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REPUBLIC OF THE MARSHALL ISLANDS

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

Jack Jorbon, Plaintiff, v. Rien Michael and Anke Laelang, Defendants.	CIVIL ACTION NO. 2023 – 01720 HCT/LAND/MAJ OPINION & ANSWER OF THE TRADITIONAL RIGHTS COURT
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To: Hon. Carl B. Ingram, Chief Justice of the High Court
Mr. Jack Jorbon, *Pro Se* Plaintiff
Chief Public Defender Russell Kun, Counsel for Defendants

I. Introduction

Following its review of this Court's Opinion filed June 14, 2024, the High Court referred two additional questions for this Court to resolve in its May 26, 2025 Order:

1. Can defendant Rien Michael complete and reside in his house on Arkan Weto without the consent of plaintiff Jack Jorhon as Alap and Senior Dri Jerbal, when the consent to build and reside given by then Iroijedrik Walter Laelang was unreasonable under the custom of *jab komakut drekein jenme eo*; and
2. If Rien Michael can now complete and reside in his house without the consent of plaintiff Jack Jorbon, what are Rien Michael's obligations under custom to Jack Jorbon and do such obligations, if any, include compensation for the use of the land?

II. Analysis & Discussion

This Court acknowledges and upholds Leroij Kalora Zion's determination that transferred the Alap and Senior Dri Jerbal rights and title to Jack Jorbon. That decision is underpinned by the custom of *jab komakut drekein jenme eo*, which is binding on her heirs and successors to Arkan Weto. Her successors - Iroijedrik Kelai Nemna, Iroijedrik Walter Laelang, and Iroijedrik Anke Laelang - are

likewise bound by her decision. This Court also considers the Constitution, particularly the provision that relate directly to the disposition of any land in the Republic. *Section 1(2), Article X of the Constitution of the Republic of the Marshall Islands* affirms the fundamental element of preserving the custom of land tenure in the Republic: that without the consent of *all* customary land title holders, any alienation or disposition of land is unlawful. (emphasis added).

Therefore, Defendant Rien Michael's authorization to construct a dwelling house is unlawful without Plaintiff Jack Jorbon's approval as Alap and Senior Dri Jerbal of Arkan. He should therefore acquire Plaintiff Jack Jorbon's consent before completing the construction of his house and residing in it.

In regards to the High Court's second question, this Court refers to the customary practice of *mantin bwidej* as a guideline to determine whether the Defendant can complete the construction of his dwelling house without the Alap and Senior Dri Jerbal's consent, and if so, what are, if any, the Defendant's duties and obligations toward plaintiff Jack Jorbon under the custom and do they include compensation of any kind.

A. Custom of Reciprocity

Mantin bwidej refers to the reciprocal authority, duties and responsibilities between landowners and the residents in relation to the use of the land. *Peter v. Napking et al.*, CA 06-163 (09/16/08). It reflects the Marshallese custom of reciprocity, underpinned by the responsibility of the Iroij to care for the people and the land through fair and reasonable exercise of his authority, and the people's duty to respond to the Iroij's requests. *See J. A. Tobin, Land Tenure in the Marshall Islands* at 4-5, 7 (1952).

In addition to the initial gifts at the time of seeking permission to construct a dwelling house on the land, there may be a final gift at the closing of an agreement, such as food, monetary or non-monetary items. Whether a lease, land use agreement or deed of sale ensues, the most common outcome usually results in the landowners granting permission to construct a dwelling house for the purpose of residing on the land without a lease agreement. This is a revocable permission that is granted to anyone. *Rusin v. Jeilar et al.*, (Opinion & Answer of the TRC) CA 2023-093, Nov. 08, 2024; *Lokar v. Latak*, 6 TTR 375.

In these types of arrangements, the landowners may, from time to time, or on a special occasion (i.e., year-end visitation to churches, death, wedding, other big events), issue notices for residents to contribute monetary and/or non-monetary items to the landowners as a form of compensation or *ekkan* for the use of the land. *Napking, supra*; *See also* Tobin, *supra* at 5. Or, there may be a tribute (i.e., tributary gifts on a monthly or quarterly basis) collected from each household under the custom of *borwaj*, or *tartok in behe ko ion bwidej*. *Id.*, *see Napking*.

In this regard, this Court recommends obtaining information from the residents of Arkan Weto, including Defendant Rien Michael, as to the arrangements they may have made with Iroijedrik Walter Laelang with respect to any type of tribute or *ekkan* - compensation in monetary and/or non-monetary - to be given to him. It is essential to gather this information in order to formulate what obligations Defendant Rien Michael may owe towards Plaintiff Jack Jorbon, including compensation in the form of money or non-monetary means.

III. Conclusion

After reviewing the questions referred and the customary law and traditional practice of the Marshall Islands, this Court concludes:

1. On the first question, this Court finds Defendant Rien Michael cannot complete his house and reside in it because it is unlawful under the Constitutional provision on the preservation of customary law and traditional practice in the Marshall Islands, and because Leroij Kalora Zion's decision is undergirded by the custom of *jab komakit drekein jenme eo*, Iroijedrik Walter Laelang is bound by her decision that transferred the Alap and Senior Dri Jerbal rights and title to Plaintiff Jack Jorbon more than forty years ago.
2. As to the second question, this Court finds Defendant Rien Michael is obligated under the custom of reciprocity to perform the customs of tribute - *mantin bwidej*, *ekkan*, *borwaj*, *tartok in behe ko ion bwidej* - which may include monetary or non-monetary means of paying respect and recognizing the landowners of Arkan Weto (in this case, the Alap and Senior Dri Jerbal).

Respectfully submitted,

_____/s/
Grace L. Leban
Chief Judge, TRC

_____/s/
Nixon David
Associate Judge, TRC

_____/s/
Claire T. Loeak
Associate Judge, TRC