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REPUBLIC OF THE MARSHALL ISLANDS

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

KITA and MILTON ZACKIOS Riabnono, v. ANNA CARMEL/WINTON LOMOT, Defendant.	CIVIL ACTION NO. 2023-00047 <u>OPINION & ANSWER OF THE</u> <u>TRADITIONAL RIGHTS COURT</u>
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To: Hon. Anne Bodley, Associate Justice of the High Court
Mr. David M. Strauss, Counsel for Plaintiffs
Mr. Tiba Karotu, Assistant Public Defender, Counsel for Defendant

I. Introduction

This case arises from a dispute over the *senior dri jerbal* rights and title on a portion of Lomelan Weto in Rairok Village, Majuro Atoll, Republic of the Marshall Islands (“Lomelan”). The plaintiffs, Kita and Milton Zackios, claim the *senior dri jerbal* rights and title to a portion of the lagoon side of Lomelan which was previously held by Kita’s deceased father, Lawrence Kumtak, and accordingly, should now be held and exercised by his eldest daughter, Kita. However, defendant Winton Lomot, who succeeded the previous *alap* and original defendant in this case, Anna Carmel, contends that both the *alap* and *senior dri jerbal* rights and titles belong to the *bwij* family of Lomelan. For this reason, he asserts that Neti Bale Lomot should be the *senior dri jerbal*, and not Plaintiff Kita Zackios, who is unrelated to the *bwij* that owns Lomelan.

II. Question / Issue

This Court was tasked with determining who – between Plaintiff Kita Zackios and Neti Bale Lomot (represented by defendant Winton Lomot) – is the proper person to hold and exercise the *senior dri jerbal* rights and title to a portion of Lomelan. This Court is

constitutionally required to make its determination according to Marshallese customary law and traditional practice. RMI Const. art. 6, §4.

For the reasons set forth below, this Court finds Plaintiff Kita Zackios is the proper person to hold and exercise the *senior dri jerbal* rights and title on a portion of Lomelan for which her father, Lawrence Kumtak, had previously held and exercised.

III. Parties' Contentions

A. Agreed Facts

The parties agree the current *Iroiylaplap* for Lomelan is *Leroij* Esther Zedkaia who recognizes Plaintiff Kita as the *senior dri jerbal* to a portion of Lomelan. The parties also agree that defendant Winton is the current *alap* for Lomelan who succeeded *Alap* Anna Carmel.

B. Lomot's Claim

Defendant Winton Lomot claims the *senior dri jerbal* rights and title to Lomelan were conveyed to plaintiff's father, Lawrence Kumtak, by his ancestor, *Alap* Labwille, without *bwij* consent. For this reason, he asserts that a conveyance without *bwij* approval is valid only for the lifetime of the donee or recipient. He further claims that the *Iroiylaplap* of Lomelan approved the conveyance of a portion of Lomelan to Lawrence Kumtak and his two predecessors, Branij and Lemejeik. He asserts that in all three instances, the *bwij* did not approve. Accordingly, it is his contention that the *senior dri jerbal* rights and title previously held and exercised by Lawrence Kumtak should, upon his death, revert back to the family of Labwille. As such, the proper person today to hold and exercise the *senior dri jerbal* rights and title from Labwille's family, according to him, is Neti Bale Lomot.

In addition, defendant Winton also asserts that unlike her predecessors – Lawrence Kumtak, Branij, and Lemejeik – Kita does not have the required recognition and is not

acknowledged by *both* the *alap* and *Iroiylaplap* to succeed as the *senior dri jermal* of a portion of Lomelan – she is acknowledged as the *senior dri jermal* by the *Iroiylaplap* only. For this reason, defendant Winton asserts Plaintiff Kita’s claim should fail.

