

FILED

MAY 24 2019

CLERK OF COURTS  
REPUBLIC OF THE MARSHALL ISLANDS

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

HENSEY H. SORIMLE, BERTINE )  
LAKJOHN, & EMTY SORIMLE )  
 )  
 )  
 Plaintiffs, )  
 )  
 V. )  
 )  
 LIWOJ JERBAL )  
 )  
 )  
 Defendant. )  
 )

CIVIL ACTION NO. 2016-143

**DISSENTING OPINION**

**MEMBERS OF THE PANEL:** Nixon David  
Iroj Member

Walter K. Elbon  
Alap Member, (Dissenting Opinion)

Grace Leban  
Dri-Jerbal Member

**PLACE OF HEARING:** Majuro Courthouse

**DATE OF HEARING(S):** February 11, 12, 13, 14, 19, 20, 21, 26, & 27, 2019

**THE PARTIES' CONTENTIONS:**

It is plaintiffs' claim that they are the rightful and proper persons to hold/exercise the Irojlaplap right/title in Aerok, Maloelap Atoll and Bikien Island in Aur Atoll. They claim that these lands are Marujinkot lands (**Bok Iman Madre in Botoktok**) Iroj Lobeia and Iroj Lailik had won through war. They also claim that Lobeia and Lailik are from Kabinmeto in Ralik.

The defendant claims that Aerok Island in Maloelap and Biken Island in Aur are bwij lands that started with Lijekwa, as shown in their Exhibit E.

**THE QUESTION REFERRED TO THE TRC TO ANSWER:**

Who as between Hensey Sorimle and Liwoj Jerbal is the proper person to hold the Irojlaplap and Irojedorik rights, titles, and interests over Biken Island, Aur Atoll and Airok Island, Maloelap Atoll?

**ANSWER TO QUESTION:** Hensey Sorimle

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

During trial of this matter, there were witnesses who were subpoenaed to testify and documentary evidence presented to the panel that were admitted into evidence. The Defendant testified that according to their family's genealogy chart, Defendant Exhibit E, they are currently the rightful and proper persons to hold/exercise the Irojlaplap right/title for Aerok Island, Maloelap and Biken Island, Aur Atoll. The reason supporting their argument is because they claim Aerok and Biken are bwij lands. The plaintiffs are in disagreement because they claim that Iroj Beia and his younger brothers, who originate from Ralik, had fought in battle against Iroj Jortake and Murjel and won. As a result, these lands, Aerok and Biken, were surrendered to them. Defendant stated that the bwij lands started with Lijekwa and that she does not know who had exercised the right/title before Lijekwa. Further, the defendant could not offer an explanation as to why the Iroj right/title in Aerok and Biken was not exercised by Iroj Jortaka and Murjel and why the lands were not part of their domain. There was also argument made during the hearings that there is no land, island, or parcel of land (weto) where two Irojls can exercise the Iroj right/title together or simultaneously. It was the defendant's testimony that there are two Irojlaplaps for Biken Island in Aur, Leroij Liwoj Jerbal and Iroj Boklon Zackious. However, according to other witnesses who testified, there is no such land where the Iroj authority is exercised by two Irojls.

The plaintiffs do not agree with the genealogy chart of the defendant because the persons listed as the mothers of Lobeia and Lailik are Liwarelik and Likakom. Plaintiffs testified that Lobeia's mother's name is Mamjilang and Lailik's mother's name is Wanlur, who is the younger sister of Mamjilang. Iroj Lobeia and his younger brothers are from Ralik and are listed in the Ralik Iroj's genealogy chart, Plaintiff Exhibit 7. There were other information presented at trial drawn from the exhibits. However, this dissenting opinion is based on the following:

Aerok Island in Maolelap Atoll and Biken Island in Aur Atoll are not part of the domain of Irojlaplap Jortoke and Murjel and their successors. There was insufficient evidence to establish otherwise.

The history of Marshall Islands was not written by Marshallese but by visitors who came to the islands in the earlier years. In 1885, the German Administration in the Marshall Islands prepared and documented the Treaty of Friendship between the Marshallese Chiefs and the German Empire. The treaty showed that Lobeia was in fact the Iroj for Aur and Maloelap, and it is evident that he was the Iroj for Aerok, Maloelap and Biken, Aur Atoll – Plaintiffs' Exhibit P-6. Further, on page 31 of the Land Tenure, Marshall Islands written by J.A. Tobin, Tobin talks about Tonuwia, one of Lobeia's younger brothers, as being the Iroj for Aerok in Maloelap Atoll. These stories and accounts reveal that Lobeia and his younger brothers did exercise the Iroj title/right in Aerok, Maloelap and Biken, Aur Atoll.

