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 REPUBLIC OF THE MARSHALL ISLANDS

**IN THE TRADITIONAL RIGHTS OF
THE REPUBLIC OF THE MARSHALL ISLAND**

ZEDKAIA, RALPHO (represented by Royal Ceasar) and BING (represented by Erzy Christopher Bing), <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>DAVID and ANTOLOK,</p> <p style="text-align: center;">Defendants.</p>	CIVIL ACTION NO. 2022-01264 HCT/LAND/MAJ <p style="text-align: center;">OPINION & ANSWER OF THE TRADITIONAL RIGHTS COURT</p>
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TO: Hon. Carl B. Ingram, Chief Justice of the High Court
Mr. Divine F. Waiti, Esq., Counsel for Plaintiffs
Chief Public Defender Russell Kun, Counsel for Defendant Antolok

I. INTRODUCTION

This case arises from the defendant Margaret Tareo Kiluwe's objection to plaintiff Talwoj Bing's claim to the *Alap* and *Senior Dri Jerbal* over Jebel Weto which she attempted to register with the Land Registration Authority following the death of her late husband, Andrew Bing. As a result of the defendant's objection, the plaintiffs filed their complaint with the High Court in 2022, alleging that the defendant's mother, Martha Tareo, had been divested of her *Alap* and *Senior Dri Jerbal* rights and titles on Jebel Weto by *Iroiylaplap* Amata Kabua. *Leroij* Atama Zedkaia, who succeeded *Iroiylaplap* Amata, later formally transferred those rights and titles to Andrew Bing, plaintiff Talwoj Bing's late husband.

II. QUESTION / ISSUE

This matter came before the Court on the Referral Order¹ from the High Court in 2024. The issue before this Court is to determine who, between plaintiff Talwoj Bing, represented by her son, Erzy Christopher Bing (plaintiff), and defendant Margaret Tareo Kiluwe, represented by her brother, Yuki Antolok (defendant), and those claiming through

¹ Order Referring Question To The Traditional Rights Court (HCT Ref. Ord., filed Jan. 17, 2024).

them, is the proper person under Marshallese customary law and traditional practice to hold and exercise the *Alap* and *Senior Dri Jerbal* rights and titles over Jebel (also spelled “Jabel”) Weto, Delap Island, Majuro Atoll, Republic of the Marshall Islands (Jebel).

For the reasons set forth below, this Court finds plaintiff Talwoj Bing, represented by her son, Erzy Christopher Bing, is the proper person to hold and exercise the rights and titles of *Alap* and *Senior Dri Jerbal* over Jebel.

III. PARTIES' CONTENTIONS

Through the parties' documentary submissions and testimonial evidence offered during trial on June 11, 2025, this Court considers the following facts.

A. Agreed Facts

The parties agree that *Leroij* Esther Zedkaia is the current *Iroijlaplap* of Jebel. Her relevant predecessors include the late *Iroijlaplap* Lein Zedkaia, *Iroijlaplap* Jurelang Zedkaia, *Leroij* Atama Zedkaia, and *Iroijlaplap* Amata Kabua.

B. Defendant's Claim

1. Defendant alleges that she is the proper person to hold and exercise the rights and titles of *Alap* and *Senior Dri Jerbal* over Jebel as Martha Tareo's adopted daughter and successor. She further claims that Martha Tareo acquired her rights and titles from her adoptive mother, Lisos Kam, the last *bwij* member who held and exercised the *Alap* and *Senior Dri Jerbal* rights and titles over Jebel. Defendant's Exhibit B appears to be a document made by *Iroijlaplap* Amata Kabua's Land Commission which sets out the landowners of Jebel - *Iroijlaplap* Amata Kabua, *Iroij* in Tel Likitlan, *Alap* Martha, and *Dri Jerbal* Margaret. It appears to also contain the names of Margaret James, Junior Antolok, and Yuki Antolok as the first three successor *Alaps*, and Junior Antolok, Yuki Antolok, and Molody Antolok as the first three successor [*Senior*] *Dri Jerbals*. The document seems to also contain the

signatures of the then current *Alap*, Martha Tareo, who purportedly made the document in 1996, and members of the Land Commission, namely, Takes Henry, Koner Samuel, and Toke Sawej.

