

position is that it has always been *mo* land, from the time of Iroiylaplap Laelan Kabua to his successors at present day.

THE QUESTIONS REFERRED TO THE TRC TO ANSWER:

1. Is Beran Island, Ailinglaplap Atoll, *mo* land?
2. Can an Iroij unilaterally lease *mo* land?
3. Is Andrew Langidrik the holder of the alap title on any portion of Beran Island, Ailinglaplap Atoll? And if so, which portion(s)?
4. Is Kitien Langidrik the holder of the senior dri-jerbal title on Beran Island, Ailing Atoll? And if so, which portion(s)?

ANSWERS TO QUESTIONS:

1. Beran Island, Ailinglaplap is *mo* land
2. Yes, if it is *mo* land
3. No.
4. No.

FACTUAL FINDINGS UPON WHICH THE OPINION IN ANSWER IS BASED:

During trial, witness testimony and exhibits were submitted to the panel to consider and admit into evidence. After listening to the testimony and reviewing the documentary evidence, the panel concludes that Beran Island, Ailinglaplap Atoll, is *mo* land for the Iroijs of Laelan Kabua's domain. Defendant's genealogy chart, Exhibit D-10, which was admitted into evidence, revealed that it was not a genealogy chart for Beran Island but rather for Jabat Island. Plaintiffs' testimony is that the land was given to Langidrik as *imon aje*. They testified that Jitto en is *imon katlep* (katlep land) but were unsure of who had given the land as *imon aje* or *katlep*. There was also testimony that there had been a previous alap and dri-jerbal on Beran Island. However,

because they had failed to clean the land and take care of the Iroij's food crops, they were removed. Irojlaplap Laelan Kabua moved them from Beran Island. This act of removal is clear indication that all the land rights were returned to the Iroij, Laelan Kabua. There was also testimony at trial that the people of Jabat Island would travel to Ailinglaplap during Christmas and for other important events. Because of rough seas during these times of travel, they needed to look for food while waiting for calmer seas in order to return to Jabat Island. Iroij Laelan Kabua offered Beran as the place they could go to and gather food when sailing conditions were not good and the seas were too rough to return to Jabat Island. This indicates that they were permitted to go to Beran to gather food, to look after and take care of the land -- a place the Iroij also gathered his food from.

APPLICABLE CUSTOMARY LAW & TRADITIONAL PRACTICE:

Irojlaplap Laelan Kabua and Kabua Kabua did not record in a written will that Beran was *Imon Aje* or *Katlep* to the plaintiffs. Eli Sam, one of plaintiffs' witnesses, testified that Jitto En in Beran Island is imon aje given to Langidrik, but that he did not know who gave the land to Langidrik. Bilton Sam, who also gave evidence on behalf of the plaintiffs, stated that a man by the name of Jorju was the alap for Beran. However, because he had failed to clean/maintain the land and take care of the Iroij's food crops, the right was taken from him. All land rights were reverted to Irojlaplap Laelan Kabua.

Tijen Dick, who testified for the plaintiffs, said that if an Irojlaplap removes a person from a land, parcel or island, the Iroij can take that place and declare it as his *mo*.

Defendants' witness, Alvin Jacklick, testified that an Iroij can place any person(s) on his *mo*, to clean and maintain the land. However, at any time, an Iroij can also remove that

person(s), even if he/she had not committed an offense. He said that this is true for a *mo* because the land and all decisions are entirely up to the Iroij. He further stated that he had knowledge of Beran Island because his elders during their sea voyages and travels, they would stop at Beran Island to look for and gather food.

Heinkey Lomwe, who also gave evidence on behalf of the defendants, testified that he was familiar with Beran Island. He stated that he had lived in Beran, since a young child until he reached 16 years of age. Heinkey is also listed in the genealogy chart, Defendant's Exhibit D-10. It was his testimony that Beran was *mo* land for the Iroij. Further, he stated that there are corals located on the lagoon side of Beran, which were fishing grounds for the Iroij, and that the people who were placed on Beran were there to protect the corals and the food crops on Beran for the Iroij. He also stated that they only used these names – Jittoen, Iolapen, and Jittaken. Based on the evidence (exhibits and oral testimony) it is the conclusion of the TRC Panel that Beran Island is *mo* land.

PLAINTIFFS' WITNESSES:

1. Eli Sam
2. Bilton Sam
3. Alexander Langidrik
4. Tijen Dick

DEFENDANT'S WITNESSES:

1. Heinkey Lomwe
2. Lanny Kabua
3. Jamurlok Kabua
4. Tommy Watak
5. Alvin Jacklick

WITNESSES FOR INDIES TRADER:

None

PLAINTIFFS' EXHIBITS:

1. Ailinglaplap Land Document
2. Land Tenure, J.A. Tobin
3. Order of Recusal

DEFENDANT'S EXHIBITS:

1. LRA Application
2. LRA Notice Re: Land Registration
3. LRA Objection to Application
4. Declaration of Traditional Rights, Beran Island
5. Beran Island Report
6. Marshall Islands Journal (MIJ) News
7. Letter from Morry Samson
8. Explanation from Morry Samson
9. Tobin Land Tenure
10. Genealogy Chart

INDIES TRADER EXHIBIT:

1. Indies-1, Names of Iroij, Alap, Ri-Jerbal and other information

OTHER MATTERS THE PANEL BELIEVES SHOULD BE MENTIONED:

The information presented at trial, both oral testimony and documentary evidence, were insufficient to support the argument that Beran Island was given to the plaintiffs as katlep land. For any land parcel (weto) or island, a genealogy chart will be referred to in determining who the proper persons are to hold and exercise the land rights/titles. The genealogy chart that was presented and admitted into evidence by the panel shows that the persons claiming Beran Island are actually from Jabat Island.

Dated: May 8, 2019

/s/ Walter K. Elbon
Chief Judge, TRC

/s/ Nixon David
Associate Judge, TRC

/s/ Risi Graham
Pro-Tem Associate Judge, TRC