C. Zackios’ Claim

Plaintiff Kita claims that the *dri jermal* rights and title have been in her family since the 1959 Land Determination formally recorded Lemejeik as the [*senior*] *dri jermal* of Lomelan. According to Kita, *Iroiyl Aisea* and *Alap Bale* were listed along with Lemejeik as the three respective land title holders of Lomelan. She asserts that Lemejeik was succeeded by Branij, and Branij was succeeded by her father, Lawrence Kumtak. Kita further claims that since the time of Lemejeik, *all* the *Iroiylaplaps* – *Iroiyl Aisea*, *Iroiylaplap Amata*, *Leroiyl Atama*, *Iroiylaplap Jurelang*, *Iroiylaplap Lein* and *Leroiyl Esther* - and *alaps* – *Alap Bale*, *Alap Labwille*, and *Alap Dick Carmel* - have all acknowledged her family as the *senior dri jermals* to a portion on the lagoon side of Lomelan. And according to her, a period of more than 60 years has passed since the time of Lemejeik without any registered complaint from the *alap*’s family until the current dispute which resulted in the filing of this case in 2023.

Furthermore, Plaintiff Kita purports that the defendant’s predecessor, *Alap Labwille*, executed a lease agreement on behalf of the [*senior*] *dri jermal* of Lomelan as he expressly inserted the word “for” when he signed on the designated *senior dri jermal* line, clearly distinguishing it from his own signature as the relevant *Alap*. She further asserts that *Alap Winton*, who resided in the United States (US) for many years, has no understanding of the arrangements that established her predecessors - Lemejeik, Branij, and Lawrence - as the *senior dri jermals* to a portion of Lomelan during their lifetimes. His claim that the rights and title to

Lomelan's *senior dri jerbal* should revert to his family, she contends, is without basis and unsupported by the *Iroiylaplap*.

According to Kita, defendant Winton produced no corroborating evidence to support his claim that the *senior dri jerbal* rights and title were conveyed to her predecessors for their respective lifetimes only. On the contrary, she argues that since the 1959 Land Determination, there have been a number of signed land use agreements and other documentation supporting her claim that the *senior dri jerbal* rights and title have been held and exercised by her family for at least 60 years. As the rightful successor to her father, she claims that she is the proper person to hold and exercise the *senior dri jerbal* rights and titles to a portion of the lagoon side of Lomelan.

IV. Analysis of Relevant Factual Findings

As this Court is constitutionally required to make its determination based on Marshallese customary law and traditional practice, the facts presented by the parties regarding the custom and customary law are considered here. The Supreme Court has stated that customs that have become law in the modern sense are customs that have been incorporated into a statute or those that have formed the basis of a final court decision. *Lobo v. Jejo*, 1 MILR (Rev.) 224, 227 (1/2/1991) at 226.

A. Relevant Customary Law & Traditional Practice

1. *Imon Bwij* - a land parcel, island or islet classified as owned and inherited primarily through the matrilineal line. An *alap* has no authority to unilaterally and without notice cut off the inheritance rights of her *bwij*. *Tobeller v. David*, 1 MILR (Rev.) 81, 82 (4/6/1987); *Jack v. Hisaiah*, 2 MILR 206, 209 (12/23/2002) at 209.
2. *Imon Aje* - a land parcel, island or islet that has been given away as a gift, a sales agreement, or other forms arrangement or disposition under Marshallese custom. The authority to dispose or alienate land generally lies with the landowners of the land, that is – the *Iroiylaplap*, or *Iroi-edrik* where appropriate, the *alap*, and the *senior dri jerbal*. RMI Const. art. X, §1(2).

3. *Custom of Reciprocity* - custom which, when appropriate, imposes a duty on a landowner to give notice and deference to the other landowners when making a decision or determination that affects the land or people, or both. *Jorbon v. Akira*, CA 2020-00329, (Opinion & Answer of the TRC, 1/11/2022); *Jorbon v. Michael and Laelang*, Civil Action 2023-01720, (Opinion & Answer of the Traditional Rights Court, 6/27/2025).
4. *Jab Komakit Drekein Jenme Eo* - never disturb or move the bedrock or long-established arrangement. *Thomas v. Samson v. Alik*, 3 MILR 71, 75 (7/24/2008).

