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

<p>NORTON BIKAJELA (Acting-in-fact for JORDAN BIKAJELA),</p> <p>Plaintiff,</p> <p>v.</p> <p>NEJWI KATWAN and JEHU KATTILMAN,</p> <p>Defendants.</p>	<p>CIVIL ACTION NO. 2020-00640</p> <p>TRADITIONAL RIGHTS COURT OPINION & ANSWER</p>
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MEMBERS OF THE PANEL: Grace L. Leban
Presiding Judge, TRC

Nixon David
Associate Judge, TRC

Claire T. Loeak
Associate Judge, TRC

PLACE OF HEARING: Majuro Courthouse

DATE OF HEARING: January 25, 26 & February 15, 2022

PARTIES' CONTENTIONS

This case arises from the parties' contentions whereby one claims Ajokla Island, Majuro Atoll, Marshall Islands was divided into two parts and therefore, there are currently two *Alaps*; and the other party claims it was not divided and there is only one *Alap* today.

Plaintiff Norton Bikajela (who is claiming on behalf of his father, Jordon Bikajela), claims it is proper for Jordan Bikajela to hold the title, rights and interests of *Alap* on Ajokla Island, Majuro Atoll, because Ajokla Island is a *katlep* from Iroi jlaplap Jebrik to his matrilineal grandmother,

Libelto (also spelled Libalto), for participating in the clean-up effort in response to the proclamation by Iroijlaplap Jebdrik after the typhoon that took place in the 1940s or 1950s. He also contends that Ajokla is one island and was not divided into two, and that there is only one *Alap* on Ajokla Island.

Defendant Jehu Kattilman, dismissed his *Senior Dri Jerbal* claim in this matter as there are no issues involving the title, rights or interests relating thereof. Defendant Nejwi Katwan, claims Ajokla is *bwij* land, and she is a descendant of the eldest *bwij* whereas Plaintiff Bikajela is from the younger *bwij*. She also contends that even if Ajokla is not divided into two, to ensure both would reside and live on Ajokla, Iroij Telnan Lanki and subsequently Iroij Jeltan Lanki, realizing the two *bwij* were multiplying and increasing in number, they consequently gave or offered the southern part of Ajokla to the younger *bwij* to reside and live, and the northern side to the elder *bwij* to reside and live as well. Defendant Katwann claims she is the proper person to hold and exercise the *Alap* title, rights and interests for the northern part of Ajokla.

QUESTIONS FOR THE PANEL TO ANSWER

1. Was Ajokla Island, Majuro Atoll, Marshall Islands, divided into two: North, Ajokla Island; and South, Ajokla Island?
2. If Ajokla was divided into two, then as between Norton Bikajela and Nejwi Katwan, and those claiming through them, who is the proper person to hold and exercise the *Alap* title, rights and interests?
3. If Ajokla was not divided into two, the as between Norton Bikajela and Nejwi Katwan, and those claiming through them, who is the proper person to hold and exercise the *Alap* title, rights and interests on Ajokla Island, Majuro Atoll?

ANSWER TO QUESTIONS

1. Yes, Ajokla was divided into two: North and South.
2. According to the arrangement set by the Iroij of Ajokla Island, which began with Iroij Telnan Lanki, and continued well after Iroij Jeltan Lanki, the eldest *bwij* of Nejwi Katwan were to live and harvest the land as *Alap* of North Ajokla, and the younger *bwij* of Norton Bikajela, were to live and harvest the land as *Alap* of South Ajokla.

3. If Ajokla was not divided into two, North and South, then as a *bwij* land, the line of succession for the title, rights and interests of *Alap* would go through the eldest *bwij*, of which, Nejwi Katwan is a descendant.

FACTUAL FINDINGS UPON WHICH ANSWER IS BASED

According to the evidence and testimony given by Plaintiff Jordon Bikajela, Ajokla Island belongs to Iroijlaplap Jebdrik, who, after the typhoon that took place in the 1940s and 1950s, sent out a proclamation asking his people to join the clean-up effort. Plaintiff Bikajela also testified that the *bwij* members who were on Majuro at the time, sent word to Jabyokwe, Defendant Nejwi Katwan's mother, as she comes from the older *bwij*; but Jabyokwe was unable to return from Mili. Libelto, from the younger *bwij*, went ahead and joined the clean-up effort. Plaintiff Bikajela claims that according to custom, Iroijlaplap Jebdrik *katlep* Libelto with Mwinkiren Weto, Ranbot Weto, Jonak Weto and Ajokla Island with the *Alap* and *Senior Dri Jerbal* titles, rights and interests.

