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CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

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

FRED DEBRUM, Plaintiff, v. JITENBURO KONOU, Defendant.	CIVIL ACTION NO. 2021-01452 HCT/LAND/MAJ OPINION OF THE TRADITIONAL RIGHTS COURT
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To: Hon. Carl B. Ingram, Chief Justice of the High Court
Mrs. Tiantaake Beero-Sexton, Counsel for Plaintiff
Chief Public Defender Russell Kun, Counsel for Defendant

I. Introduction

This case involves a dispute over the Senior Dri Jerbal rights and title on Kineloke Weto in Rairok Village, Majuro Atoll, Marshall Islands (“Kineloke”). Plaintiff Fred deBrum (“Fred”) sought to enjoin Winton Maun, the original defendant in this case, from constructing a dwelling house on Kineloke. Fred claims exclusive rights on a portion of Kineloke that was granted by Leroij Kalora Zion and, the Alap and Senior Dri Jerbal, Lejka Mack in 1989.

Defendant Winton Maun (“Winton”) continued building his house on the basis that he was given permission by the proper landowners of Kineloke at the time, Irojdedrik Jeltan Lanki and Alap and Senior Dri Jerbal Tarmute Motlok, in 2006.

II. Issues / Questions

For brevity, we address the questions referred to this Court in the High Court’s Order dated September 26, 2011. This referral followed two prior majority opinions from the

Traditional Rights Court (“TRC”) issued in April and August of 2008.¹ The issues or questions before this Court are as follows:

1. Where exactly is the land in question “Kinelohe Rak Weto” located and what area does it cover? Is it on the lagoon side or on the oceanside from the main road?
2. Does the Plaintiff Fred deBrum have land rights on the land in question? And can he build his house on that land?
3. Does the Defendant Winton Maun have any land rights on the land in question? And can he build his house on that land?

The parties have waived their rights to a trial hearing on the issues by stipulation filed June 21, 2024, and have agreed for this Court to formulate its opinion based on the evidence already presented in this matter.²

Having reviewed the case file and the evidence contained therein, and for the reasons set forth below, this Court finds that Kinelohe Rak Weto is located on the south side of the main road, which is the oceanside of the main road. Both Fred and Winton have rights on the land in question. Fred was granted the [Senior] Dri-Jerbal rights and title, and Winton, as a bwij descendant, has the right to reside and live off the land. They both need to acquire the consent and approval of the Irojiedrik, Alap and Senior Dri-Jerbal of Kinelohe Rak Weto in order to build a house on that land.

III. Analysis of Relevant Factual Findings

A. Where exactly is “Kinelohe Rak Weto” located and what area does it cover? Is it on the lagoon side or on the oceanside from the main road?

1. KINELOKE RAK WETO

¹ Opinion in Answer, filed April 23, 2008; Supplemental Opinion in Answer to Questions referred to the Traditional Rights Court under the Rule 9 Order, filed August 13, 2008.

² Parties’ Stipulation for TRC, filed June 21, 2024.

We now look at the first question here. Where exactly is the land in question? Is it on the lagoon side or oceanside of the main road? Plaintiff's Exhibit "A" is entitled "KON NAN MARON EO AN DRI-JERBAL" which literally means "agreement for the rights and title of drijerbal". The document explicitly provides that the land in dispute is Kinelokwe Rak Weto, also spelled Kineloke Rak Weto, further clarifying to this Court that it is a portion of Kineloke and not the whole weto or land parcel identified as Kineloke Weto.

We find that the word "RAK", when translated is defined to mean, "[s]outh; summer." See Takaji Abo et al., *Marshallese-English Dictionary*, at 249 (Donald M. Topping, ed.) (1976); J.A. Tobin, *Land Tenure in the Marshall Islands*, at 50-53 (1956). Accordingly, we find that the south side of the main road is in fact, located on the oceanside of the main road.

B. Does the Plaintiff Fred deBrum have land rights on the land in question? And can he build his house on that land?

By virtue of Plaintiff's Exhibit "A", Fred has [Senior] Dri-Jerbal rights on Kineloke Rak Weto and as such, he has rights to build a dwelling house on Kineloke, subject to the approval of the Irojedrik and Alap. *Section 1(2), Article X of the Constitution*.

The Irojedrik and Alap have corresponding obligations and responsibilities for the proper maintenance of peace and harmony on the land under the custom of reciprocity and thus, communication between all three landholders is paramount.

1. Plaintiff's Exhibit "A" is a valid determination by the landowners of Kineloke Rak Weto.

After reviewing the case file, this Court finds that Plaintiff's Exhibit "A" is a valid determination by the landowners at the time. Lejka Mack, the Alap and [Senior] Dri Jerbal of Kineloke, decided to give a portion of Kineloke to Fred as payment for various services he would need Fred to do for him from time to time. He sought and obtained Leroij Kalora Zion's

consent and approval of the decision. There is no Irojlaplap on Jebrik's side of Majuro Atoll, and the approval of the Irojiedrik, Leroij Kalora Zion, was necessary because custom dictates that any alienation or disposition of land requires the approval of the Irojlaplap, Irojiedrik where necessary, Alap and Senior Drijerbal. *Section 1(2), Article X of the Constitution of the Republic of the Marshall Islands*. The Constitution of the Republic of the Marshall Islands ("Constitution") states in pertinent part, that any transfer of land is unlawful "...without the approval of the Irojlaplap, Irojiedrik where necessary, Alap and the Senior Dri Jerbal of such land, who shall be deemed to represent all persons having an interest in that land." *Id.*

