

FILED

SEP 29 2016

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

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

JOHN BUNGITAK,)
)
 Plaintiff,)
)
 VS.)
)
 JOWELS ET, AL.,)
)
 Defendant(S).)
 _____)

CIVIL ACTION NO. 2010-177

OPINION AND ANSWER OF THE TRADITIONAL
RIGHTS COURT

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

PLACE AND DATE OF COURT PANEL'S HEARING: Majuro Courthouse, July 26, 27 & Sept. 2, 2016

THE PARTIES' CONTENTIONS:

The dispute between the parties is about the land lease that was made and signed on July 1, 1973 (Plaintiff Exhibit C). The lease was made between Lakuban Bungitak, the father of John Bungitak, and the people who signed the lease were Mo Jitiam, the Iroij, Lanilobet, the Alab, and Lijela, the Dri Jerbal. The Defendants argued that the lease is not valid because Lijela did not hold the right of Senior Dri Jerbal on Konan Weto in 1973. The Plaintiff recognizes Lijela, the mother of Carl Domnick and grandmother of Charles Domnick as the Senior Dri Jerbal of Konan Weto during the time she signed the lease in 1973 as shown on the signature under Senior Dri Jerbal on the lease.

THE QUESTION(S) REFERRED BY THE HIGH COURT:

Question No. 1: From August 17, 1973 (the land lease of Lakuban Bungitak, father of John Bungitak, in which John Bungitak is continuing), who between Enoch and Lijela is the proper person

to hold the Senior Dri Jerbal right on Konan Weto, Rita Village, Majuro Atoll, Marshall Islands?

Question No. 2: According to Marshallese custom, Plaintiff John Bungitak, and his children who are currently living in Lakuban Bungitak's leased land, is it proper for John Bungitak to take the place of Lakuban Bungitak in the lease?

SUMMARY ANSWER:

Answer No. 1: **Lijela**

Answer No. 2: **Yes, according to Marshallese custom, John Bungitak is the proper person to take the place of his father, Lakuban Bungitak in his estate, which includes the lease which he made on July 1, 1973.**

FACTUAL FINDINGS UPON WHICH THE OPINION IN ANSWER IS BASED:

The TRC Panel heard the case beginning July 26, 2016 and ended September 2, 2016. There was evidence and testimonies given on the witness stand. The TRC based its opinion on the following evidence and testimonies: Plaintiff Exhibit D, Determination of Ownership and Release No. 58-3, and Plaintiff Exhibit F, the Land Determination of 1959. Plaintiffs Exhibit D & Exhibit F both indicate that Carl Domnick was the Senior Dri Jerbal on Konan Weto. Carl is the son of Lijela, and Charles Domnick is the son of Carl Domnick. Plaintiff Exhibit I, the Master Report in Civil Action No. 11-77. The Panel perceive that the only information indicated on the Master Plan was that Inok is a dri jerbal on Konan Weto since he has lived there and worked the land since the Japanese time. The Majuro Land Determination was made during 1958 and 1959, and it shows that Carl Domnick was a Senior Dri Jerbal for Konan Weto. In the Master Report it also shows that Lanilobat was Alab and that Lautto was the Alab before him. On Plaintiff Exhibit F, the Majuro Land Determination of 1959, it shows that Lautto was the Alab and Carl Domnick was the Senior Dri Jerbal for Konan Weto. The TRC Panel realizes that Plaintiff Exhibit E, Determination of Ownership and Release No. 58-15, which shows that Inok was Alab and Senior Dri Jerbal for Drenlik Weto, Rita Village, Majuro Atoll, as indicated, or resulted from the public hearing which took place on July 16, 1958. During the same date, July 16, 1958, as shown on Plaintiff Exhibit D, Determination of Ownership and Release No. 58-3, Carl Domnick was the Senior Dri Jerbal on Konan Weto. It was not clear during trial or in the evidence presented in this matter whether Inok had contested Carl Domnick as being the Senior Dri Jerbal on Konan Weto. Evidence presented were Defendant Exhibit 1, the Master Report in Civil Action No. 11-77, and Defendant Exhibit 2, Menmenbwij

of Inok's family. This menmenbwij shows that there is no relation between Inok and the people who hold the Alab title on Konan Weto.

APPLICABLE CUSTOMARY LAW AND TRADITIONAL PRACTICE:

In Marshallese custom, the inheritance lineage on a bwij land, the children of a woman shall inherit the rights of an Alab, beginning with the eldest, and the children of the male shall inherit the rights of a Dri Jerbal or Senior Dri Jerbal (the head of the dri jermal(s)). Plaintiff Exhibit O, the Menmenbwij of the Plaintiff shows that Lautto is the son of a female and Lijela is the daughter of a male. Inok and his family do not have any close relationship with the Plaintiff, unlike the Alab and those that are recognized as Dri Jerbal on Konan Weto. And this is apparent from the hearings, and also from the Menmenbwij of the Defendants, Defendant Exhibit 2.