B. Analysis and Discussion

1. Under Marshallese custom, the authority to make any disposition or alienation on land generally lies with the landowners – *Iroiylaplap* or *Iroi-edrik* where appropriate, the *alap* and the *senior dri jermal*. (RMI Const. art. X, §1(2)). This Court acknowledges the parties' agreement that *Leroij* Esther Zedkaia is the current *Iroiylaplap* of Lomelan, and that defendant Winton Lomot is the current *Alap*. Because the contention between the parties concerns the rightful holder of the *senior dri jermal* rights and title; each bears the burden of proving their respective claims. The plaintiffs bear the burden of proving that the rights and title of the *senior dri jermal* was validly transferred to Plaintiff Kita's predecessors. Likewise, the defendant bears the burden of proving that the transfer to Plaintiff Kita's family was temporary and Neti Bale Lomot is the proper person from the *bwij* to hold the *senior dri jermal* rights and title, not Plaintiff Kita.
2. According to Marshallese customary law and traditional practice, the *alap* is generally in charge of the management of the land as the clan head. *Rusin v. Jeilar, et al.*, CA 2023-0393 (Opinion & Answer of the TRC, 11/08/24); *Lelwoj v. Helies and Samson*, Civil Action No. 2023-01257, (Opinion of the Traditional Rights Court, 3/17/25) at 5; *Peter v. Napking, et al.*, CA 06-163, (Opinion in Answer, 9/16/08). The authority includes designating plots on the

land for various uses, including those strictly for family use, sale, or leaseholds. *Lelwoj*, supra at 5.

3. These *alap* duties and responsibilities are generally undertaken in consultation with the other titleholders – *Iroiylaplap*, or *Iroi-edrik* where appropriate, and *senior dri jerbal* - under the custom of reciprocity to ensure all *three* agree with an arrangement, particularly one that deviates from the status quo. *Lelwoj*, supra; *Jorbon v. Akira*, CA 2020-00329, (Opinion & Answer of the TRC, 1/11/2022); *Jorbon v. Michael and Laelang*, Civil Action 2023-01720, (Opinion & Answer of the Traditional Rights Court, 6/27/2025); *Tokjen v. Lodge-Lobju and Lodge-Ned*, CA 2018-00294, (Opinion & Answer of the Traditional Rights Court, 10/2/2023).
4. This Court finds that portions of Lomelan appear to have been designated as *imon aje* either through sale or leasehold transactions, as illustrated in Plaintiff's exhibits P-4 (2004 lease for a portion of Lomelan between the landowners of Lomelan - Atama Zedkaia, Labwille Carmel, and Lawrence Kumtak – and Hsueh Ming-Lin), P-6 (2011 lease for a portion of Lomelan between landowners – Jurelang Zedkaia, Dick Carmel, and Lawrence Kumtak – and Hsueh Ming Lin), P-7 (1992 mortgage authorization for a portion of Lomelan between landowners – Amata Kabua, Labwille Carmel, and Branij Lautrok – and Milton Zackios), P-8 (1995 lease for a portion of Lomelan between landowners – Amata Kabua, Labwille Carmel, and Labwille Carmel who signed for the *senior dri jerbal* – and Milton and Kita Zackios), and P-19 (Kalimur by Mrs. Carmen M. Bigler regarding her *senior dri jerbal* rights and title that she purchased from *Leroij* Atama and *Alap* Labwille, to pass on to her two sons upon her death). Exhibit P-8, in particular, appears to support Plaintiff Kita's claim that the *alap* signed on behalf of the *senior dri jerbal* when the *senior dri jerbal* was unable

or unavailable to sign. In doing so, *Alap* Labwille was making a clear distinction between his signature as the current *alap* at the time from his act of signing on behalf of the *senior dri jerbal*. Accordingly, this Court finds this indicative of the fact that the *senior dri jerbal* rights and title were vested or conveyed to a *senior dri jerbal* line that is distinct from the *alap bwij* - an arrangement that began with Lemejeik in the 1959 Land Determination for Majuro Atoll, as shown in Plaintiff's Exhibit P-12. For this reason, this Court accepts the *menmenbwij* (genealogy chart) marked as Plaintiff's Exhibit P-13 which depicts Plaintiff Kita's purported family tree that includes her predecessors, Lemejeik and Branij.

