

FILED

AUG 22 2006

ASST. CLERK OF COURTS  
REPUBLIC OF MARSHALL ISLANDS

IN THE TRADITIONAL RIGHTS COURT  
REPUBLIC OF THE MARSHALL ISLANDS

Ann Sheldon & Tabwi Nashion )  
 )  
 Plaintiffs )  
 )  
 Vs )  
 )  
 Alden Jacklick & Enja Enos )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

High Court Civil Action No. 2003-197

OPINION IN ANSWER

On June 7, 2006, High Court Civil Action No. 2003-197 began its hearing before the Traditional Rights Court at the Courthouse in Jabor, Jaluit Atoll, Republic of the Marshall Islands and ended on July 13, 2006 at the Courthouse in Uliga, Majuro Atoll, Republic of the Marshall Islands. This case had to be moved to Jabor, Jaluit to conduct hearings because Defendant's **witness-in-chief**, Mr. Mark Jacklick, was unable to travel to Majuro, due to his old age and weakness. Because of the situation, the Traditional Rights Court traveled to Jabor, Jaluit to conduct the hearings. The members of the Court of Custom panel were Associate Judge Botlang Loeak, Associate Judge Pro Tem Abji Jally, and Berson Joseph, Chief Judge, Traditional Rights Court.

This case, High Court Civil Action No. 2003-197, was referred to the Traditional Rights Court to try and resolve the dispute between the parties. The main issue in this case is, who the proper persons are to hold the Alab and Dri-Jerbal rights on Lokitak Weto, Jabor, Jaluit Atoll. Based on our good custom, the Traditional Rights Court will give its opinion regarding this case according to the custom. This Court recognizes the importance of the custom and its duty in finding what is right and best for the parties

April 17, 1988. According to this Will, Alling T. Elmo is the Alab and Yoshimi Nashion, the Dri-Jerbal. There is a letter written by Irojlaplap Kabua Kabua to Mr. Lonlin Alik on July 17, 1991 and signed on the 26<sup>th</sup> of July, 1991. This letter was written not only to Mr. Lonlin Alik and his friends, but also to all the people of Jaluit Atoll, especially the Jaluit Atoll Council.

It is evident and very clear what Irojlaplap Kabua Kabua stated in his letter. He stated, **“There is no one else I recognize today to be the holders of these two titles on Lokitak if it is not Alab Alling T. Elmo and Dri-Jerbal Yoshimi Nashion.”** None of the people of Jaluit, especially the Defendants, objected to the decision made by Irojlaplap Kabua Kabua. According to the testimony of Mr. Lonlin Alik over the phone, one who was very close to Iroj Kabua Kabua, stated that he still remembers the time all of Kabua’s Alabs attended Dr. Maidher’s funeral. At that time, Irojlaplap Kabua told all his Alabs, who were present, that there were two (2) new Alabs, one of them was Alling T. Elmo and Yoshimi Nashion being the Dri-Jerbal for Lokitak Weto, Jabor, Jaluit Atoll. Mr. Mark Jacklick was present at the funeral and sat next to Mr. Lonlin Alik. He listened to all of Irojlaplap Kabua Kabua’s statement regarding the Alab and Dri-Jerbal titles on Lokitak Weto. After Irojlaplap Kabua Kabua ended his words, Mr. Lonlin Alik asked Mr. Mark Jacklick, ‘ Do you want to object the decision made by Kabua Kabua? He answered **“ No, I will wait for the Iroj to pass away.”** This is a JIRILLOK or mistake by Mark Jacklick. Why didn’t he object and say that he didn’t agree with Kabua Kabua at that time? In fact, it would have been better if he had approached the Iroj himself. Mr. Lonlin Alik’s testimony was recorded in a Deposition Hearing, with counsel for both parties present on June 21, 2006. Please have a look at the transcript after it has been

without any prejudice or bias!