2. The defendant asserts that Martha Tareo held and exercised the *Alap* and *Senior Dri Jerbal* rights and titles over Jebel until she passed away in 2019.
3. Yuki Antolok's testimony indicates that his mother did not benefit from any collection or payments from customary tributes, leaseholds or landowner electricity allocations on Jebel as a result of the *bwilok* the plaintiffs claim was imposed by *Iroiylaplap* Amata Kabua and later *Leroij* Atama Zedkaia. He further stated that Jebel is *bwij* land from his grandmother, Lisos, and then to his mother, and now his sister, Margaret.

C. Plaintiff's Claim

4. The plaintiff alleges that the *Alap* and *Senior Dri Jerbal* rights and titles were exercised by Lisos Kam (Lisos), who was the last member of the *bwij* to hold those rights. Plaintiff further claims that Lisos gifted these rights and titles to her adopted daughter, Martha Tareo. Plaintiff's Exhibit P-1 shows that in 1986, Lisos executed a *kalimur* that transferred her *Alap* and *Senior Dri Jerbal* rights and titles on Jebel and Lomar Weto - both located in Delap - to Martha Tareo as an *imon kalotlot*. The document was endorsed by the late *Iroiylaplap* Amata, *Iroi Jedrik* Melon David, and witnessed by late *Iroiylaplap* Jurelang Zedkaia in his capacity as a land trustee.
5. The plaintiff asserts that although Martha Tareo held and exercised the *Alap* and *Senior Dri Jerbal* rights and titles on Jebel for a time, she failed to exercise these rights in accordance with Marshallese custom. The plaintiff alleges Martha offended *Iroiylaplap* Amata Kabua when she:

- i. pressured and intimidated the residents of Jebel into paying tributes without consulting him; and
 - ii. kept the *Iroiylaplap* share of the lease payments for Jebel after collecting it from Andrew Bing; and
 - iii. permitted Wilfred Irwaki Kendal to construct a building on Jebel without his knowledge or approval.
6. As a result, the late *Iroiylaplap* Amata Kabua issued two documents that effectively suspended Martha's rights to collect and receive tributes and lease payments from the residents of Jebel and Lomar Weto. Plaintiff's Exhibit 2 appears to contain a notice from *Iroiylaplap* Amata sent in 1989 to all residents of Jebel and Lomar Weto stopping all tributes until further notice from him or his designee. Plaintiff's Exhibit 3 appears to be a 1990 letter from Amata addressed to Andrew Bing, plaintiff's late husband, to issue lease payments in only two shares – *Iroiylaplap* and *Iroiyledrik* – implicitly directing him to withhold the *Alap* and *Senior Dri Jerbal* shares.
7. The plaintiff's witness, Commissioner Wilson Note, testified as an elder of the community knowledgeable in Marshallese custom and traditional practice. He stated that, under the customs of *jibakwe*, *tome wa*, *bwilok*, and *lia*, an *Iroiylaplap* may transfer *Alap* and *Senior Dri Jerbal* rights and titles over land from one person to another provided there is just cause under the custom.² Martha's alleged customary offenses against the *Iroiylaplap* listed above under paragraph 5 are, according to him, just causes under the custom for the *Iroi* to divest rights and titles on land.

² *bwilok* is defined to mean the customary punishment of being cut off, disinherited or divested of one's land rights; *jibakwe* refers to the status of the losing *iroij* clan of having no authority or influence over the land and people of the particular island or island group in which he lost a battle; *tome wa* refers to switching loyalties between two warring *iroiylaplaps*. in literal translation, it means to disembark from one vessel or boat to board another. This can result in banishment, removal from land, or disinheritance; *lia* also referred as *kaliaik* is a form of or the imposition of a customary punishment that can result in banishment of entire clan, being ostracized, removed from land, or disinheritance.

