

IN THE HIGH COURT
REPUBLIC OF THE MARSHALL ISLANDS

MAJURO, MARSHALL ISLANDS

May Janno Elmo,)	CIVIL ACTION 1996-175
)	
Plaintiff)	
)	<u>Summary of Case</u>
)	
vs)	
)	
Neimata N. Kabua,)	
)	
Defendant)	
_____)	

This case, Civil Action No. 1996-175, came on regularly for hearing before the Traditional Rights Court, to make a determination under the custom, to a dispute between the parties in this case. Members of the Panel were Beia Lalej, Chief Judge, Associate Judge Berson Joseph, and Associate Judge Riley Alberttar.

The Court held hearings on March 17 - 21, 1997, at the Uliga Courthouse, Majuro, Marshall Islands.

ACTION TAKEN:

I. QUESTION NO. 1: As presented, was the person named Korab a natural child of Nellsu?

a) OPINION IN ANSWER TO QUESTION NO. 1: No, Korab was not known as a natural child of Nellsu. He was only known as an adopted child.

b) BRIEF STATEMENT OF REASONING ON WHICH OPINION IN ANSWER TO QUESTION NO. 1 IS BASED:

1) Iroi Nellsu did not acknowledge to his peoples or his bwij that Korab, who was born and raised within the household of another man, was his son.

2) Korab did not hold the title of Iroi j Lablab. Under custom, if in fact Korab was the child of Nellsu, then Korab should have succeeded Laelan, who was the iroi j younger brother of Nellsu, after his death.

3) Korab did not own a separate book of credit account by himself at NBK or other business establishments. Numerous evidence presented showed that Korab used to take goods at NBK and charged them to the book of credit account owned by Laelan. If he were the son of Nellsu, then he would have owned a separate account book to himself such as the other Iroi j.

c) Names and Addresses of Plaintiff's Witnesses testified on Question No. 1:

1) May Janno Elmo (Plaintiff)
Ebeye, Kwajalein, Marshall Islands

2) Laina Joseph
Ebon, Marshall Islands

3) Kilok Bobo
Ebon, Marshall Islands

4) Joses Tokeak
Ebon, Marshall Islands

5) Jomur Erkinos
Ebon, Marshall Islands

6) Ned Nemra
Majuro, Marshall Islands

d) Names and Addresses of Defendant's Witnesses testified on Questions No. 1:

1) Alvin Jacklick
Majuro, Marshall Islands

2) Willie Mwekto
Majuro, Marshall Islands

3) Neimata N. Kabua (Defendant)
Ebeye, Kwajalein, Marshall Islands

II. QUESTIONS NO. 2: As presented, is it proper under Marshallese custom for an Iroi j to make a testamentary statement requiring his or her successor to allocate a certain amount determined

by him from the Iroiij share of the proceeds paid for the land leased without notifying or consulting with his successor prior to excuting such testamentary statement?

- a) OPINION IN ANSWER TO QUESTION NO. 2: No, such practice is not proper.
- b) BRIEF STATEMENT OF REASONING ON WHICH OPINION IN ANSWER TO QUESTION NO. 2 IS BASED:
 - 1) To avoid future misunderstanding, an Iroiij must consult with or notify his bwij, or his/her successor prior to excuting his testamentary statement. Such practice will keep a testamentary statement binding and cannot be revoked because it was agreed to and signed by everyone involved. It will also preserved the integrity of the Iroiij for the generations to come.
- c) Names and Addresses of Defendant's Witnesses testified on Questions No. 2:
 - 1) Alvin Jacklick
Majuro, Marshall Islands
 - 2) Willie Mwekto (Expert Witness)
Majuro, Marshall Islands
 - 3) Neimata N. Kabua (Defendant)
Ebeye, Kwajalein, Marshall Islands

The plaintiff presented five (5) questions to be determined by this Court. Because these questions are addressing a common issue, they are being combined into one single question.

III. QUESTION NO. 3: As presented, is the Plaintiff May Janno Elmo entitled to a share on Leroij Neimakwa's lands?

- a) OPINION IN ANSWER TO QUESTION NO. 3: No. Being a child of Korab, she is not entitled to a share.
- b) BRIEF STATEMENT OF REASONING ON WHICH ANSWER TO QUESTION NO. 3 IS BASED:
 - 1) It has been answered under question No. 1 that there was no showing of proof that Korab was the son of Iroiij Nellu. The reason is that Nellu did not

acknowledge him. No one knows why Nellu did such that. This is the reason why Korab is not entitled to a share. Because Korab was not entitled to share the properties of Leroij Neimakwa, then the same shall apply to the Plaintiff.

2) The evidence clearly showed that Korab used to eat off of the portion of the proceeds but had no separate share of his own. In one mojen there is only one Iroij Lablab. Iroij share from the proceeds of the lands on his mojen should be delivered to the Iroij alone. It is in the discretion of the Iroij to determine how much of his share should be distributed to those who are entitled under custom and traditional practice to partake. It has been determined that the Defendant is the holder of the Iroij Lablab rights on the lands owned by Iroij Laelan which he inherited from his mother, Neimakwa. Iroij Laelan's share of land rental payment from the Government of the United States, should be given to the Defendant. It is her responsibility to distribute it to those who are entitled to receive a share.

3) Evidence showed that Iroij Kabua Kabua, who was the predecessor Iroij of the Defendant, had given money to the Plaintiff at his own discretion. It might be considered that in so doing, Kabua Kabua was merely exercising the same customary practice his father, Iroij Laelan had in looking after Korab and giving him share of his properties.

4) We expect that the Defendant, Leroij Neimata N. Kabua, will exercise such customary practice, and distribute portion of her share of money from her lands to the Plaintiff, May Janno Elmo.

c) Names and Addresses of Plaintiff's Witnesses testified on Question No. 3:

1) Jibtok Mwekto (Expert Witness) -
Recalled

Ajeltake, Majuro, Marshall Islands

2) Ned Nemra - Recalled
Majuro, Marshall Islands

3) Tarmeto Kabua
Majuro, Marshall Islands

d) Names and Addresses of Defendant's
Witnesses testified on Question No. 3:

1) Milton Zackios
Long Island, Majuro, Marshall
Islands

2) Johnny Alik
Ajeltake, Majuro, Marshall Islands

3) Julian Riklon
Ebeye, Kwajalein, Marshall Islands

IV. EXHIBITS AND OTHER DOCUMENTS RECEIVED INTO EVIDENCE

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|----------------------------|--|
| 1) Plaintiff Exhibit No. 1 | - Deposition of Nemra Bellu |
| 2) Plaintiff Exhibit No. 2 | - Genealogy Chart |
| 3) Defendant Exhibit A | - Testamentary Statement of
Kabua Kabua in Honolulu |
| 4) Defendant Exhibit B | - Genealogy Chart |
| 5) Defendant Exhibit C | - Genealogy Chart -
Confirmation from CMI |

THE PANEL RECOMMENDS THAT THE DEFENDANT EXERCISES THE SAME
CUSTOMARY PRACTICE AS LATE IROIJ LABLAB KABUA KABUA DID TO THE
PLAINTIFF.

Beia Lalej, Chief Judge

FILED

APR 25 1997

ASST. CLERK OF COURTS
REPUBLIC OF MARSHALL ISLANDS

Berson Joseph, Associate Judge

Riley Albertter, Associate Judge