**I. DISPUTE IN THIS CASE:**

a) Question No. 1 as proposed: Who is the proper and rightful person to hold the Alab title on Lokitak Wetu?

b) Answer to Question No. 1: ANN SHELTON

c) Question No. 2 as proposed: Who is the proper and rightful person to hold the Dri-Jerbal title on Lokitak Wetu?

d) Answer to Question No. 2: TABWI NASHION

e) Brief Statement of Reasoning on which the answers for Question No. 1 and 2 are based:

1. Plaintiff Exhibit B: Bujen Kalimur or the Will by Irojlaplap Kabua Kabua

The Will concerns Lokitak Wetu, **and not Imonkitak**. According to the evidence obtained from the hearings, there is no such weto as Imonkitak Wetu on Jabor, Jaluit Atoll. It must have been a clerical error in typing or a verbal mistake in pronouncing the name, or other reasons. Therefore, the Traditional Rights Court thinks that, this word *Imonkitak*, shouldn't be a strong point for argument in this case. The Kalimur or Will itself clearly shows that Irojlaplap Kabua Kabua had already determined **who the proper and rightful persons are to hold the Alab and Dri-Jerbal on Lokitak Wetu**, by placing his hand writing and signing the Will. The Traditional Rights Court was a little **shocked** because the witnesses who signed the Will made by Kabua Kabua were none other than close relatives of the Defendants, Hiram Enos and Anjok Briand. According to Marshallese custom, Hiram Enos would be considered as Reverend Enja Enos' father. Please refer to Irojlaplap Kabua Kabua's Kalimur or Will executed on

completed.

2. Defendant Exhibit 1: A Land Title Determination By Leroij Neimata N. Kabua. This Exhibit was written on August 10, 2000. Five years have now passed since she had shown her disagreement with Irojlaplap Kabua Kabua regarding his arrangement for Lokitak Weto. During the time Defendant's Exhibit # 1 was being written, what Leroij Neimata N. Kabua really wanted was for Mr. Mark Jacklick and Mr. Alden Jacklick to be the Alap and Dri-Jerbal for Lokitak. **Eire-ruo-kolo or there are two competing interests**, therefore, what does our custom tell us? It is true that, today, Leroij Neimata N. Kabua succeeds Irojlaplap Kabua Kabua, but that doesn't mean that she has the power or authority to revoke the Wills done by the previous Iroj, her predecessor.

Today, we hear and see some **nan in jiron** or some very good words in a letter written by Mrs. Catherine Neimat Reimers to Ms. Tiantaake Beero, Counsel for Plaintiff. This letter was written on June 21, 2006. Catherine Neimat Reimers is the daughter of Leroij Neimata Kabua. Today, according to Catherine Neimat Reimers' words in her letter, **her mother will not take part or be part of this case**. The Traditional Rights Court believes that Leroij Neimata N. Kabua has changed her mind and turned 180 degrees from what she had stated in Defendant's Exhibit #1.

II. NAMES & ADDRESSES OF PLAINTIFF'S WITNESSES:

1. Rev. Jally Morris - Delap, Majuro, Republic of the Marshall Islands
2. Tarmeto Kabua - Rita, Majuro, Republic of the Marshall Islands
3. Lajang Kabua - Uliga, Majuro, Republic of the Marshall Islands
4. Nasion Jetnil - Uliga, Majuro, Republic of the Marshall Islands

III. NAMES & ADDRESSES OF DEFENDANT'S WITNESSES:

1. Mark Jacklick - Jabor, Jaluit Atoll
2. Martha Amram - Jabor, Jaluit Atoll
3. Holden Milne - Jabor, Jaluit Atoll
4. Alden Jacklick - Rita, Majuro, Republic of the Marshall Islands

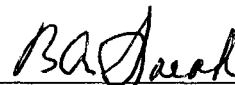
IV. EXHIBITS ADMITTED INTO EVIDENCE:

1. Plaintiff's Exhibits
  - a) Land Lease
  - b) Kalimur or Will by Irojlaplap Kabua Kabua
  - c) Lonlin Alik's Letter from Iroj Kabua Kabua
2. Defendant's Exhibits
  - a) Menmenbwij or Genealogy Chart of the Family
  - b) Land Title Determination by Leroii Neimata N. Kabua

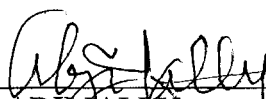
Date: 8/22/06



BERSON JOSEPH  
Chief Judge, TRC



BOTLANG LOEAK  
Associate Judge, TRC



ABJI JALLY  
Associate Judge Pro Tem