

Defendant Dial Akira contends that it is not appropriate or proper for Plaintiff Jack Jorbon to hold the Alap or Senior Dri Jerbal titles on Arkan weto as so provided under the Bill of Sale, because *katlep* is a *gift land* which is not the same as a land the Iroj sells. Defendant Akira argues he was told by Iroj Kelai that Arkan weto is a *bwij land* which means the land cannot be bequeathed or sold. Defendant Akira further submits during his closing argument that *Plaintiff Exhibit P-2, Bill of Sale* as admitted into evidence, is hearsay, and asks that the TRC Panel ought not to consider it. Defendant Akira also asserts Plaintiff Jorbon did not show him any signed documents that supported his claim that he possessed the rights over Arkan weto. Finally, Defendant Akira claims that currently, all the residents who live on Arkan weto know and understand, that it is exclusively owned by Iroj Kelai and his family, and that they have no knowledge about Plaintiff Jorbon. This is illustrated in the evidence submitted by Defendant Akira, Defendant Exhibits A, B and C, showing the residents were permitted to live on Arkan by Iroj Kelai and his family only, and not Plaintiff Jorbon.

QUESTIONS CERTIFIED TO THE TRC PANEL

1. Notwithstanding the denial by Iroj Kelai Nemna, is Jack Jorbon, and those claiming through him, the proper person under the customary law and traditional practice of the Marshall Islands, to hold and exercise Alap and Senior Dri Jerbal rights and title on and over Arkan Wetu, Rairok Islands, Majuro Atoll, Marshall Islands?
2. If Jack Jorbon is the Alap and Senior Dri Jerbal on and over Arkan Wetu, Rairok Island, Majuro Atoll, Marshall Islands, can Iroj Kelai Nemna authorize Dial Akira to build a house on Arkan Wetu without Jack Jorbon's consent and over his objections?

ANSWER TO THE QUESTIONS

1. Yes.
2. Iroj Kelai Nemna has the authority to permit Dial Akira to build on Arkan weto, Rairok Island, Majuro Atoll, Marshall Islands as he is the Iroj-edrik for Arkan weto. However, the customary practice and traditional value of mutual respect and reciprocity under Marshallese culture, dictates consultation with the Alap and Senior Dri Jerbal of Arkan weto, who is Jack Jorbon, ought to have occurred.

FACTUAL FINDINGS UPON WHICH ANSWER IS BASED

The issues in this case began when Defendant Akira commenced construction of his house on Arkan weto, Rairok Islands, Majuro Atoll. Plaintiff Jorban asserts Akira failed to acquire authorization from him, as Alap and Senior Dri Jerbal of Arkan weto. Defendant contends he was not required to get Jorban's authorization because he was unaware Jorban held the rights of Alab and Senior Dri Jerbal on Arkan weto. Akira further asserts, he knows only of the iroi-edrik of Arkan weto, Iroi Kelai Nemna, and to whom he acquired his authorization from to build his house on Arkan weto, Rairok Islands, Majuro Atoll.

Defendant Akira also asserts Plaintiff Jorban errs in claiming that he holds the Alap and Senior Dri Jerbal rights on Arkan weto as a gift land from Leroij Kalora Zaion, by way of the Bill of Sale, in that Plaintiff Jorban would buy the rights for the Alap and Dri Jerbal rights from Jennet Bungitak. After listening to and reviewing the testimonial and documentary evidence in this case, the Panel opines it is proper and just that Leroij Kalora Zaion gifted the Alap and Senior Dri Jerbal rights to Plaintiff Jack as a means to pay Plaintiff Jack for his help and the services he rendered to her, in relation to a case she was involved in, at the time. This, Plaintiff Jack testified to. Plaintiff's evidence, Plaintiff Exhibit P-2, which is a Bill of Sale, supports Plaintiff Jack's testimony that the land was gifted to him, as indicated in the signatures of Leroij Kalora Zaion, who held the Iroi-edrik rights and Jennet Bungitak, who held the Alap and Senior Dri Jerbal rights at the time. This Panel is of the opinion that the sale of the weto facilitated the transfer of the Alap and Senior Dri Jerbal rights from Jennet Bungitak, who, at the time, held both titles. Despite his disagreement with the Bill of Sale, Plaintiff Exhibit P-2, Iroi-edrik Kelai Nemna confirmed under oath, that it bears his late mother's signature, and this serves as a confirmation that she approved of the Bill of Sale.