8. In 2007, the plaintiff claims Martha Tareo's divested rights and titles were formally transferred to Andrew Bing and his children through a *kalimur* executed by the late *Leroij* Atama Zedkaia who succeeded Amata Kabua as *Iroijlaplap* on Jebel. Plaintiff's Exhibit P-4 appears to be an agreement between *Leroijlaplap Atama Zedkaia* as the titleholder of the *Iroij*, *Alap* and *Dri Jerbal* interests on Jebel, and Andrew C. Bing. The document purports to transfer the *Alap* and *Dri Jerbal* rights and titles on Jebel to him, and appears to also bear the signatures of *Leroij* Atama's successors, namely, the late *Iroijlaplap* Lein Patrick Zedkaia and the current *Iroijlaplap*, *Leroij* Esther Zedkaia. Additionally, plaintiff's Exhibit P-6 appears to be an application for landowner electricity submitted by Christopher Bing in 2013 to receive the [*Senior*] *Rijerbal* (also spelled *Drijerbal* or *Dri Jerbal*) allocation of landowner electricity on Jebel. It contains the signatures of *Iroijlaplap* Jurelang Zedkaia, *Iroijedrik* Wemman Ceasar, and *Alap* Talwoj Bing/Andrew Bing.
9. Plaintiff's Exhibits P-7 (*Iroijlaplap* Lein's 2017 determination supporting the transfer of the *Alap* and *Senior Dri Jerbal* rights and titles to Andrew Bing), P-8 (*Iroijedrik* Wemman's 2017 determination supporting the transfer of the *Alap* and *Senior Dri Jerbal* rights and titles to Andrew Bing) and P-12 (2022 letter from *Leroij* Esther explaining Martha's divestiture to Yuki Antolok) all appear to show each succeeding *Iroijlaplap* and *Iroijedrik* endorsed the transfer of the rights and titles of *Alap* and *Senior Dri Jerbal* from Martha Tareo to Andrew Bing and his children.
10. The plaintiff's testimony indicates no lease payments for the shares of *Alap* and *Senior Dri Jerbal* were made to Martha or Margaret since 1990.

IV. RELEVANT CUSTOMARY LAW & TRADITIONAL PRACTICE

A. *Bwilok*

11. It's an established principle that the "...party asserting a claim under a custom has the burden of proving that the custom exists and its substance to the case in

question.” See *Zaion, et al., v. Peter and Nenam*, 1 MILR (Rev.) 228, 236 (Jan. 24, 1991); *Tibon v. Jihu, et al.*, 3 MILR 1, 5 (Apr. 5, 2005). In addition, “[e]very inquiry into custom involves two factual determinations. The first is: is there a custom with respect to the subject matter of the inquiry? If so, the second is: what is it? Only when the ascertained custom is incorporated in a statute or has formed the basis of a final court decision does it become law in the modern sense. See *Jack v. Hisaiah*, 2 MILR 206, 209 (Dec. 23, 2002).

12. In the case of *Jack v. Hisaiah*, the TRC decision, affirmed by the High Court, was upheld by the Supreme Court on appeal because the plaintiff was unable to prove that the land in question was a *bwij* land which would then follow the normal inheritance pattern where the rights on land would be inherited by the children. The TRC stated it was the first of its kind where a wife was asserted as her deceased husband’s successor *Alap*. In rendering their decision, the TRC first determined that the land in question was purchased by the decedent for his family. Upon that determination, the TRC then opined that though this was not the normal inheritance pattern under custom, that as a purchased land, the decedent purchased the land for “...his family...” - his wife and children – they would be beneficiaries of the land at the time of purchase and therefore as the surviving wife, Tokiko Hisaiah was held to be the proper person to succeed her deceased husband as *Alap*.
13. The present case, is distinguished as the land is not purchased. However, this Court finds the evidence indicates Andrew Bing and Talwoj Bing appear as joint-*Alaps* in plaintiff’s Exhibit P-6, which was also signed by *Iroiylaplap* Jurelang and *Iroijedrik* Wemman in 2013. No other evidence appears to contradict the arrangement, including Andrew Bing’s children and in particular, the late *Iroiylaplaps* Jurelang and Lein, *Iroijedrik* Ruth or the current *Iroiylaplap*, *Leroij* Esther.