5. In contrast, the defendant's claim that the *senior dri jerbal* rights and title to Lomelan lies with the *bwij* family of the late *alaps* - Bale, Labwille, Dick Carmel, and Anna Carmel – as depicted in the genealogy chart marked as Defendant's Exhibit "B". According to the defendant's second witness, he made the family tree which he said does not contain any of Kita's predecessors because they are not part of the *bwij* family that owns Lomelan in Batkan. The plaintiffs did not challenge this assertion and this Court finds no issue with the families' respective genealogy charts and the fact that they come from two distinct genealogy lines.

6. However, the defendant's claim that the *senior dri jerbal* rights and title to Lomelan lies exclusively with his *bwij* family depicted in Defendant's Exhibit "B" appears to be disputed by a number of land determinations and land use agreements that have been admitted into evidence as plaintiffs' exhibits and for which this Court has accepted as evidence supporting the plaintiffs' claim. This Court is required, under *Rule 1101(d)(1)* of the Evidence Act of 1989, to give substantial weight to determinations made by the "...person holding the

Iroiylaplap, or if there is no *Iroiylaplap*, the *Iroi-edrik* title as to who are the *alap*, *senior dri jermal*, *dri jermal* and other title holders...” on their lands.¹

7. Notably, the current dispute centers on *Alap* Winton’s challenge to the late Lawrence Kuntak’s successor to the *senior dri jermal* title, which this Court finds, is without the support of the *Iroiylaplap*. It is on this basis that this Court finds that *Alap* Winton, under Marshallese custom, cannot act on his own to deviate from the arrangement made since 1959 – a period of more than 60 years – without a just cause or basis under Marshallese customary law. Otherwise, it would be a violation of the custom of *jab komakit drekein jenme eo*. *Lelwoj*, supra; *Jorbon v. Akira*, CA 2020-00329, (Opinion & Answer of the TRC, 1/11/2022) at 4-5; *Jorbon v. Michael and Laelang*, Civil Action 2023-01720, (Opinion & Answer of the Traditional Rights Court, 6/27/2025) at 10-11; *Tokjen v. Lodge-Lobju and Lodge-Ned*, CA 2018-00294, (Opinion & Answer of the Traditional Rights Court, 10/2/2023) at 9-10.
8. In the case of *Lelwoj*, supra at 7, this Court – citing the Supreme Court in *Lokot and Kabua v. Kramer, et al*, 2 MILR 89 (1/29/1997) - stated that the *alap* in that case cannot change the status quo on her own without the concurrence of the *senior dri jermal* after a period of 27 years, and where there is no just cause under the custom. And in *Lokot and Kabua v. Kramer, et al.*, the Supreme Court upheld the High Court’s decision to dismiss the claimants attempt to evict the defendants from the land they had been occupying for 15 years - stating that “...the lapse of 15 years from the time defendant occupied the land until suit was filed by plaintiffs was unreasonable...” (emphasis added).

¹ 28 MIRC (1989), §1101(d)(1): In respect to any weto, or part thereof, substantial weight shall be given to determinations by the person holding the title of *Iroiylaplap*, or if there is no *Iroiylaplap*, the title of *Iroi-erik*, as to who are the *Alap*, *Senior Dri Jermal*, *Dri Jermal*, and other title holders.

