

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

KATIP MACK )  
 )  
Plaintiff )  
 )  
v. )  
 )  
TONY ROBERT, ET AL )  
 )  
Defendants )  
\_\_\_\_\_ )

CIVIL ACTION NO. 2005-127 & 2007-217  
CONSOLIDATED

SUMMARY OF CASE

**FILED**

AUG 04 2011

  
ASST. CLERK OF COURTS  
REPUBLIC OF MARSHALL ISLANDS

MEMBERS OF COURT PANEL: WALTER K. ELBON, Chief Judge  
BOTLANG LOEAK, Associate Judge  
GRACE LEBAN, Associate Judge

DATE OF COURT PANEL'S HEARING: April 18 to May 11, 2011

PLACE OF HEARING: Uliga, Majuro Courthouse

ACTION TAKEN:

1. (a) Question No. 1 as presented: Is the plaintiff the proper person, in accordance with Marshallese Customary Law and Traditional Practice, to hold and exercise the Alap and Senior Dri Jerbal title and interest in the western end of Eneloklap Island, Arno Atoll, Republic of the Marshall Islands? If not, then who?

(b) Opinion in Answer to Question No. 1:

**Yes, Plaintiff Katip Mack is the proper person to hold and exercise the Alap and Senior Dri Jerbal title and interests in the western end of Eneloklap Islands, Arno**

Atoll, Republic of the Marshall Islands.

(c) Brief Statement of Reasoning on which opinion in Answer to Question No. 1 is based:

According to the judgment given in High Court Civil Action No. 45/54 of the government of the Trust Territory of the Pacific Islands, Lioeon, the mother of the Plaintiff was declared the Alap and Senior Dri Jerbal for the western end of Eneloklap Island, Arno Atoll. The judgment was based on the stipulation of the parties and, in accordance with custom, was approved by the iroijlaplap at that time (see Plaintiff Exhibit A). In two of the Defendant's witnesses' testimonies, (Tony Robert and Mikja Namdrik), Tony Robert testified that Andre (deceased) was the proper person to have held the alap and dri jermal rights on the western end of Eneloklap Island. He, however, gave no details as to why it was proper for him to hold the alap and dri jermal rights on the western end of Eneloklap Island. There was no complaint filed by Andre in regard to the judgment in TT Civil Action 45/54. Witness Mikja Namdrik testified that the proper person to hold the alap and dri jermal rights on western end of Eneloklap Island is Anjua Jiwirak. In his testimony, he said that Anjua Jiwirak was aware of the the judgment in TT Civil Action 45/54, however, he has never filed any complaint in court to this date against the judgment in TT Civil Action 45/54.

(d) Names and addresses of the Plaintiff's Witnesses testifying in regard to Question No. 1 and 2:

1. Kitamon Bunglick, Majuro Atoll
2. Raymond George, Majuro Atoll
3. Langtimur Jormelu, Majuro Atoll

**4. Bikam Latdrik, Majuro Atoll**

**5. Katip Mack, Majuro Atoll**

(e) Names and addresses of the Defendant's Witnesses testifying in regard to Question No. 1 and 2:

**1. Irene Bunglick, Majuro Atoll**

**2. Kejjeb Jetton, Majuro Atoll**

**3. Zed Zedkehia, Majuro Atoll**

**4. Tony Robert, Majuro Atoll**

2. (a) Question No. 2 as presented: Who is the Alab and Senior Dri Jerbal of Kinnini Weto, Arno Atoll Republic of the Marshall Islands? And whether or not the purported will (Kalimur) of Rilang Tarkeim on October 19, 1987 is valid under the laws and Marshallese Custom?