ANALYSIS:

During the hearing, those that testified and hold rights on Konan Weto were, Leroij Takbar Ishiguro, Ankoj Anmontha (representing the Alab), Aroman Anmontha (in line for Alab title), and Charles Takao Domnick. According to the testimonies of the current Iroij, Leroij Takbar Ishiguro, she testified that it is right and proper for Charles Takao Domnick to hold the Senior Dri Jerbal title on Konan Weto. Ankoj Anmontha and Aroman Anmontha also testified on the witness stand that Charles Takao Domnick is current Senior Dri Jerbal on Konan Weto. There was only one witness for the Defendants. Tommie Lakjohn, in her testimony she stated that Inok was the Senior Dri Jerbal for Konan Weto, and that Betwel Henry was after him, and today it is Heichi Elmi, who is one of the Defendants and was supposed to be one of the Defendants' witnesses. Heichi Elm did not show up to testify in this matter. Furthermore, he had no affidavit or written statement filed in this matter.

WITNESSES:

Plaintiff(s) Witnesses:

1. Leroij Tokbar Ishiguro
2. Ankoj Anmontha
3. Aroman Anmontha
4. Charles Takao Domnick

Defendant(s) Witnesses:

1. Tommie Lakjohn

EXHIBITS AND TANGIBLE EVIDENCE:

Plaintiff(s) Exhibits:

1. Exhibit "A" Durable Power of Attorney
2. Exhibit "B" Statement of John Bungitak
3. Exhibit "C" Plaintiff's July 1, 1973 Lease Agreement
4. Exhibit "D" The Determination of Ownership Release No.58-3
5. Exhibit "E" The Determination of Ownership Release No. 58-15
6. Exhibit "F" The Land Determination of 1959
7. Exhibit "G" Judgment in Civil Action No. 11-77
8. Exhibit "H" An unsigned May 10, 1977 Amendment to Judgment in Civil Action 11-77
9. Exhibit "I" Master Report Civil Action 11-77
10. Exhibit "J" Copy of transcript pp 63-78, Civil Action 1996-301
11. Exhibit "K" Melele ko ilo Civil Action 1996-301
12. Exhibit "L" Summary of Civil Action 1996-301
13. Exhibit "M" Judgment Civil Action 1996-301
14. Exhibit "N" April 4, 7, 8 1958 meeting
15. Exhibit "O" Ebeben eo an Lijoan DeBrum
16. Exhibit "P" Copy of transcript pp 56-62, Civil Action 1996-301
17. Exhibit "Q" Land Lease Agreement /Land Owner Konan Weto

Defendant(s) Exhibits:

1. Defendants' Exhibit 1 Master Report Civil Action 11-77
2. Defendants' Exhibit 2 Family Tree

OTHER MATTERS THE PANEL BELIEVES SHOULD BE MENTIONED:

Plaintiff Exhibit M, the Judgment on Civil Action 1993-301, it states that the hearings which took place regarding lands during the end of the 1950s, indicated that Inok held the right of an Alab and Dri Jerbal on Drenlik Weto. This was indicated during the public hearing in 1958. As shown on Plaintiff's Exhibit D

and E, during the hearings which took place in July 16, 1958, Inok was the Senior Dri Jermal on Drenlik Weto and Carl Domnick was the Senior Dri Jermal on Konan Weto. During the testimony of the witness for the Defendants, she testified that Iroijlaplap Jebdrik was the one who gave the rights of Senior Dri Jermal to Inok on Konan Weto. However, she did not state when and what year it was. On the Master Report of Civil Action No. 11-77, it states only that Inok was Dri Jermal on Konan Weto from the Japanese time, and it does not show who was Dri Jermal before him. The Master Report does not mention the Majuro Land Determination and Ownership, which was made in 1958 and 1959. The Panel believes that because it was not submitted during the 11-77 matter as evidence, the Master Report does not mention it. Plaintiff Exhibit H, an unsigned May 10, 1977 Amendment to the Judgment on Civil Action 11-77, the presiding Judge did not sign, and there is no written explanation as to why he did not sign.

Date: 09/12/16

_____/s/_____

Presiding Judge Walter Elbon, TRC

_____/s/_____

Associate Judge, Nixon David, TRC

_____/s/_____

Associate Judge, Grace Leban, TRC