14. In addition, the plaintiff also asserts that a *bwilok* was imposed on Martha Tareo, the first recipient of the gift land Jebel from *Iroiylaplap* Amata at the request of the last *bwij* member, Lisos. This Court finds the testimony of Yuki Antolok, Martha Tareo's son, to be credible and compelling. He testified that his late mother received no customary tribute, lease payments, or landowner electricity allocation as an *Alap* and *Senior Dri Jerbal* over Jebel, due to the alleged *bwilok* - the occurrence of which he disputes. The testimony is persuasive in light of the absence of an expressed statement or document explicitly imposing a *bwilok* on Martha Tareo other than a handwritten directive stopping any and all customary tributes on Jebel, and a letter to Andrew Bing instructing him to issue lease payments only for the *Iroiylaplap* and *Iroijedrik* shares, effectively suspending Martha Tareo from benefiting from Jebel.
15. Moreover, this Court finds that even in the absence of an expressed statement or document explicitly imposing a "*bwilok*" on Martha Tareo, the surrounding circumstances support the conclusion that her rights and titles were, in effect, suspended. Whether through a *bwilok*, *lia*, *jibakwe*, or *tome wa*, testimonial evidence suggests that such customary principles can serve as grounds under Marshallese custom for divestiture, or an interruption in the normal inheritance pattern, and the subsequent or simultaneous transfer of land rights to another. See *Dribo v. Bondrik, et al.*, 3 MILR 127, 143 (Sept. 14, 2010). Yuki's testimony confirms the divestiture.
16. As it was in the case of *Dribo v. Bondrik*, where a similar divestiture and interruption of the normal inheritance pattern occurred, the joint-decision of the TRC and High Court was upheld by the Supreme Court because there was just cause under the custom to deviate from the succession line. As stated above, the evidence shows there was just cause under the custom for the divestiture of Martha's *Alap* and *Senior Dri Jerbal* rights and titles.

17. An approximate period of 29-30 years elapsed between the 1989-1990 events and Martha's death in 2019. The divestiture of her *Alap* and *Senior Dri Jerbal* rights and titles continued uninterrupted without any objection. Her prolonged silence suggests she was not only aware of her divestiture, but she also understood the nature and basis for it. In this regard, her children would also know, and if they did not as Yuki testified to, it is a reasonable expectation that they know considering Martha had not benefited from customary tributes, lease payments, or landowner electricity allocation on Jebel since 1989.
18. Additionally, plaintiff's Exhibit P-1 (a 1986 kalimur transferring the rights and titles of *Alap* and *Senior Dri Jerbal* to Martha Tareo) expressly states that Lisos, who was the last *bwij* member to exercise the rights and titles of *Alap* and *Senior Dri Jerbal*, gifted her rights and titles on Lomar and Jabel (Jebel) to Martha as *imon kalotlot*, not an *imon bwij* as asserted by defendant. Martha was also explicitly declared to "...be the recipient of all her land interests in the *imon kalotlot*." A *imon kalotlot* is a gift land to a person for nursing or caring for a *Iroiylaplap* or *Alap* when they are ill and on their deathbed. See *Kalemen vs. Mejenwa*, (Unreported High Court Civil Action 1982-10, Opinion & Answer of the TRC, Jun. 26, 1986).
19. In the case of *Kalemen vs. Mejenwa*, the plaintiff was awarded the land as *imon kalotlot* for the various ways in which she took care of and nursed the *Alap* who was ill and on his deathbed. Likewise, this Court agrees with the assertion that Martha was the original recipient of the rights over Jebel as a *imon kalotlot*, not a *imon bwij*. *Bwij* consent was not necessary as was the case in *Tibon v. Jihu, et al.*, although in that case, the gift land was a *kitre* whereas in this case, the gift land is a *imon kalotlot*. In any case, the gift to Martha was known and approved by *Iroiylaplap* Amata and *Iroijedrik* Melon. In this regard, because Lisos' transfer was approved by

the *Iroiylaplap*, it is consistent under Marshallese custom for the *Iroiylaplap* to withdraw his approval if there is a just cause under the custom. This was the case in *Clanry v. Zedkaia*, (Unreported High Court Civil Action 2017-026, Opinion and Answer of the TRC, May 07, 2018) where the Court upheld the *Iroiylaplap*'s divestiture of the rights and titles of *Iroiyledrik*, *Alap*, and *Senior Dri Jerbal* from the plaintiff for cause under the custom.

