration on March, 2015, just a few months before this action was brought up.

The Intervenor claims that Lokejbar weto was originally a bwij land, and that his great-great-grandmother, namely, Lijeri, held the Alab rights on Lokejbar weto, as indicated on Intervenor's menmenbwij (Exhibit IA). Intervenor further claims that after Lijeri the Alab title went to her children, Kejon and Liolet, and the bwij became extinct when Liolet did not have any children. The Alab rights on Lokejbar weto then went down on the botoktok line of Lokejon. After Lokejon it went to his siblings, Libollan and Laninbit. After Laninbit, it came down to Rimond (Raymond) Latdrik, older brother of Intervenor, and after Rimond passed, the Alab rights then came to the Intervenor, Batle. The Intervenor based his claim on the 1959 Land Determination of Majuro Atoll (Intervenor Exhibit IB), which shows that in 1959 Liolet held the Alab rights on Lokejbar weto, while Noah held the Senior Dri Jerbal rights. The Intervenor argues that neither the Plaintiffs, nor their witnesses knew where Noah Ronol, father of Bojan Noah, inherited his Alab rights on Lokejbar weto from. It is the testimony of the Intervenor that it was around 1970 when he personally witnessed Bojan Noah approaching his grandfather, Anjo, and asking permission from Anjo to live on the lagoon side of Lokejbar weto. He also testified that Bojan was a Dri Jerbal for his grandfather, Anjo, who was the Alab on Lokejbar weto.

Irojlaplap Lein Patrick Zedkaia was not able to give testimony in court due to medical reasons when summoned, but was deposed. According to Irojlaplap Lein Patrick Zedkaia, he stated that he only followed what his predecessors had agree to in regards to all leases and kalimurs made on Lokejbar weto, and that he will not make any changes to what his predecessors have agreed to in writings on Lokejbar weto.

APPLICABLE CUSTOMARY LAW AND TRADITIONAL PRACTICE:

- 1. *Imon Ninnin* – A land that an Alab or the head of the clan gives to his children, with the approval of the Irojlaplap and the clan members.**

ANALYSIS:

After listening to testimony of witnesses of all three parties and examining documents presented by parties and admitted as evidence, the Panel concludes that Lokejbar weto was a bwij land, but later it became a ninnin land, to Bojan Noah from his father, Noah Ronol. As indicated in the

1959 Land Determination of Majuro Atoll (Intervenor Exhibit IC), Liolet was the Alab and Noah Ronol was the Senior Dri Jerbal on Lokejbar weto. It is evident from Plaintiffs' Exhibits P2, P3, P4, and P5, that Bojan Noah held the Alab and Senior Dri Jerbal on Lokejbar weto, and was recognized by the late Irojlaplap Amata Kabua, Leroj Atama Zedkaia, Irojlaplap Jurelang Zedkaia, and now by Irojlaplap Lein Patrick Zedkaia. Therefore, the Court finds that Noah Noah is the proper and rightful person to hold the Alab rights on all of Lokejbar weto, except the Lagoon part. It is a fact that Bojan Noah had made two kalimurs, one for his children to be the Alab and Senior Dri Jerbal on Lokejbar weto, and another to Aqua Patrick and her descendants, the Alab and Senior Dri Jerbal rights on the lagoon side of Lokejbar weto. On the first paragraph of the kalimur in favor of the Plaintiffs, it states that the kalimur was made on July 10, 2001, but was signed by Leroj Atama Zedkaia and Alab/Senior Dri Jerbal on February 14, 2002, a year later. It does not show that the signatures were notarized. In addition, the Plaintiffs' kalimur was filed with the High Court on March 5, 2003, and was registered with the Land Registration Authority on March 2015. Whereas, the kalimur in favor of the Defendants was made on January 16, 2002, signed by Alab and Senior Dri Jerbal, Bojan Noah; concurred by Leroj Atama Zedkaia and notarized on January 18, 2002, filed with the High Court on January 20, 2002, and registered with the Land Registration Authority on April 27, 2005. While there maybe discrepancies on both kalimurs, it is evident that the kalimur in favor of the Defendants was made after the kalimur in favor of the Plaintiffs, since it indicates that it was made on July 10, 2001. Furthermore, there is evidence showing that there were payments made to Tony deBrum for the O.C.F. International Co., LTD to cancel and terminate a previous lease agreement. This evidence proves that Bojan Noah had meant to give Alab and Senior Dri Jerbal rights of the lagoon side of Lokejbar weto to Aqua Patrick and the rest of Lokejbar the same rights to his children.