(b) Opinion in Answer to Question No. 2: **Irene Bunglick. The purported will (Kalimur) of Rilang Tarkeim is not valid under the laws and Marshallese Custom.**

(c) Brief Statement of Reasoning on which opinion in Answer to Question No. 2 is based:

**The plaintiff, Katip Mack, in his testimony, stated that Kinnini weto was originally a bwij land for the defendant. Obviously, if it was a bwij land, it would have started down from Libo and on downwards according to the genealogy chart of the defendants, Zedekia and his brothers and sisters. There was no objection to the accuracy and correctness of the contents of the defendant genealogy chart. Basically, the plaintiff, Katip Mack, based his understanding on the fact that Kinnini weto was originally a bwij**

land for the family of Zedkehia, but was given away as a gift or Katlep from Beijok to his nephew, Labwiniton, during German time. In the verified complaint which was filed on December 4, 2007, there is no mention of a Katlep. In Leroij Langtimur Jormelu's affidavit, which was filed on December 4, 2007 (Plaintiff Exhibit D), she stated that Kinnini weto is a Katlep land from Beijok to Labwiniton. However, on September 10, 2008, Leroij Langtimur withdrew from agreeing in her affidavit which she signed and was filed on December 4, 2007.

In some of the opinions made by the Traditional Rights Court, they have clearly stated that, in accordance with Marshallese custom, only an iroiylaplap can make a Katlep ( TRC opinion in High Court Civil Action 1990-053). Further, Katlep cannot be made to any member of the bwij (TRC Opinion in High Court Civil Action 1996-161). Because of this, it is clear that the Katlep made by Beijok to Labwiniton was not right and proper in accordance with the Marshallese custom.

Regarding the Kalimur or document Rilang Tarkeim signed on October 19, 1987, this Court found that it is not valid because Rilang Tarkeim was not the iroiylaplap at that time and it was not proper for him to approve it. Leroiylaplap Melon Jawin should have been the one to approve it. Leroij Lijek Robert signed only as a witness on this document. If Melon Jawin had signed on the kalimur of Lioen Mack (plaintiff exhibit E) on August 22, 1990 with Rilang Tarkiem, why didn't she sign as a witness or to approve the kalimur Rilang Tarkeim made on October 19, 1987? Kalimur or the documents were not notarized. The current leroiylaplap, Langtimur Jormelu said in her testimony when asked by the plaintiff's counsel if she recognized the signatures on the kalimur or the document if they are the signatures of Rilang Tarkeim and Melon Jawin and she said no. Therefore, this court of

custom recognizes that it is right and proper that Irene Bunglick, Zed Zedkehia's older sister, who is still alive, holds the title and interest of alap and senior dri jermal on Kinnini Weto, Arno Atoll, Republic of the Marshall Islands.

3. Important items of Tangible and Documentary Evidence Received:

**Civil Action No. 2005-127**

- 1) **Plaintiff Exhibit A- Judgment TT Civil Action No. 45**
- 2) **Plaintiff Exhibit B- Affidavit of Langtimur Jormelu dated 5/10/05**

**Civil Action No. 2007-217**

- 1) **Plaintiff Exhibit A- Genealogy Chart**
- 2) **Plaintiff Exhibit B- Arno Ownership photo copy of page 27**
- 3) **Plaintiff Exhibit C- Kalimur of Riliang Tarkeim, October 19, 1987**
- 4) **Plaintiff Exhibit D- Affidavit of Leroij Langtimur Jormelu**
- 5) **Plaintiff Exhibit E- Kalimur of Lieoen Mack**
- 6) **Plaintiff Exhibit F- Kalimur of Lakamo**
- 7) **Defendant Exhibit A- Genealogy Chart**
- 8) **Defendant Exhibit B- Power of Attorney**
- 9) **Defendant Exhibit C- Leroij Langtimur Jormelu withdrawal**

**document.**

4. Other matters which the panel believes should mentioned:

1) In the book known as, "Kabua Customary Titles and Inherent Rights," it shows that only the iroijlaplap can make a Katlep land, only the iroijlaplap can do it. Also the book of Tobin, " Land Tenure" it also shows that only iroijlaplap can make a Katlep.

2) Manmaronron: It is a Marshallese custom which applies only within a bwij if there are male siblings who are younger than the female siblings. With the approval and appointment by the older female, the male will do all the work for her. However, when it comes to making the final decisions, it is solely the responsibility of the elder sister.

Date:

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/s/ WALTER K. ELBON, Chief Judge,  
Traditional Rights Court

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/s/ BOTLANG LOEAK, Associate Judge,  
Traditional Rights Court

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/s/ GRACE LEBAN, Associate Judge,  
Traditional Rights Court