20. Plaintiff's non-party witness, Wilson Note, corroborates this. As such, this Court finds the gift land of Jebel as *imon kalotlot* to Martha Tareo was a valid transfer as asserted by plaintiff, not *bwij* land as claimed by the defendant. For this reason, the gift land of Jebel as an *imon kalotlot* to Martha can be withdrawn or reclaimed by *Iroiylaplap* Amata for cause under the custom and reassign to another as was held in the cases of *Kalemen* and *Clanry* discussed above.
21. Furthermore, no evidence was presented showing that Martha Tareo personally approached *Iroiylaplap* Amata or any of his successors seeking to reinstate her rights as the *Alap* and *Senior Dri Jerbal* of Jebel. The plaintiff's objection that gave rise to this case is the first instance in approximately 30 years that Martha's rights have been asserted against the current titleholders.
22. Finally, this Court finds the evidence largely supports the alleged fact that Martha's wrongful use of her customary rights and titles as *Alap* and *Senior Dri Jerbal* over Jebel are valid causes under the custom for *Iroiylaplap* Amata to divest her of those rights. This Court also finds that whether her rights were divested through a *bwilok* or other customary grounds is not clearly expressed in *Iroiylaplap* Amata's instruments (plaintiff's Exhibit P-2 (a notice suspending collection of tributes to residents of Jebel and Lomar) and P-3 (a letter addressed to Andrew Bing instructing him to withhold the *Alap* and *Senior Dri Jerbal* share of the lease

payments)), but their effect has resulted in the subsequent transfer of the rights and titles to the plaintiff's late husband, Andrew Bing. The transfer to Andrew Bing, this Court finds, is supported by *Leroij Atama's* successors, including the current *Iroijlaplap* of Jebel, *Leroij Esther*.

B. *Iroij im jela*

23. The customary principle of *iroij im jela* is defined in the Customary Law (Succession of Customary Title, Right, and Interest) (Ralik Chain) Act of 2023 to mean that “...the decision of the *Iroijlaplap* is entitled to the greatest weight in evidence and is presumed to be reasonable, proper, and in accordance with customary law and traditional practice, unless it is established by clear and convincing evidence that it is not.” See P.L. 2023-67, Customary Law (Succession of Customary Title, Right, and Interest) (Ralik Chain) Act, 2023, Section 907(d); *Thomas v. Samson v. Alik*, 3 MILR 71, 74 (Jul. 24, 2008); *Jorbon v. Michael and Laelang*, (Unreported High Court Civil Action 2023-01720, Opinion of the TRC, Jun. 14, 2024). In the case of *Jorbon v. Michael and Laelang*, this Court held that the decision of *Leroij Kalora Zaion* which transferred the rights of *Alap* and *Senior Dri Jerbal* to the plaintiff was still valid after 40 years and without any just cause under the custom, the assertion by the defendant *Iroijedrik* that he held all the rights and titles on the land, and therefore authorized under the custom of *iroij im jela* to change *Leroij Kalora Zaion's* decision was unreasonable because it contravenes the customary principle of *jab komakit drekein jenme eo*.

24. In this case, it was asserted that the *Iroijlaplap* holds the authority to divest an *alap* or *senior dri jermal* of his/her land rights where there is just cause under the custom. As stated above, the plaintiff's non-party witness, Wilson Note, testified that Margaret's alleged misuse of her rights are just causes under the custom for the

Iroiylaplap to divest her of those rights. He also testified that the *Iroiylaplap* holds the authority under the custom to then transfer her “divested” rights to another based on this principle of *iroij im jela*. In this instance, *Iroiylaplap* Amata was that person. The evidence, however, indicates that *Iroiylaplap* Amata did not transfer Margaret’s “divested” rights before his passing in 1996. His successor, *Leroij* Atama Zedkaia did.

25. This Court agrees with the plaintiff’s assertion that *Leroij* Atama Zedkaia was *Iroiylaplap* Amata’s successor and therefore in possession of the *Alap* and *Senior Dri Jerbal* rights and titles of Jebel. She, as was her immediate predecessor, had the authority under the customary principle of *iroij im jela* to transfer Martha’s rights and titles previously divested by *Iroiylaplap* Amata to another. Plaintiff’s Exhibit P-4 (a 2007 *kalimur* transferring *Alap* and *Senior Dri Jerbal* rights to Andrew Bing), although relevant, contains irregularities asserted by defendant which require this Court to consider it alongside other testimonial evidence and exhibits submitted by the parties.