After reviewing all written and testimonial evidence submitted, this Panel finds the evidence insufficient to support the claim that Ajokla Island, Majuro Atoll is indeed a *katlep*. The Plaintiff testified there was no written *kalimur*, and the current Iroij, Iroij Kelai Nemna, also said he had no knowledge of a *katlep*. And the Defendant, Nejwi Katwan, stated she was unaware of the existence of a *katlep* too. If a valid *katlep* was made, then the relevant persons, according to custom, such as the Iroij and the *bwij* members, would have knowledge of it.

There are several issues the Panel finds in relation to the *katlep*. Firstly, according to the Plaintiff, Iroij Jebdrik *katlep* Ajokla Island to his matrilineal grandmother, Libelto during the 1940s and 1950s, after the catastrophic typhoon on Majuro. The Panel finds the last Jebdrik, Jebdrik Lakitwerak, died in 1919 after the 1918 catastrophic typhoon on Majuro. (Spoehr, 1949) In addition, the Panel finds that Serai Ria, Libelto's daughter, was born January 8, 1918 as shown in Plaintiff Exhibit "P5", Serai's Death Certificate. This evidence also indicates to this Panel that Libelto was a young woman with a family during Iroij Jebdrik Lakitwerak's lifetime. So, the years provided by the Plaintiff's testimonial and written evidence contradicts the clear facts available to this Panel regarding the 1918 typhoon.

The second issue relates to the Panel's findings with respect to the Plaintiff's evidence, Plaintiff Exhibit "P3", the 1958 *Land Determination* for Majuro Atoll, which shows the name of Libelto's younger brother, Jotor, as the Rijerbal for Ajokla Island. This clearly shows that if Libelto was indeed an *Alap* by *katlep*, then, as custom dictates, only her descendants or children would be Rijerbal and not her siblings because the *katlep* was meant to be for Libelto and her descendants.

In relation to the third issue with Libelto's *katlep*: the Plaintiff claims his matrilineal grandmother, Libelto, cleaned up after the typhoon and Jabyokwe failed to adhere to and heed Iroij Jebrik's proclamation to clean, but instead stayed in Mili. In this regard, the Plaintiff claims Iroij Jebdrik proceeded and *katlep* Ajokla Island to Libelto notwithstanding her lineage from the younger *bwij*; and Jabyokwe had no part in the *katlep* due to her failure to adhere to the proclamation to clean by the Iroij. This Panel finds it difficult to accept this claim as it is inconsistent with the historical account of the events that took place before and after typhoon explicitly provided in "*Majuro, A Village in the Marshall Islands*" written by Spoehr in 1949. In it, the last Jebdrik, Jebrik Lakitwerak died in 1919. In addition, with regard to the fact that the older *bwij* stayed in Mili and failed to participate in the clean-up effort, whereas the younger *bwij* was able to; this Panel finds it customary and appropriate under Marshallese custom, that the younger *bwij* took on the responsibility and adhered to the call to clean-up on behalf of the entire *bwij*, from the youngest to the eldest *bwij*, for as it is commonly known, *bedbed ijin bedbed ijon* (stay here stay there, it matters not as we are the same). This is illustrated in the case *Civil Action No. 2003-122, Tibon v. Molik v. deBrum*. This Panel reiterates the customary belief in this case whereby Kate (also spelled Kathy), the Plaintiff's mother, gave one of the *bwij* wetos in Laura for Jabyokwe to reside and live on when she returned from Mili.

As to the division of Ajokla Island, this Panel took account of the testimony offered by Iroij Kelai Nemna, as the current Iroijedrik for Ajokla. The Panel finds a weto cannot have two *alaps*, unless the Iroij makes arrangements based on legitimate grounds he sees as appropriate. In his testimony, Iroij Kelai Nemna, stated he has no intention of *changing the long-established arrangement (komakit dreka in jinme eo)* or to forsake what his predecessors, such as Iroij Telnan Lanki and Iroij Jeltan Lanki, had arranged when they perceived the *bwij* was increasing in numbers; that in Ajokla, the elder *bwij* would reside on the north side and the younger *bwij*, on the south side. By this, the two *bwij* lines would be able to live and harvest from the land not

only for their own benefit, but also the Iroij of Ajokla, according to Iroij Kelai Nemna's testimony.

