

AUG 27 2018

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

CLERK OF COURTS  
REPUBLIC OF THE MARSHALL ISLANDS

Nidel Lorak on behalf of Getrude Navarro )  
and Bojeang Lorak and Ain Kabua )

Civil Action No. 2014-232

Plaintiffs, )

VS. )

Jimton (Jimmy) Philipppo, )

OPINION AND ANSWER OF  
THE TRADITIONAL RIGHTS  
COURT

1<sup>ST</sup> Defendant, )

Haem Mea, )

2<sup>ND</sup> Defendant, )

Timmy March, )

3<sup>rd</sup> Defendant. )

**MEMBERS OF THE TRC PANEL:**

Walter K. Elbon,  
Presiding Judge, TRC

Nixon David,  
Associate Judge, TRC

Grace Leban,  
Associate Judge, TRC

**PLACE OF HEARING(S):**

Uliga, Majuro Courthouse

**DATE(S) OF HEARING(S):**

May 10, 12, 16, 23, 24, & 30, 2018

**THE PARTIES' CONTENTIONS:**

The Plaintiffs contend that they have no understanding or knowledge as to To Weto and Enejibaru as being *Imon Ninnin*, given from Ladrille to his adopted child, namely, Lito. The Plaintiffs do not challenge the fact that Ladrille adopted Lito. They contest and do not agree

with the knowledge that To Weto and Enejibaru are *Imon Ninnin* given by Ladrille to Lito, his adopted child. Plaintiff Ain Kabua states that it is proper for her to be the Alap for To weto and Enejibaru, based on the descending lineage of Jam and Lenwod. Plaintiff Nidel Lorak, on behalf of his elder sister, Bojeang, says that it is proper for him to inherit the right of Senior Dri Jerbal based on the descending lineage of Laruon, Kitmeto, and Akki. The defendants contend that it is proper for them to hold the right of Alap and Senior Dri Jerbal based on the descending lineage of Lito, as Ladrille had adopted her and had bequeathed the rights of Alap based on *Ninnin* on To Weto and Enejibaru.

### **THE QUESTIONS REFERRED BY THE HIGH COURT:**

- Question 1: Was Lito Mea the adopted child of Ladrille under the custom of *kanne lujen* or *kanin lojeo*?
- Question 2: Did Ladrille give the Alap and Senior Dri Jerbal rights on Enejibaru Island and To weto to Lito as *imon ninnin*?
- Question 3: If the answer to question #2 is 'yes', was the *ninnin* transfer in accordance with custom? Did Ladrille inform his *bwij* and receive the consent of his *bwij*?
- Question 4: In 1987, as between Atlon Caleb and Lito Mea, who was the proper person to hold and exercise the Alab right and title on To Weto?
- Question 5: In 1987, as between Akki Laruon and Lito Mea, who was the proper person to hold and exercise the Senior Dri Jerbal title on To Weto?
- Question 6: When Atlon Caleb and Akki Laruon gave their consent to Gertrude Navarro to build a house on To weto in 1987, were they acting respectively as Alab and Senior Dri Jerbal, or were they acting as *man-maronron* for Lito Mea?
- Question 7: Was it just and proper under custom for Jimton 'Jimmy' Philippo, acting as *man-maronron* for Neimon Philippo, and to take possession of the two houses built by Gertrude Navarro on To weto?
- Question 8: Today, as between Ain Kabua and Haem Mea, who is the proper person to hold and exercise the alab right and title on To weto?
- Question 9: Today, as between Bojeang Lorak and Timmy March, who is the proper person to hold and exercise the senior dri jermal on To Weto?

**SUMMARY ANSWERS:**

- Answer to Question 1: Ladrille adopted Lito Mea.
- Answer to Question 2: There was insufficient evidence to show that Ladrille gave To weto and Enejibaru to Lito Mea as *Imon Ninnin*.
- Answer to Question 3: It is not an *Imon Ninnin*. According to the evidence, the bwij have no knowledge of an *Imon Ninnin*.
- Answer to Question 4: Atlon Calep
- Answer to Question 5: Akki Laruon
- Answer to Question 6: Alap and Senior Dri Jerbal.
- Answer to Question 7: It is not proper.
- Answer to Question 8: Ain Kabua
- Answer to Question 9: Bojeang Lorak

**FACTUAL FINDINGS UPON WHICH THE OPINION IN ANSWER IS BASED:**

During trial, both parties presented to the Panel evidence which included testimonies of witnesses and documents. The Panel recognizes that under the Marshallese custom, members of a family may adopt from within the family. It was clear from the testimonies and evidence presented that Ladrille did not have any children of his own. Despite the fact that Ladrille had adopted Lito under Marshallese custom and considered it as *Kane Lujen*, the descendants of the bwij, or the botoktok, should have agreed together as to Ladrille's giving of To weto and Enejibaru as *Imon Ninnin* to Lito. With regards to *Imon Ninnin*, To weto and Enejibaru, Ladrille had elder siblings, namely Jam and Lenwod, as reflected in Plaintiff Exhibit A. Jam had no children. Lenwod had children and clearly, if her descendants are not aware and do not agree with the *Imon Ninnin* for Lito, having been given to an adopted child, then the giving of To weto and Enejibaru as *Imon Ninnin* is not proper. Lito, however, is also from To weto, and has rights on the weto. She and her descendants have the right to carry out the roles and responsibilities of land according to Marshallese custom. From the testimonies, it was evident that the families all come from one family lineage.

