

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

FILED
APR 11 2006
MAJURO ATOLL
TRADITIONAL RIGHTS COURT

Toshiko Nuka)
Plaintiff)
)
vs.)
)
Rema Morelik et al)
Defendants)
_____)

Civil Action No. 2005-078

CORRECTED OPINION

On April 3, 2006, High Court Civil Action No. 2005-078 commence its hearing before the two Courts, the High Court and the Traditional Rights Court sitting in as a joint hearing at the courthouse in Uliga, Majuro, Republic of the Marshall Islands, and concluded on April 7, 2006. The members of the penal for the Court of Custom were Honorable Associate Judge, Botlang Loeak, Honorable Associate Judge Kalemenn Jinnuna, and Honorable Chief Justice Berson Joseph of the Traditional Rights Court. Honorable Associate Judge Richard Hickson of the High Court who presided in this case.

This dispute in this case is about three (3) small islands, Tolen Ralik, Kieo, and Ennylebegan (Carlos) that are located on Kwajalein Atoll, Republic of the Marshall Islands. This case came before the two Courts to determine and resolve the dispute between these parties. This is a confusing case because it involves the custom of inheritance on our lands. The parties that are involved in this case are children and grandchildren of Alap Bwilele, as shown in plaintiff's exhibit 1b. And the significant issue in this case is to who is the proper person to hold the **dri jerbai title** on the said lands.

The Court of Custom will now make its opinion on the issue, based on the Marshall

Islands Custom. This Court recognized the importance of the custom and its duties to find what is right and best for the parties without any prejudice, bias or destroy anybody involving in this case.

1. **THE DISPUTE IN THIS CASE:**

a) Question no. 1 as proposed: Who is the proper and rightful person to hold the dri jerbal title on the three (3) islands in this case?

b) Answer to Question no. 1: Mrs. Toshiko Nuka.

c) The explanations in brief as to the answer for question no. 1 is bases on:

1. The Court of Custom beliefs that plaintiff's 1b speaks for itself. According to plaintiff's exhibit 1b, Toshiko Nuka, is tor-in-botoktok (flow-of-blood) from Nuka's the father, and from Bwilele the grandfather. **Kera Nuka**, the older male from Toshiko Nuka, held the dri jerbal title on these said lands without any dispute from those in the genealogy (menmenbwij). What is wrong with Toshiko being the successor to her older brother? The Court of custom has determined the course action. Furthermore, the Court shows appreciation to plaintiff for a genealogy (menmenbwij) which is clear and precise. Please refer to it!!

2. THE TESTIMONY OF IROIJLAPLAP ANJUA LOEAK: The Court recognized Iroj Anjua as a witness who has great knowledge of ean-im-rak as to the way he answered the questions that were given to him. This really shows that he greatly understands his lands, especially his people. He had no hesitation as he answers the questions that were given to him by the Counsels, or the Courts as well. They asked him, "today, who do you recognize and is proper to hold the dri jerbal title between the defendant and the plaintiff." He answered, "Toshiko Nuka." The answer by Iroj Anjua regarding Toshiko was very different from the information shown on the three (3) exhibits for the defendant which Iroj Anjua has affixed his signature.

The biggest aim of the defendants is also for them to **hold** the dri jermal title. Yes, this would have been correct and proper if there were no children of the male. We understand and know that **custom change custom**. If the bwij becomes extinct, then the children of the botoktok will take their place. But if the botoktok extinct, the bwij will take their place. Let us recognized this wonderful custom.