**PLAINTIFFS' WITNESSES:**

1. Liwoj Jerbal
2. Bertine Sorimle Lakjohn
3. Empty Sorimle
4. Hensey Sorimle
5. Namdrik Labi

6. Walter Tartios
7. Philomena Asma Muller
8. Martha Sorimle
9. Mike Zackhras

**DEFENDANT'S WITNESSES:**

1. Rebecca Jello
2. Hemly Benjamin
3. Tijen Dick
4. Liwoj Jerbal
5. Boklon Zackios

**PLAINTIFFS' EXHIBITS:**

1. Plaintiff Exhibit P-1, Letter to Iroj Kotak Loeak
2. Plaintiff Exhibit P-2, Letter to Jiba Kabua, Secretary of Foreign Affairs
3. Plaintiff Exhibit P-3, Letter to Iroj Kotak Loeak, Chairman, House of Iroj
4. Plaintiff Exhibit P-4, Letter to Hon. Hiroshi Yamamura, Ministry of ISW
5. Plaintiff Exhibit P-5, Genealogy Chart
6. Plaintiff Exhibit P-6, Marshall Islands History Sources No. 18, Treaty of Friendship
7. Plaintiff Exhibit P-7, The Royal Genealogy of the Marshall Islands Ralik Chain
8. Plaintiff Exhibit P-8, Maps of Maloelap & Aur Atolls
9. Plaintiff Exhibit P-9, Jibikbik in Kakobaba (Additional Information) by Namdrik Jeik
10. Plaintiff Exhibit P-10, Documented Story by B.N.
11. Plaintiff Exhibit P-12, Lobeia & Limejiko Genealogy

**DEFENDANT'S EXHIBITS:**

1. Defendant Exhibit A, Memorandum
2. Defendant Exhibit B, Certificate of Death, Laelang Lelwoj
3. Defendant Exhibit C, Biken Island Lease Agreement
4. Defendant Exhibit D, Memorandum
5. Defendant Exhibit E, Lobeia Tonuwia #17
6. Defendant Exhibit F, Final Judgment Civil Action 2008-238
7. Defendant Exhibit G, Affidavit of Rebecca Jello
8. Defendant Exhibit H, Affidavit Brojki Edmond
9. Defendant Exhibit I, Affidavit in Support/Lewoj Jerbal
10. Defendant Exhibit J, Affidavit of Boklon Zackious
11. Defendant Exhibit K, Land Lease Payment



12. Defendant Exhibit L, Biken Land Payment
13. Defendant Exhibit M, Certificate of Death, Namdrik
14. Defendant Exhibit N, Certificate of Death, Andrew Benjamin
15. Defendant Exhibit O, Certificate of Death, Menasse Benjamin
16. Defendant Exhibit P, Certificate of Death, Oduj Benjamin
17. Defendant Exhibit Q, Certificate of Death, Ronald Lelwoj
18. Defendant Exhibit R, Birth Certificate of Luwoj ala Lewoj
19. Defendant Exhibit S, Document by Tojeie
20. Defendant Exhibit T, Namdrik Name Shown on Law Book
21. Defendant Exhibit U, Land Use Agreement
22. Defendant Exhibit V, Paper in Kalimur (Will)
23. Defendant Exhibit W, Check History-Bank-Progress, all checks
24. Defendant Exhibit X, Check History-Bank-Progress, all checks
25. Defendant Exhibit Y, The Marshall Islands in 1921

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

The defendant stated that they have exercised the Irojlaplap right/title in Aerok, Maloelap Atoll and Biken in Aur Atoll for many years. It is evident from the testimony and documentary evidence presented that the plaintiffs had tried to bring forth their claim. Mike Zackhras, who testified on behalf of the plaintiffs, stated that they had tried to bring forward their claim to the Nitijela, where it was originally situated in the late 1970s. Plaintiffs' Exhibits P-1 to P-4 show that the plaintiffs, and those before them, had tried to present claim but no one had helped them. Hemon Sorimle, in 1999, filed a case. However, late counsel, Ruben Zackhras, did not prosecute the matter, which resulted in the court dismissing the case in 2008.

Dated: May 3, 2019

/s/ Walter K. Elbon  
Chief Judge, TRC  
(Einjuon lok lomnak eo an)