

FILED

JAN 23 2020

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

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

Hepesus Kotton)	Civil Action 2018-010
Plaintiff,)	
-vs-)	
)	
[1] Rosety Tarilang)	OPINION IN ANSWER
[2] Bokta Tarilang)	
[3] Derek Anjain)	
[4] Patricia Anjain)	
Defendants.)	
_____)	

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

PLACE OF HEARING: Majuro Courthouse

DATE OF HEARING(S): September 10, 11, 12, & 30, 2019

THE PARTIES' CONTENTIONS:

The underlying dispute between the parties concerns the senior ri-jerbal right on three of the wetos on Ijoen Island, Arno Atoll. Plaintiff contends that he is the proper person to hold and exercise the ri-jerbal right on these three wetos on Ijoen Island. He claims that under Marshallese custom, **in bwij land**, a female and her children are considered the bwij or of the bwij line and that they inherit the alap right. The children of a male are toor in botoktok or of the bloodline, inheriting the ri-jerbal right and are -senior ri-jerbals.

The defendants' argument is that the rights on the disputed lands, **Lomak Rear, Mon Bal and Jabor** on Ijoen Island pursuant to Marshallese custom are exercised by the alap, both the

alap and senior ri-jerbal rights. Rosety is the person both parties agree and recognize as the alap of the disputed wetos. In her testimony, Rosety stated that she appointed or bequeathed the ri-jerbal right to her younger brother, defendant Bokta Tarilang.

THE QUESTION REFERRED TO THE TRC TO ANSWER:

Who between Hepesus Kotton and Bokta Tarilang under Marshallese custom is the rightful and proper person to hold and exercise the senior ri-jerbal right on **Lomak Rear, Mon Bal, and Jabor** weto on Ijoen Island, Arno Atoll, Marshall Islands?

ANSWER TO THE QUESTION:

Answer: Hepesus Kotton

FACTUAL FINDINGS UPON WHICH THE OPINION IN ANSWER IS BASED:

At the trial, witness testimony and documentary evidence were presented to the TRC panel. This case stems from a will that was made by and for Bokta Tarilang which Rosety had filed and registered at the Land Registration Authority on March 7, 2017 (Plaintiff Ex "B").

Plaintiff Exhibit "B" is a will bequeathing the land rights on the disputed lands which are the subject matter of High Court Civil Action No., 2018-010, "Hepesus Kotton vs. Rosety Tarilang, Bokta Tarilang, and Derek and Patricia Anjain". The lands or three wetos bequeathed in this will, Plaintiff Exhibit "B", are on Ijoen Island, Arno Atoll, namely **Lomak Rear, Mon Bal and Jabor** and continue out to **Mij Laplap**. The rights bequeathed in the will are the Iroj, Alap, and Ri-jerbal rights.

Defendant Rosety Tarilang, who had signed with her younger brother, Defendant Bokta Tarilang, on the will he prepared, stated in her testimony that the will was wrong and that it concerned her family and their lands only. The panel of the Traditional Rights Court disagrees with the will because Bokta Tarilang does not have the sole right or authority to transfer the land rights on the wetos on Ijoen Island as they belong to the bwij.

The exhibit admitted by the panel as Plaintiff Exhibit "A", which both parties agreed to, confirmed that the three wetos, **Lomak Rear, Mon Bal and Jabor** are in fact bwij lands originating from Tiblok, female, who had two children, a female and a male. Kotton, her male son was older than her daughter Jadai. Plaintiff Exhibit "A" lists the children of both Kotton and Jadai.

Both parties are in agreement that the three wetos are bwij lands. The TRC panel that heard the case based its opinion in answer on Plaintiff Exhibit "A" which is the genealogy chart of the parties. Defendants also concur with the genealogy chart. Pursuant to Marshallese custom, the children of the female inherit the alap right and the children of the male inherit the senior ri-jerbal title and are ri-jerbals or workers on lands that belong to the bwij.

Based on the genealogy chart or Plaintiff Exhibit "A", the TRC panel recognizes that it is proper, in accordance with Marshallese custom, that **Hepesus Kotton** hold and exercise the **Senior Ri-Jerbal** right on the wetos on Ijoen Island, **Lomak Rear, Mon Bal, and Jabor** in Arno Atoll, Marshall Islands.

APPLICABLE CUSTOMARY LAW & TRADITIONAL PRACTICE:

1. **Pikkajo** means to oppose or go against the custom and traditional practices, as evidenced in this case by the defendants who ignored and disregarded the right that flows through the bloodline or descendants of the male line and transferred the right without first consulting with the plaintiffs.

2. **Muri Jouij** is a gift or offering given in return to a person for their kindness and generosity. “Muri Jouj” is not applicable and cannot be used in the transfer of land rights to another person. The land rights on the three wetos as raised and discussed in this case belong to the bwij including the bloodline or the children of the male lineage. Muri Jouij only applies to personal belongings.

ANALYSIS

Witness testimony and tangible evidence presented in this case show that the parties both agree that the three wetos on Ijoen Island, **Lomak Rear, Mon Bal, and Jabor** are lands belonging to the bwij. Bwij lands, pursuant to Marshallese custom, if there are both male and female descendants, the children of the female will inherit the alap right and the children of the male inherit the bloodline right of senior ri-jerbal or ri-jerbal. With the passing of **Tiblok**, who is the mother of **Kotton** and **Jadai**, **Kotton** exercised both the Alap and Ri-Jerbal rights. After Kotton passed, his younger sister, **Jadai**, then held both rights, Alap and Ri-Jerbal. When **Jadai** passed away, the custom came into effect, where the children of the female inherit the alap right and the children of the male inherit the ri-jerbal right which includes the right/title of senior ri-jerbal.

PLAINTIFF’S WITNESSES:

1. Hesus Kotton
2. Belmar Graham
3. Anthony Jim

DEFENDANTS’ WITNESSES:

1. Rosety Tarilang
2. Patricia Anjain

PLAINTIFF’S EXHIBITS:

- a. Menmenbwij
- b. Kalimur/Will

- c. MLSC Notice to Quit
- d. Kotton's Death Certificate
- e. Judgment Civil Action 83 (Marshallese)
- e1. Judgment Civil Action 83 (English)
- f. Land listing by land survey, Ijoen Island
- g. Map of Ijoen Island, a goodgle image of Jabwod, Monbel, & Lomak Rear
- h. Civil Action 365
- i. Genealogy of Kotton/Botoktok Line

DEFENDANTS' EXHIBITS:

None

OTHER MATTERS THE PANEL BELIEVES SHOULD BE MENTIONED:

Alap Rosety in her testimony stated that the will bequeathing the three wetos on Ijoen Island, Lomak Rear, Mon Bal, and Jabwor, as shown in Plaintiff Exhibit "B", is wrong because it was done as an act under the custom of "**Muri Jouj**". "Muri Jouj" only applies to a person's own belongings and cannot be used to transfer or bequeath land rights that belong to the bwij. The three bwij lands, Lomak Rear, Mon Bal, and Jabor on Ijoen Island, Arno Atoll, also have other rights such as Imon Botoktok or right of the ri-jerbal which

It was raised during trial that the plaintiffs did not remain and live on the three wetos. The custom that the TRC panel based its Opinion on is the custom of "Bedbed Ijin Bedbed Ijon" -- in all lands throughout the Marshall Islands you can live and reside on the land and still continue to go to your other homelands to work the land, clean and clear the land, collect and make copra, and others.

Date: November 12, 2019

/s/ Walter K. Elbon
Presiding Judge, TRC

/s/ Nixon David
Associate Judge, TRC

/s/ Grace Leban
Associate Judge, TRC