

FILED

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

SEP 29 2016

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHALL ISLANDS

TAKBAR ISHIGURO,)
)
Plaintiff,)
)
VS.)
)
KALEMEN JINUNA,)
)
Defendant.)
_____)

CIVIL ACTION NO. 2012-212

OPINION AND ANSWER OF THE TRADITIONAL
RIGHTS COURT TO THE RESTATED QUESTION

MEMBERS OF THE PANEL: Presiding Judge Grace Leban
Associate Judge Nixon David
Pro tem Judge Risi Graham

PLACE AND DATE OF COURT PANEL'S HEARING: Majuro Courthouse, June 14-15, 2016

THE QUESTION(S) REFERRED BY THE HIGH COURT:

Question No. 1: Was Defendant Kalemén Jinuna senior dri-gerbal for Jienbel Weto, Laura Village, Majuro Atoll, Republic of the Marshall Islands at the relevant times for this law suit?

Question No. 2: Was it proper under custom for Defendant Kalemén Jinuna to tear down the building in question without the consent of plaintiff in her capacity as owner of the building?

Question No. 3: Was it proper under custom for Defendant Kalemén Jinuna to tear down the building in question without the consent of the alab?

Question No. 4: If it was not proper for Defendant Kalemén Jinuna to tear down the building, what is the proper remedy under custom?

SUMMARY ANSWER:

Answer No. 1: No, Defendant Kalemén Jinuna was not the Senior Dri-Jerbal on Jienbel Weto, Laura Village, Majuro Atoll at the time of this lawsuit.

Answer No. 2: No, it is not proper for Defendant Kalemén Jinuna to tear down the building without the consent of the owner.

Answer No. 3: No, it was not proper under Marshallese custom for Defendant Kalemén Jinuna to tear down the building without the consent of the Alab.

Answer No. 4: Defendant Kalemén Jinuna should have discussed and made an agreement with the Alab of Jienbel, and the owner before demolishing the building.

Question restated for the TRC Panel to answer to is, Question No. 4: "Is there a customary remedy for the improper action by defendant Kalemén Jinuna of tearing down the building in question, and if so, what is the custom?"

Answer to Restated Question No. 4: Under Marshallese custom, the remedy for the improper action by defendant Kalemén Jinuna of tearing down the building in question is that he must confront the Alab of Jienbel, and Takbar Ishiguro, the owner of the demolished building and humbly ask for forgiveness. Once forgiveness of the owner and Alab has been sought by defendant Kalemén Jinuna, peace and harmony is restored on this land through mutual understanding of both parties that is concurred by the Alab of Jienbel Weto. Any monetary or service compensation sought by the owner from the Defendant shall be between the parties themselves and the Alab, with the Marshallese custom, "lale dron im jela nae dron", as the basis.

APPLICABLE CUSTOMARY LAW AND TRADITIONAL PRACTICE

Lale dron im jela nae dron – Looking after and caring for each other, with respect.

Marshallese custom is respecting each other by looking after, and caring for each other (*Lale dron im jela nae dron*). When someone is at fault, he must ask for forgiveness, and in this case the defendant Kalemén Jinuna must ask for forgiveness for demolishing the building belonging to Takbar Ishiguro. The Alab and the owner will forgive so that peace and harmony can continue amongst families and themselves, and further discussion of any additional settlement would be between parties and the Alap of Jienbel Weto. In this respect, the Marshallese custom is put into practice, which is, peace, harmony, and respect in the family and the community.

Dated: September, 28, 2016



Presiding Judge Grace Leban – Traditional Rights Court



Judge Nixon David – Traditional Rights Court



Pro Tem Judge Risi Graham – Traditional Rights Court