In consideration of the above, the Panel finds there is no division of Ajokla as the land belongs to only one originating *bwij*, however the younger *bwij* has been given the south to harvest and likewise, the older *bwij*, the north to harvest. This Panel finds that Iroij Kelai Nemna's testimony regarding the arrangement made by his predecessors to have the eldest from the younger *bwij* hold and exercise the *Alap* title for the southern part of Ajokla, and the eldest from the older *bwij* to hold and exercise the *Alap* title for the northern part of Ajokla, credible.

RELEVANT CUSTOM & TRADITIONAL PRACTICE

1. *Katlep* – gift land is given by the Iroijlaplap for a *bwij* to stay and live on.
2. *Imon bwij* – matrilineal land includes land parcel(s) or islet(s) that is inherited through the female line.
3. *Bedbed Ijin, Bedbed Ijon, Bedbed Jinma wot Kwe* – Those who are present are here on behalf of those who are absent.
4. *Dreka In Jinme Eo* – Bedrock or a long-established foundation/arrangement.

APPLYING CUSTOM TO FACTUAL FINDINGS

This Panel finds that Ajokla was not a *katlep* from Iroij Jebrik to Libelto, because of the fact that if it was a *katlep*, then Libelto's siblings would not have exercised any rights on Ajokla; as was the case here with Libelto's younger brother, Jotor, who held the *Rijerbal* title according to the 1958 *Land Determination* for Majuro. The titles and rights on and over Ajokla, if it was a *katlep* to Libelto, would have stayed with Libelto's direct descendants.

This Panel also finds that Ajokla is a *bwij* land or land belonging to the first Libelto's *bwij* as shown in Defendant's Exhibit "A".

As for the clean-up effort, it is this Panel's finding that when Libelto took part in the clean-up effort, that she did so on behalf of herself and everyone else from the *bwij* who were absent because Ajokla is a *bwij* land. Even if the older *bwij* were absent, the younger *bwij* joined the clean-up effort on behalf of them too, as a customary Marshallese practice of *bedbed ijin, bedbed ijon, bedbed jinma wot kwe*.

Iroij Kelai Nemna emphasized that he does not wish to *ukot dreka in jinme eo* (*change the long-established arrangement*) as he has no knowledge of the *katlep*, but wishes to continue with the arrangement set by those who came before him; that Ajokla should be apportioned between the two *bwij* so they can both harvest and live off the land.

PLAINTIFF'S WITNESS

1. Jordon Bikajela
2. Norton Bikajela
3. Tisen Dick

DEFENDANT'S WITNESS

1. Iroij Kelai Nemna
2. Nejwi Katwan

PLAINTIFF'S EVIDENCE

1. Plaintiff Exhibit P1 – Genealogy Chart for Belto & Jitadre
2. Plaintiff Exhibit P2 – Authorization for Norton Bikajela & Jordon Bikajela
3. Plaintiff Exhibit P3 – 1958 Land Determination of Ajokla Island, Majuro Atoll
4. Plaintiff Exhibit P4 – 1958 Land Determination of Laura Village, Majuro Atoll
5. Plaintiff Exhibit P5 – Death Certificate of Serai Ria
6. Plaintiff Exhibit P6 – Death Certificate of Kathy Bikajela
7. Plaintiff Exhibit P7 – Application for Registration of Ownership Interests
8. Plaintiff Exhibit P8 – Easement Agreement Mwinkidren Weto, Laura Village (5/29/91)

DEFENDANT'S EVIDENCE

1. Defendant Exhibit A – Genealogy Chart for Libalto 1st

OTHER FACTS CONSIDERED BY PANEL

The testimonial evidence by Iroij Kelai Nemna expressly provided that if Ajokla was not apportioned into two harvesting parcels, then he would have considered the eldest *bwij*, of which the Defendant is from and for which she is the most senior or eldest. However, and this Panel finds credibility in it, in order for all to live and benefit from Ajokla, the Iroij saw fit to arrange Ajokla so that the eldest *bwij* would have a place to live separately from where the younger *bwij* lives.

Date: May 13, 2022

/s/
Grace L. Leban
Presiding Judge, TRC

/s/
Nixon David
Associate Judge, TRC

/s/
Claire T. Loeak
Associate Judge, TRC