

IN THE TRADITIONAL RIGHTS COURT  
REPUBLIC OF THE MARSHALL ISLANDS

MERIA ABLIJA, ) CIVIL ACTION NO. 1989-22  
 )  
Plaintiff, )  
 )  
VS. ) OPINION IN ANSWER  
 )  
EMLE BWIJMARON, )  
 )  
Defendant. )  
\_\_\_\_\_ )

OPINION

Pursuant to Rule 13, the Traditional Rights Court jointly with the High Court began its hearing of Civil Action No. 1989-22 on August 20 thru August 24, 1990, at the Uliga Courthouse, Majuro Atoll, Republic of the Marshall Islands.

This is a very interesting case because it involves not only the custom but the inheritance of land rights as well. This case was referred to the Traditional Rights Court to decide the dispute of whether its true that there was indeed a division of the four wetos between the two bwijs, and also to decide who the proper person is to hold the alab and senior dri jermal rights.

This Court after examining all the certified questions concerned, tenders to each questions the following opinions in answer.

OPINION IN ANSWER AND REASONING re QUESTION NO. 1:

There was no division; After examining all the testimonies and evidences presented by the Defendant during the trial, this Court is of the

opinion that the Defendant still failed to prove there was a division of the four wetos, whereby the two wetos in Laura, Majuro Atoll, Elelwe and Okok were given to Emle David's side of the family or bwij and the other two, Drennar and Lokonmok in Darrit (Rita), Majuro Atoll were given to Meria Abija's bwij. This opinion is based on the following reasoning:

a) The testimony given by Leroij Kalora Zion, the present Iroi Edrik for three of the wetos, were not consistent. When she was first asked this question, "Who made the division?", she answered that it was made by the alabs. Then she said Iroi Jakeo made the division and later on she named another iroi, Iroi Jebrik as the one who made the division.

b) This court also believes that Debet David, in his testimony failed to prove that there had been a division. He even testified to both courts that today the present alab is Bojikrok.

c) With respect to Defendant's Exhibit No. 1, the Judgement entered in 1968 pertaining to Civil Action No. 226, which from our point of view is what the Defendant was relying mostly on to prove her claim, it does not clearly show that it aids and support the Defendant's claim. In fact, the statement made by Iroi Loton (Plaintiff's Exhibit No. 5), a predecessor Iroi Edrik for the lands in question, when read to this court showed us something different entirely. We found it greatly opposes the claim that there was a division. The said statement of Loton was entered as part of Civil Action No. 226. Plaintiff Exhibit Nos. 2, 3, 6, 7 and 8 by themselves are an indication that there was no division. On these claim documents are the names of members

from both Lanwor and Melerik's bwijs. The Report on Laura, Plaintiff's Exhibit No. 13 also shows there was no division as indicated by the names of both bwijs being reported regarding Elelwe and Okok wetos. The TRC panel unanimously reasons that if a division had indeed occurred then the names wouldn't have appeared the way they did on the claim documents. Likewise, in the Report on Laura.

d) Under the custom and because of the custom, this court considers what Iroi j Loton said in his testimony as genuine. Loton was an Iroi j Edrik for three of the wetos in question. He lived on them, knew his people and as a matter of fact, again under the custom it would have been his responsibility to be aware had any of his predecessors effectuate such a division. So for this reason and others concerning the custom and Marshallese land law of inheritance this court firmly believes it would be wrong to be bound by the Judgement for Civil Action No. 226 from giving what it deems the right opinion regarding the dispute at hand.

e) From some of the statement given by Senator Henry Samuel this court was able to gather that during the Japanese Administration, the government erected markers to indicate the boundaries of each weto in Laura Village. The Japanese also wrote on these markers the names of the alabs for each weto. According to Senator Samuel Jeto's name (spelled Rejeto) was one of the names written on the marker between Okok and Mweta and on the one separating Elelwe from Jabkol. Senator Samuel also testified that there was no division for if such a division had indeed taken place then he would know

who the present alab is on Okok weto. This court also recognizes and honors the affidavit of Iroi Amata Kabua. Iroi Amata Kabua is the current Iroi laplap of Okok weto and he too says there was no division.

OPINION IN ANSWER AND REASONING re QUESTION NO. 2:

After considering this we have come to the conclusion that it was not approved by all concerned because if it was then Iroi Amata Kabua would surely have known of it as the succeeding Iroi lablab on Okok weto. So therefore, if there truly was a division it was done inconsistently with the custom.

OPINION IN ANSWER AND REASONING re QUESTION NO. 3:

Meria Abija is the alab. Under the custom and based on these families geneology chart it is right and proper that Meria Abija holds the alab title on Elelwe weto.

OPINION IN ANSWER AND REASONING re QUESTION NO. 4:

Jorbit is the son of Lowaer. Division or no division, Jorbit is still the son of Lowaer. In his statement Senator Samuel stated that Jorbit is one of the luckiest men alive for having two fathers. Jorbit was born in the house of Mwejetin but as he grew older he began to bear a great physical resemblance to his father Lowaer. Meria Abija recognizes Jorbit as Lowaer's son as she clearly indicated to us by including his name in her geneology chart. In addition to that, not one person knows what Lowaer told Terkaki concerning Jorbit. In fact, this court set great value on the fact that Terkaki himself, who was Lowaer's older brother and the last alab in the bwij line, took Jorbit into his home to live.

OPINION IN ANSWER AND REASONING re QUESTION NO. 5:

It is true. Under the custom and based on the bwij line of succession, that is the way of it.

OPINION IN ANSWER AND REASONING re QUESTION NO. 6:

Emle is the daughter of David. This court has no doubts whatsoever concerning this fact because no one testified to this court that David had ever said Emle was not his. Furthermore, Emle was brought up by none other than Bojikrok, David's own mother. This a Marshallese custom and practice.

OPINION IN ANSWER AND REASONING re QUESTION NO. 7:

It is true. Under the custom and Marshallese land law of inheritance this is the good practice we should all follow. However, since we firmly believe no division occurred it does not apply in this case.

OPINION IN ANSWER AND REASONING re QUESTION NO. 8:


Meria Abija. Meria is the eldest surviving child of the senior bwij. She is the last of the children of the bwij. This bwij has become extinct and so the title or right should rightfully be succeeded by their children. Therefore, as the eldest surviving child of the bwij it is only proper under the custom for Meria to be the Senior Dri Jerbal also.

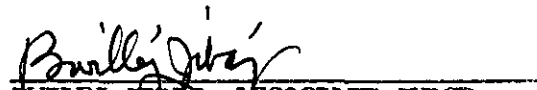
This court also respect and agrees with Iroi Jeltan Lanki when he stated that the decision as to who will subsequently succeed Meria Abija as Senior Dri Jerbal rest upon the members of the bwij and their Iroi.

RECOMMENDATION: All these people originated from one common ancestress, the first Lanwor. You are all of one kwij really and you should love each other, care for each other and not attempt to displace each other from your land rights.

Leroij Kalora Zion, be a "kobo" to all your people.

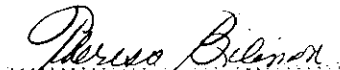
Dated: 9/10/90

  
BERSON JOSEPH, CHIEF JUDGE  
Traditional Rights Court

  
BWILEJ JURAJ, ASSOCIATE JUDGE  
Traditional Rights Court

  
CALEB RANTAK, ASSOCIATE JUDGE  
Traditional Rights Court

FILED

  
ASSE. CLERK OF COURTS