26. The defendant argues that plaintiff’s Exhibit P-4 (a 2007 *kalimur* transferring *Alap* and *Senior Dri Jerbal* rights to Andrew Bing) is unconstitutional because *Leroij* Atama signed as *Iroiylaplap*, *Iroiyledrik*, *Alap*, and *Senior Dri Jerbal* on the document. However, testimonial evidence indicates her successors affirmed the transfer and a substitute witness signed on behalf of the *Iroiyledrik*. This Court finds that *Leroij* Atama is identified on the bottom of page 1 of the document as the titleholder of the *Iroiylaplap*, *Alap* and *Senior Dri Jerbal* interests, however she signed for all four interests on page 2. On further examination, it appears that the *Iroiyledrik* at the time, Wemman Ceaser, was designated as a witness on the document but did not sign in 2007. However, her brother Royal Ceasar, testified that he signed as a witness in her

stead. For this reason, it appears all the relevant titleholders, such as the *Iroiylaplap*, *Iroiyledrik*, *Alap* and *Senior Dri Jerbal*, had knowledge and acquiesced to the transfer. According to Royal Ceasar's testimony, the two succeeding *Iroiylaplaps* of Jebel, namely, *Iroiylaplap* Lein Patrick Zedkaia and *Leroij* Esther Zedkaia, signed the document once they succeeded to the title of *Iroiylaplap*, except *Iroiylaplap* Jurelang Zedkaia, who was *Leroij* Atama's immediate successor.

27. This Court finds, however, that six years later in 2013, *Iroiylaplap* Jurelang Zedkaia and *Iroiyledrik* Wemman Ceasar, endorsed a landowner's application for Jebel's *Senior Dri Jerbal* electricity allocation submitted by Christopher Bing. It appears to also contain the name and signature of Andrew Bing as *Alap* on Jebel. This is shown in Plaintiff's Exhibit P-6 (application for landowner electricity). In addition, this Court finds that Plaintiff's Exhibit P-7 (*Iroiylaplap* Lein's 2017 determination supporting the transfer of the *Alap* and *Senior Dri Jerbal* rights and titles to Andrew Bing) and P-8 (*Iroiyledrik* Wemman's 2017 determination supporting the transfer of the *Alap* and *Senior Dri Jerbal* rights and titles to Andrew Bing) further demonstrate that Lein Patrick Zedkaia and Wemman Ceasar, as *Iroiylaplap* and *Iroiyledrik* respectively, signed separate statements in 2017 expressing their support of the transfer of the rights and titles of *Alap* and *Senior Dri Jerbal* to Andrew Bing.

28. This Court finds that Martha had both opportunity and capacity to approach her *Iroiylaplaps* as each one came into his/her respective role to revert the rights and titles back to her. This Court considers and finds that she could have approached *Iroiylaplap* Amata immediately after he divested her of those rights and titles. She could also have approached *Leroij* Atama following *Iroiylaplap* Amata's passing in 1996, and after the determinations submitted by the plaintiff were made, namely, Plaintiff's Exhibit P-4 (a *kalimur* transferring *Alap* and *Senior Dri Jerbal* rights to

Andrew Bing) that was executed in 2007, P-6 (application for landowner electricity) in 2013, and P-7 (*Iroiylaplap* Lein's determination supporting the transfer of the *Alap* and *Senior Dri Jerbal* rights and titles to Andrew Bing) and P-8 (*Iroiiedrik* Wemman's determination supporting the transfer of the *Alap* and *Senior Dri Jerbal* rights and titles to Andrew Bing) in 2017. But she did not from the moment those rights were first divested in 1989, and in the ensuing years listed above to which it is clear that a transfer of those rights and titles was made and to Andrew Bing.

29. In consideration of the documentary and testimonial evidence that came before this Court, it is clear that the Marshallese custom of *iroij im jela* took effect with the divestiture of the *Alap* and *Senior Dri Jerbal* rights and titles from Martha in 1989 and their subsequent transfer to Andrew in 2007. Given the lapse of 30 years since Martha's divestiture and 15 years since the transfer to Andrew, it is clear the rights and titles have been exercised without dispute - an established land determination for a long period of time. Therefore, in the absence of a just cause under the custom, it is unreasonable for a person to change the succession line that has been in place for a long period of time or *komakit drekein jenme eo* (literal translation: *move the bedrock or foundation*). See *Thomas v. Samson v. Alik, Jorbon v. Michael and Laelang*.

C. *Jab Komakit Drekein Jenme Eo*

30. After 30 have passed since Martha was divested of her rights, and 15 years after the subsequent transfer of them to Andrew by virtue of the customary principle of *iroij im jela*, it is a breach of the custom if this is changed - the customary law and traditional practice of *jab komakit drekein jenme eo* prevents a change to occur under the custom where there is no cause and the determination has been in place for an extended period of time. See *Kabua v. Reimers*, (Unreported High Court Civil Action

2021-767, Final Judgment Granting Defendant's Motion for Summary Judgment, Aug. 3, 2022).