Leroij Kalora Zion found no issue with Lejka Mack's decision to transfer the [Senior] Dri-Jerbal rights and title to Fred and approved it. We find that in the case of *Kelet, et al., v. Lanki and Bien*, 3 MILR 76, 82, at 77 (2008), the Supreme Court said the TRC's conclusion that Namidrik, who held the Alap and [Senior] Dri Jerbal rights, "...properly transferred both alap and [senior] dri jerbal rights to his wife," Limoj, was properly made with the approval of the relevant Iroj[edrik]. Limoj, who was not a member of the bwij, then transferred the Senior Dri Jerbal rights and title to her friend Libarki, who was also not a member of the bwij. We find that in that case, the competing decisions by the three succeeding Irojiedriks did not outweigh the validity of the original transfer by Namidrik and Iroj Tel. *Kelet, et al., v. Lanki and Bien*, 3 MILR, 76, 82, at 79 (2008).

In addition, in *Gushi Bros & Co. v. Kios, et al.*, 2 MILR 120, 125 (1984), the Supreme Court also said that "...it is sufficient that the Irojlaplap, Irojiedrik where necessary, Alab and Senior Dri Jerbal approve any alienation or disposition of land rights and...[t]o require notice to all members of the *bwij* may be impossible and it is not required under the Constitution."³

³ The Constitution clearly states that only the Irojlaplap, Irojiedrik where necessary, Alap and the Senior Dri Jerbal of such land must give approval of any alienation or disposition of said land. Those persons mentioned "shall be

Leroij Kalora Zion’s decision, as Iroijedrik of Kineloke Rak Weto at the time, is presumed to be reasonable as dictated by the Marshallese custom of *iroij Im jela*, unless it is established by clear and convincing evidence that it is not. *Thomas, et al. v. Samson, et al., v. Alik, et al.*, 3 MILR 71, 75 (2008); *Jorbon v. Michael and Laelang*, CA 2023-01720, Opinion of the Traditional Rights Court (Jun. 14, 2024); *See Customary Law (Succession of Customary Title, Right, and Interest)(Ralik Chain) Act, 2023, Section 107(d), P.L. 2023-67.*

As such, notice to the bwij in this case was not necessary at the time the transfer was made. Leroij Kalora Zion, as the Iroijedrik at the time, endorsed and approved Alap and [Senior] Dri Jerbal Lejka Mack’s transfer of the [Senior] Dri-jerbal rights and title to Fred.

Notably, Plaintiff’s Exhibit “A” expressly states that Lejka Mack granted the Dri Jerbal rights and title on *Kilinoke Rak Weto* to Frederick J. deBrum. In the document, Lejka Mack is referred to as the “*Alap im Dri-jerbal*” of the land in question and signed as such in the document. (emphasis added). Emphasis is given to “Dri-jerbal” here to clarify that dri-jerbal in the document may also mean Senior Dri Jerbal. Furthermore, Rule 1101(d)(1) of the Evidence Act of 1989, requires us to give substantial weight to the determinations made by the holder of the Irojilaplap, or where there is no Irojilaplap, the Iroijedrik, “...as to who are the Alap, Senior Drijerbal or Drijerbal”...titleholders. The Rule provides as follows:

1101. Applicability of Rules.

(d) *Special rules applicable to land matters.*

(1) In respect to any weto, or part thereof, substantial weight shall be given to determinations by the person holding the title of Irojilaplap, or if there is no Irojilaplap, the title of Iroijedrik, as to who are the Alap, Senior Drijerbal, Dri jerbal, and other title holders.

deemed to represent all persons having an interest in that land.” To require notice to all members of the bwij may be impossible and is not required under the Constitution. *See Gushi Bros & Co., v. Kios, et al.*, 2 MILR 120, 125 (1984) at 125.

Accordingly, we find that the instrument marked as Plaintiff's Exhibit "A" was a valid transfer of the rights and title of the [Senior] Dri Jerbal to Fred.

C. Does the Defendant Winton Maun have any land rights on the land in question? And can he build his house on that land?

Defendant Winton Maun, now deceased, had land rights on Kinelohe Rak Weto as a bwij descendant. As such, Defendant Winton may build a house on Kinelohe too, however, the permission to build a house is subject to the approval of the Irojiedrik, Alap and Senior Dri Jerbal of Kinelohe Rak Weto. *Id.*

The custom of reciprocity and the corresponding duties and responsibility of the landowners in the maintenance of peace and harmony on the land dictates that the assignment of land use is communicated between and among all landholders, such as, the Irojiedrik, Alap and Senior Dri Jerbal.

IV. CONCLUSION

For reasons stated above, this Court finds that the original transfer by Leroij Kalora Zion and Alap and Senior Dri Jerbal Lejka Mack is valid. Accordingly, we find that Kiniloke Rak Weto is located on the southside of the main road, and although both Fred and Winton have land rights on the land in question, their rights to construct a dwelling house is subject to the approval of the holders of the right and title of Irojiedrik, Alap and Senior Dri Jerbal.

Dated: 11 January 2025.

/s/

Grace L. Leban
Chief Judge
Traditional Rights Court

/s/

Nixon David
Associate Judge
Traditional Rights Court

/s/

Claire T. Loek
Associate Judge
Traditional Rights Court