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CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

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

CECILLIE M. KABUA,

Plaintiff,

VS.

MWEJEN MALOLO,

Defendant.

CIVIL ACTION NO. 2012-190

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 HEARING: Majuro Courthouse, November 8, 9, and 10, 2016.

THE PARTIES' CONTENTIONS:

The argument between the two parties in this case is about who is the proper and rightful person to hold the Alab right after Laji Taft, on their wetos on Kwajalein Atoll.

THE QUESTION REFERRED BY THE HIGH COURT:

Question No. 1: **As between Cecillie M. Kabua and Mwejen Malolo, and all persons claiming herewith, who is the proper person, according to Marshallese custom, to inherit from Laji Taft the Alab right on the wetos on Kwajalein Atoll, Marshall Islands? The wetos are Kuror, Enejore, Jakroot, Boken, Bokram, and Wonwot.**

SUMMARY ANSWER:

Answer No. 1: Mwejen Malolo.

FACTUAL FINDINGS UPON WHICH THE OPINION IN ANSWER IS BASED:

The TRC panel heard the case with evidence admitted, including testimonies of witnesses who testified in court. The *Menmenbwij* (genealogy charts) from both parties indicate that they are from one family. Defendant Exhibit 2, a menmenbwij, shows its origin began with Lokomram, then to his son Lanjok, and it went down to Lanjok's two sons, Lokobale, the elder, and Lainammo, the younger of the two. On the Plaintiff's Menmenbwij, Plaintiff Exhibit A, it originates with Lanjok, however, according to the Plaintiff's Complaint, it states that Lanjok inherited his right from Lokomram and the Alab right descended to his two sons, Lokobale, the elder, and Lainammo, the younger. Lokobale had two children, Libonlok, female, and Lelet, male. Lainammo had children, Malolo-male, Tomaj- male, Lautto- male, and Litawe-female. According to Marshallese custom, the descending line from Lanjok to Lokobale and Lainammo is bloodline or children of a male, and since there was no agreement as to the inheritance of land that Lokomram made, it is proper under Marshallese custom for the children of Lokobale and the children of Lainammo to inherit the Alab title when their times come. However, this is with respect to bloodline or children of males. It is also reflected in the Menmenbwij(es) of both parties that Lokobale had a daughter named, Libonlok, and Lainammo also had a daughter named, Litawe. Libonlok and Litawe are "*jidrak in bwij*", to this family that began and continued down over generations under bloodline or children of males. Since custom changes custom, meaning if a daughter is born, the land will become a bwij land. The children of the females will become Alabs and the children of males will become Dri Jerbals. In this case, it shows that according to the Menmenbwij, Libonlok and Lelet are the first to hold the title of Alab, and the children of Lainammo will hold the title of Alab after Libonlok and Lelet have passed, or if there were any special arrangement made with approval of all concerned. In examining the family arrangement as accorded in the Menmenbwij, the panel sees that there are two bwij that emerged. The older bwij is of Libonlok and her children, and the younger bwij is of Litawe and her children. The children of the males as in Lelet, shall inherit the title of bloodline or Dri Jerbal, and this is also reflected in Plaintiff Exhibit 'C', Certification of Traditional Title Holder, which Irojlaplap Anjua Loeak signed, and the Chairman of Koba Maron also signed and agreed to in 5/29/2015. Plaintiff Exhibit 'C' shows that Irojlaplap recognized Cecille Lelet Kabua as the Senior Dri Jerbal and Iroj Kotak Loeak also concurred to it when he read and signed in May 29, 2015. Defendant Exhibit '3', Certification of Traditional Successor, Irojlaplap Anjua Loeak recognizes Mwejen Malolo. Defendant Exhibit '4', Certification of Traditional Successor and Irojlaplap Approval and Reaffirmation of Traditional Title Holder, Iroj Mike Kabua, with rights given from Irojlaplap Imata Kabua, affirmed that Mwejen Malolo is the proper person to be Alab.

APPLICABLE CUSTOMARY LAW AND TRADITIONAL PRACTICE:

Under Marshallese custom the inheritance of the Alab title is through the children of female, beginning from the eldest. The children of a male shall inherit the Dri Jerbal title or Senior Dri Jerbal (the head of all Dri Jerbal on the land). It was proper for Laji Taft to hold the right of an Alab before Mwejen Malolo because he is listed under the eldest bwij of his grandmother, Libonlok, and his mother, Bojaar. This panel agrees with the judgment of the High Court in Civil Action 1993-040, as shown in Plaintiff Exhibit 'D'. This panel also agrees with Defendant Exhibit '5', Affidavit of Handel Dribo and Defendant Exhibit '6, Affidavit of Atidrik Maie, in which both are in agreement that it is proper for Laji Taft to be the Alab because he is from the older bwij. Since Laji Taft was the last living descendant of Bojaar and his grandmother, Libonlok, the Alab right shall go back to the younger bwij, the descendants of Litawe who are the children of Litabu. Mwejen Malolo is the proper person to hold the Alab title now since he is of the same generation as Laji Taft, although from the younger bwij. Cecille M. Kabua shall inherit the Dri Jerbal right from Lelet.

ANALYSIS:

Based on the evidence presented during trial, Plaintiff Exhibit 'A', Menmenbwij, and Defendant Exhibit '2', Menmenbwij, this panel finds that there are two bwij that emerged from the family. The elder bwij began from Lokobale's daughter, Libonlok, and the younger bwij began from Lainammo's daughter Litawe. Laji Taft is from the elder bwij and it was proper for him to hold the Alab title before Mwejen Malolo. Laji and Mwejen are listed under the same generation. Laji Taft was the last Alab and since he does not have any other surviving siblings left, it is only proper that Mwejen Malolo, who is of the same generation as Laji, but from the younger bwij, be the next rightful Alab title holder.

WITNESSES:

Plaintiff's Witnesses:

1. Cecille M. Kabua
2. Michael Jenkins

Defendant's Witnesses:

1. Helkena Anni
2. Mwejen Malolo

3. Alvin Jacklick

EXHIBITS AND TANGIBLE EVIDENCE:

Plaintiff's Exhibits:

1. Plaintiff Exhibit A – Genealogy Chart (Menmenbwij)
2. Plaintiff Exhibit B – Explanatory Note
3. Plaintiff Exhibit C - Anjua Loeak Traditional Title Holder
4. Plaintiff Exhibit D – Civil Action 1993-040
5. Plaintiff Exhibit E – Order Granting Summary Judgment, 1993-040

Defendant's Exhibit:

1. Defendant Exhibit 1 – 1959 Ownership of Land, Kwajalein Atoll
2. Defendant Exhibit 2 – Menmenbwij
3. Defendant Exhibit 3 – Anjua Loeak Certification of Title Successor
4. Defendant Exhibit 4 – Michael Kabua Certification of Title Successor
5. Defendant Exhibit 5 – Affidavit of Handel Dribo
6. Defendant Exhibit 6 – Affidavit of Atidrik Maie
7. Defendant Exhibit 7 – Land Use Agreement 2011

OTHER MATTERS THE PANEL BELIEVES SHOULD BE MENTIONED:

Helkena Anni from the Land Registration Authority testified to Defendant Exhibit 1, 1959 Land Ownership of Lands in Kwajalein Atoll, and Plaintiff Exhibit B, Explanatory Note regarding Land Ownership (Kwajalein). Anni stated that the Land Determination of 1959 is an official document.

Date: 12/19/16

_____/s/_____

Presiding Judge Walter Elbon, TRC

_____/s/_____

Associate Judge Nixon David, TRC

_____/s/_____

Associate Judge, Grace Leban, TRC