Defendant Akira testified he was unaware that a Bill of Sale existed and that he only knew that Iroi Kelai Nemna held all the rights on Arkan weto, as an Iroi-edrik, Alap and Senior Dri Jerbal. The Panel understands from his testimony that Defendant Akira's parents were the initial residents of Arkan weto and that he began residing with them sometime later. From his testimony, Defendant Akira ostensibly was unaware of the arrangement made prior to his arrival and residency on Arkan weto with his parents.

The Parties agree Iroj Kelai Nemna currently holds the Iroj-edrik rights on Arkan weto, Rairok Islands, Majuro Atoll. They also agree Defendant Akira claims no rights on Arkan weto, however he (Defendant Akira) acquired the authorization to build his house from Iroj-edrik Kelai Nemna.

After taking into consideration all the evidence presented in this case, the Panel believes the Bill of Sale, Plaintiff Exhibit P-2, is a valid document showing both signatures of Leroij Kalora Zaion, who held the Iroj-edrik title, and Jennet Bungitak, who possessed both the Alap and Dri Jerbal rights at the time.

RELEVANT CUSTOMARY LAW & TRADITIONAL PRACTICE

1. *Katlep – land rights gifted by the chief by the placement of a person/people on the land.*
2. *Julobiren ne – Land belonging to the chiefs only.*
3. *Mo – Land belonging to the chiefs only.*
4. *Jab komakut Dreka in Jinme Eo – Do not move/change the foundation long established, or do not move the bedrock.*

APPLYING THE CUSTOM TO FACTUAL FINDINGS

Plaintiff Jorbon claims Leroij Kalora Zaion gifted or *katlep e* Arkan weto to him, however the Panel believes, as illustrated in the Plaintiff Exhibit P-2, that Leroij Kalora Zaion gave the Alap and Senior Dri Jerbal rights to Plaintiff Jorbon by virtue of the Bill of Sale.

According to the testimony of Iroj Kelai Nemna, Arkan weto is a *mo* or *julobiren ne*, and that the disposition of the land by his late mother, Leroij Kalora Zaion, through selling it to Plaintiff Jack is contrary to Marshallese custom. The Panel believes that if Arkan weto was indeed a *mo* or *julobiren ne*, then there would be no Alap or Senior Dri Jerbal rights as these types of lands are exclusive to the iroj family. The Bill of Sale, however, indicates Leroij Kalora Zaion, recognized Jennet Bungitak as both Alap and Senior Dri Jerbal for Arkan weto. Iroj Nemna testified that the manner by which Leroij Zaion gifted Arkan weto essentially means she had *komakut dreka in jinme eo (changed the foundation long established)*. The Panel believes if

Leroij Zaion had *changed the foundation long established*, then Iroij Telnan Lanki and Leroij Neiar Moses, and the members of the 20/20 Committee Bed-Eo An Jebrik, would have expressed their disagreement and protested against the Bill of Sale.

PLAINTIFF’S WITNESSES

1. Tisen Dick
2. Jack Jorbon

DEFENDANT’S WITNESSES

1. Iroij Kelai Nemna
2. Dial Akira

PLAINTIFF’S EVIDENCE

1. Plaintiff Exhibit P1 – Bill of Sale
2. Plaintiff Exhibit P2 – Kwon in Wia (Marshallese translation of Bill of Sale)
3. Plaintiff’s Exhibit P3 – Photos of Defendant Akria’s House

DEFENDANT’S EVIDENCE

1. Defendant’s Exhibit A – Authorization Letter from Iroij Kelai Nemna
2. Defendant’s Exhibit B – Land Survey Permit
3. Defendant’s Exhibit C – Letter to Dial Akira : re – Legal Description of Land

OTHER FACTS CONSIDERED BY PANEL

The Panel confirms its opinion as it relates to Plaintiff Exhibit P-2, that insofar as the requirement of acquiring the consent of the *bwij*, the Panel believes the Bill of Sale, which bears the signature of the succeeding heir to Leroij Zaion, Iroij Telnan Lanki, and also the members of the 20/20 Committee Bed-Eo An Jebdrik, addresses this.

Lastly but certainly not the least, our traditional Marshallese custom values the principles of reciprocity and mutual respect for one another in all things, particularly as they relate to our land tenure system, and it is most appropriate for the person holding and exercising the Alap and

Senior Dri Jerbal rights to honor and respect his/her iroij, and likewise, the iroij ought to provide for the well-being of the people on the land.

Date: January 07, 2022

 /s/
Grace L. Leban
Presiding Judge, TRC

 /s/
Nixon David
Associate Judge, TRC

 /s/
Claire T. Loeak
Associate Judge, TRC