Plaintiff(s) Witnesses:

1. Ain Kabua
2. Lojan Todring
3. Rosalie Aten Konou
4. Alex Noah
5. Noah Noah

Defendant(s) Witnesses:

1. Aqua Patrick
2. Quincy Calep

Intervener's Witnesses:

1. Batle Latdrik

EXHIBITS AND TANGIBLE EVIDENCE:

Plaintiff(s) Exhibits:

1. Exhibit P1-Kalimur of Bojan Noah (2/14/2002)
2. Exhibit P2-Government Land Lease on Lokejbar weto (7/16/ 1986)
3. Exhibit P3-Government Land Lease on Lokejbar weto (12/19/1997)
4. Exhibit P4-Koo's Fishing Land Lease on Lokejbar weto (8/5/2005)
5. Exhibit P5-Government Land Lease on Lokejbar weto (8/31/2011)
6. Exhibit P6-Irojlaplap Lein T. Zedkaia (11/9/2018)

Defendant(s) Exhibits:

1. Exhibit A-Kalimur of Bojan Noah (1/18/2002)
2. Exhibit B-Death Certificate of Bojan Noah
3. Exhibit C-Photo copies of Receipts of Payment
 - a. Ck #385, Paid to Tony deBrum, \$5,000, 4/28/2003
 - b. Ck #386, Paid to Tony deBrum, \$5,000, 5/12/ 2003
 - c. Ck#387, Paid to Tony deBrum, \$5,000, 5/27/ 2003
4. Exhibit C1-Acknowledgment of Tony deBrum

Intervener(s) Exhibits:

1. Exhibit IA – Menmenbwij of Lijeri
2. Exhibit IB – Majuro Atoll 1959 Land Determination
3. Exhibit IC-Determination of Ownership and Release No. 138 (10/29/1954)

OTHER MATTERS THE PANEL BELIEVES SHOULD BE MENTIONED:

It is the testimony of Irojlaplap Lein Patrick Zedkaia during his deposition that he will only follow what his predecessors had arranged and agreed to. The land leases of Lokejbar weto with

the RMI Government and with other entities (Plaintiffs' Exhibits P2, P3, P4, and P5), as evident during trial, show that Irojlaplap Amata Kabua, Leroj Atama Zedkaia, and finally, Irojlaplap Jurelang Zedkaia, recognized Bojan Noah as the proper Alab and Senior Dri Jerbal on Lokejbar wetu. They did not dispute to the fact that as a ninnin land to Bojan Noah, he had every right to do whatever he wished to do on Lokejbar wetu. Two of which was to make a kalimur to his children on Lokejbar wetu, and then making another kalimur bequeathing the lagoon side of Lokejbar wetu to Aqua Patrick and her descendants for looking after Bojan Noah and his wife while seeking medical care in Hawaii. This was the wish of the late Irojs of Lokejbar wetu, as evident on the Notice to Leave, issued by the late Irojlaplap Jurelang Zedkaia in regards to the lagoon side of Lokejbar wetu. He showed that he recognized Aqua Patrick's kalimur made by Bojan Noah.

Dated: January 23, 2020

/s/ Acting Presiding Judge Grace Leban
Traditional Rights Court

/s/ Associate Judge Nixon David
Traditional Rights Court

/s/ Associate Pro Tem Judge Caios Lucky
Traditional Rights Court