9. Similarly, in *Jorbon v. Akira*, CA 2020-00329, (Opinion & Answer of the TRC, 1/11/2022), *Jorbon v. Michael and Laelang*, Civil Action 2023-01720, (Opinion & Answer of the Traditional Rights Court, 6/27/2025), and *Tokjen v. Lodge-Lobju and Lodge-Ned*, CA 2018-00294, (Opinion & Answer of the Traditional Rights Court, 10/2/2023), this Court held that without a just cause under the custom, deviation from a long-established arrangement by the *Iroijlaplap* - or an *Alap* where there is no *Iroijlaplap* or *Iroij-edrik* – would be a violation of the Marshallese custom of *jab komakit drekein jenme eo*. Likewise, in *Zedkaia, et al., v. David and Antolok*, CA 2022-01264, (Opinion & Answer of the Traditional Rights Court, 8/6/2025), this Court found that the defendant’s adoptive mother’s silence for more than 30 years demonstrated her acceptance of the arrangement made by the *Iroijlaplaps* which divested the *senior dri jermal* title from her and later transferred it to a person of a different family and *bwij*, which established a new arrangement that had not been challenged for a period of approximately 15 years. In that case, this Court also said that to challenge the arrangement without a just cause under the custom would be a violation of the custom of *jab komakit drekein jemne eo*.
10. Cumulatively, this Court finds defendant Lomot’s assertion that the rights and title of *senior dri jermal* ought to revert back to the *bwij* family problematic primarily because of the *Iroijlaplap*’s contradictory evidence illustrated in Defendant’s Exhibit D (appears to be a 2024 land determination by Leroij Esther as to who are the *alap* and *senior dri jermal* for Lomelan Weto, Mwilbar Weto, and Arinbiji Weto), Plaintiff’s Exhibit P-11 (2023 Letter from Leroij Esther stating that Kita Zackios is the proper person to succeed Lawrence Kumtak), and Plaintiff’s Exhibit P-14 (2025 sworn statement filed in the High Court attesting to her letter depicted as Plaintiff’s Exhibit P-11). The most recent documentation is her own

sworn statement dated October 16, 2025 in which she reaffirmed her earlier letter acknowledging Plaintiff Kita as *senior dri jermal*) - both of which contradicts her land determination that she signed and notarized September 14, 2024 (Defendant's Exhibit D *Iroiylaplap* land determination recognizing Neti Bale Lomot as *senior dri jermal*).

11. At the two-day trial hearing, October 22 and 31, 2025, no testimonial or evidentiary evidence was presented to this Court that would indicate the *Iroiylaplap* retracted her most recent decision – Plaintiff's Exhibit P-14 – which recognizes Plaintiff Kita as the *senior dri jermal* for the portion of Lomelan that is in dispute now. On this basis, this Court finds that notwithstanding the 2023 *Iroiylaplap* determination that confirmed Neti Bale Lomot as *senior dri jermal* of Lomelan Weto, it appears to be a general determination for Lomelan as a whole. This Court also finds that if Neti Bale Lomot is the proper person to hold and exercise the *senior dri jermal* rights and title to Lomelan Weto generally according to Defendant's Exhibit "D", then the *Iroiylaplap* would have indicated as such during the trial.

V. Findings & Conclusion

12. After reviewing the documentary and testimonial evidence, this Court, finds that there is insufficient evidence to support the defendant *Alap*'s claims. On the other hand, this Court finds the evidence, considered cumulatively, weighs in favor of the plaintiffs' claims that the *senior dri jermal rights* and title were validly transferred and conveyed to Lemejeik in 1959 and thereafter to Brani, and then to Plaintiff Kita's father, Lawrence Kumtak.
13. This Court finds and concludes that without any just cause under the custom to deviate from this long-established arrangement of more than 60 years, *Alap* Winton cannot unilaterally reclaim the rights and title of *senior dri jermal* for the bwij.

14. This Court finds and concludes that as Lawrence Kumtak's eldest daughter, coupled with the *Iroiylaplap's* recognition, Plaintiff Kita Zackios is the proper person to hold and exercise the *senior dri jermal* rights and title to the portion of Lomelan that her father, Lawrence Kumtak, had previously held and exercised.

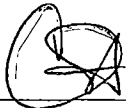
Date: 11th December 2025



Grace L. Leban, Chief Judge



Nixon David, Associate Judge



Claire T. Loeak, Associate Judge