3. CERTIFICATION OF TRADITIONAL SUCCESS:

I) AL-one - A will and confirm by Irojilaplap Anjua Loeak that Jilo Lantir would also hold the title of the dri jermal on these said lands in this case. We greatly understand the purpose of this exhibit. Firstly, we know that all of the three (3) exhibits, AL-one thru AL-three were not initiated by Irojilaplap Anjua Loeak. In his answers to the counsels and the courts, he said, "I signed, because they said to sign." He signed because Toshiko Nuka in Marshallese custom is the daughter of the two old ladies, Jilo Lantir and Rema Morelik. This Court has no doubt that Irojij Anjua Loeak has great understanding of the custom of inheritance on our lands. *Why not, he is Irojij im jela* (Irojij that knows best)!! And then why did he sign? Irojij Anjua knows what he is doing, he got caught in a dilemma (*ear loran ibweb*), and the fact that he had mentioned who is the dri jermal. Irojij Anjua Loeak does respect these two old ladies as they are among his alap. We understand this, because if he did not respect them than he would not have signed.

Therefore, the Court of custom consider all the three exhibits by the defendant, AL-one, AL-two, and AL three as invalid for these following reasons:

- a) They did not seek other members of the family to obtain their opinion. They used force (**power**).
- b) They thought that they were the only family of Bwilele.
- c) They tried to manipulate Irojilaplap Anjua Loeak for their own interest. This is very

unfortunate, in fact, they should have sought first Iroj Anjua Loeak and get his opinion with respect to who is to hold the dri jermal interest among Toshiko Nuka, Yota Nysta and Rema Morelik.

The testimonies of the defendant were very clear when they mentioned that after Rema Morelik passed away, then Yota Nysta will succeed to be the new alap. This decision is by themselves only, and not the Court's. But because there are children of the botoktok that are still alive today, therefore, Yota Nysta can not be the dri jermal for these small islands said in this case. We have to recognized the children of the botoktok because they are also the successors. Custom changes custom! meaning, if the bwij extinct, then the children of the male will inherit their right. But if the botoktok extinct, the bwij will inherit their right.

II. Name and Address of the Witnesses for the Plaintiff:

1. Rinta Morelik - Hostile Witness Honolulu, Hawaii
2. Toshiko Nuka - Ebeye, Kwajalein Atoll
3. Willie Mwekto - Demon Town, Majuro Atoll

III. Name and Address of the Witnesses for the Defendant:

1. Kotak Loeak - Enerik, Majuro Atoll
2. Irojlap Anjua Loeak - Lojkar Weto, Majuro Atoll
3. Rinta Morelik - Honolulu, Hawaii

IV. 1. Exhibit that were admitted into evidence in this case:

1. Plaintiff Exhibit No. 1 - 8.
2. Defendant's Exhibit No. 1 -

V. Matters that the Panel considered to be of great significant:

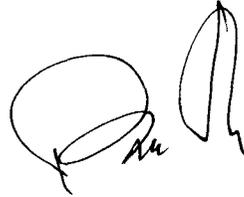
1. They should consider and respect each other. *They are all successors to alap Bwilele.*
2. Not to accuse one another. *What's yours is yours - What's his is his.*
3. They should seek and confront their Iroj at all times.

Now, therefore, according to the Marshallese custom and based on the evidence in this case, the Court once again will state its opinion as it is:

a) Toshiko Nuka is the proper and correct person to hold the DRI JERBAL TITLE on Tolen Ralik, Ennylebegan (Carlos), and Kea (Kiio) on Kwajalein, Marshall Islands.

b) The parties in this case are all brothers and sisters. They should forget what is **bitter** (emeo) among them and start respecting one another with a love that has no boundary and not discard each other.

Dated: 7/18/06



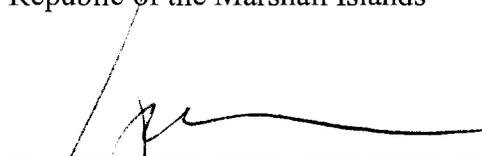
BERSON JOSEPH
Chief Judge, Traditional Rights Court
Republic of the Marshall Islands

Dated: 7/15/06



BOTLANG LOEAK
Associate Judge, Traditional Rights Court
Republic of the Marshall Islands

Dated: 7/13/06



KALEMEN JINUNA
Associate Judge, Traditional Rights Court
Republic of the Marshall Islands