During the year 1987, it was proper and right for Atlon to be the Alap on To weto. Defendant Exhibit 5 (Acknowledgement and Consent) shows that Atlon Caleb had signed as the Alap on To

weto, and Akki had signed as Senior Dri Jerbal. Plaintiff Exhibit B (Mojen Eo An Irojlaplap Kaibuki) shows that the Commission of Land had asserted that Atlon held the right of Alap on Enejibaru and To weto. Plaintiff Exhibit F (Majuro Land Determination of Ownership) indicates that Akki Laruon was Dri Jerbal for To weto. On To weto, there are two houses that belong to Gertrude Navarro. It is shown in Plaintiff Exhibit 5 that the consent for the construction of the two houses was agreed to by Atlon and Akki, and the Irojlaplap that signed was Amata Kabua. The TRC Panel which heard the matter recognizes that Jimton Jimmy Philippo did not have the right to take the houses that belong to Gertrude Navarro, acting as the man-maronron for Neimon Philippo. It is proper under Marshallese custom for Jimton Jimmy Philippo to be the man-maronron for Neimon Philippo, for he is the eldest. However, this does not allow him to have taken Gertrude Navarro's houses because the Irojlaplap, the Alap, and the Senior Dri Jerbal of To weto had authorized the construction of the two dwellings.

**ANALYSIS:**

The TRC Panel agrees that it is proper for Ain Kabua to hold the right of Alap on To weto since she is a descendant of Lenwod, who is the elder sibling of Jam and Ladrille. The Panel believes that Jam was the Alap after Lenwod. Previous Irojlaplaps as well the current Irojlaplap recognize these people to hold the right of Alap on the wetos, namely, To weto, Enejibaru island and other wetos on Rongrong island as shown on Plaintiff Exhibit B (Irojlaplap Amata Kabua), Plaintiff Exhibit D (Leroij Atama Zedkaia), and Plaintiff Exhibit E (Irojlaplap Lein P. Zedkaia).

Today, as between Bojean Lorak and Timmy March, the Panel agrees that it is proper for Bojeang Lorak to hold the Senior Dri Jerbal right today on To weto. Today there are Descendants of Kitmeto who are also residing on To weto. Plaintiff Exhibit H (Genealogy of Neiwan) shows that Kitmeto is older than Akki and Lito, and it is proper for Bojeang, the daughter of Kitmeto to be the one holding the Senior Dri Jerbal right on To weto.

**Plaintiffs' Witnesses:**

1. Daniel Rilang
2. Ain Kabua
3. Nidel Lorak

4. Bill Labija

**Defendants' Witnesses:**

1. Phil Philippo
2. Maitol A. Riley
3. Witten T. Philippo

**EXHIBITS AND TANGIBLE EVIDENCE:**

**Plaintiffs' Exhibits:**

1. Plaintiff Exhibit A – Genealogy
2. Plaintiff Exhibit B – Mojen eo an Irojlaplap Kaibuki, Declaration
3. Plaintiff Exhibit C – LRA signatures
4. Plaintiff Exhibit D – Verification document – Irojlaplap Kaibuki Tobinwa Domain
5. Plaintiff Exhibit E – Verification document – Irojlaplap Kaibuki Tobinwa Domain
6. Plaintiff Exhibit F – Land Ownership List
7. Plaintiff Exhibit G – Lease Agreement
8. Plaintiff Exhibit H – Genealogy

**Defendants' Exhibits:**

1. Defendant's Exhibit 1 – Signature of Amata Kabua
2. Defendant's Exhibit 2 – LRA Signatures Authenticity
3. Defendant's Exhibit 3 – Explanatory Notes
4. Defendant's Exhibit 4 – Genealogy chart
5. Defendant's Exhibit 5 – Acknowledgement and Consent
6. Defendant's Exhibit 6 – Ground Lease Agreement
7. Defendant's Exhibit 7 – Mojen eo an Leroij Atama Zedkaia
8. Defendant's Exhibit 8 – Land Owner Consent

**OTHER MATTERS THE PANEL BELIEVES SHOULD BE MENTIONED:**

Regardless of the fact that the *menmenbwij* (genealogy charts) of the parties are not alike, and have missing parts to them, or are incomplete, the testimonies of witnesses show that they are from one family. They are all from To weto and have rights to build their dwellings and live on To weto. However, recognition and acknowledgment to the current proper holders of the Alap

and Senior Dri Jerbal titles must be carried out. It is Marshallese custom that we look after one another and protect each other on our lands.

Dated: 8/8/18

/s/ Walter K. Elbon  
Presiding Judge, TRC

/s/ Nixon David  
Associate Judge, TRC

/s/ Grace Leban  
Associate Judge, TRC