31. In *Kabua v. Reimers*, the Court held that after the lapse of approximately 26 years in which the head of the family acceded to and agreed with the current succession line, the long-standing and established determination cannot be changed. Although the basis of the case was hinged on a statute and the common law doctrine of laches, the Court also stated that the prolonged silence by the plaintiff's predecessor was binding on him and therefore cannot be change. This Court finds that more than 30 years have passed and the defendant is similarly bound by her mother's prolonged silence of accepting the divestiture. This Court finds that to make changes now would be a breach of the customary principle of *jab komakit drekein jinme eo*.
32. In addition, the successors to the *Iroiylaplap* rights and title who came after *Iroiylaplap* Amata and *Leroij* Atama, including the *Iroiyledriks*, supported the arrangement. In this regard, the determination by *Iroiylaplap* Amata to divest Martha of her rights and titles more than 30 years ago cannot be changed because it was imposed with just causes under the custom. See *Thomas v. Samson v. Alik; Jorbon v. Michael and Laelang; Rusin v. Kabua*, et al., (Unreported High Court Civil Action 2023-00953, Opinion of the TRC, Jul. 7, 2025).
33. Likewise, the determination and arrangement made by *Leroij* Atama to transfer those rights and titles to Andrew 15 years ago is a valid decision according to custom. It is contrary to the customary principle of *jab komakit drekein jinme eo* for the defendant to object to the change after a long period of time has lapsed and after the *Iroiylaplaps* have made a determination regarding the rights and titles on Jebel.

The defendant is bound by her mother's decision that accepted the divestiture more than 30 years ago.

34. Finally, it is clear there was no explicit declaration of a *bwilok* as discussed under sub-paragraph "A" above, however, as Jebel is a *imon kalotlot* gift land, the rights and titles gifted by the *Iroiylaplap* may be withdrawn for cause. The divestiture of Martha's rights and titles and their subsequent transfer to Andrew were imposed under the customary principle of *iroij im jela* discussed under sub-paragraph "B" above. Martha's prolonged silence demonstrates her acceptance for a span of 30 years, and to object after 30 years of the divestiture, and 15 years of undisputed exercise of those rights and titles by Andrew, contravenes the custom of *jab komakit drekein jenme eo* discussed above under this sub-paragraph "C".

V. FINDINGS

35. In summary, this Court finds and concludes that:
- a) While a *bwilok* was not explicitly declared, the cumulative effect of the directives and conduct supports the fact that Martha's rights and titles were validly and effectively divested.
 - b) The uninterrupted divestiture over a 30-year span, coupled with Martha's prolonged silence, indicates Martha was aware of it and accepted it. Her children are therefore bound by her decision.
 - c) The transfer of *Leroij Atama* remains a valid exercise of her customary authority as *iroij im jela*, and the defendant's late objection after 15 years of the rights being exercised over Jebel without any dispute, contravenes the customary principle of *jab komakit drekein jenme eo*.

d) The customary principle of *jab komakit drekein jenme eo* discourages or prohibits disrupting the long-standing decisions by *Iroiylaplap* Amata and *Leroij* Atama without a just cause under the custom.

VI. CONCLUSION

35. Based on all the evidence submitted in this case, the customary law and traditional practices discussed above and the Court's findings and conclusions, it is the Court's opinion and answer that the proper person to hold and exercise the rights and titles of *Alap* and *Senior Dri Jerbal* on and over *Jebel* is plaintiff **Talwoj Bing**.
36. The defendant and her younger siblings still reside on the land and ought to respect the *Iroiylaplap* and *Iroijedrik*. As their mother Martha did not challenge the divestiture, and as the succeeding *Iroiylaplaps* affirmed the decision transferring the rights to Andrew Bing, the integrity of Marshallese custom and traditional practice requires that their decisions be upheld.
37. Whilst making their land determinations and ensuring there is peace and harmony among the people on the land, it is essential for the *iroij* to preserve the custom and make decisions that are just and fair according to Marshallese customary law and traditional practice. As reciprocity is the essence of our custom, it is vital that we all respect and love one another to preserve and maintain peace on our lands.

Dated: August 5, 2025.

/s/
Grace L. Leban
Chief Judge, TRC

/s/
Nixon David
Associate Judge, TRC

/s/
Claire T. Loeak
Associate Judge, TRC