

ownership in the part of these lands in which the plaintiff Lalik's *bwij* hold the *alab* and *dri jermal* rights.

2. This judgment shall not affect any rights of way there may be over the land in question.

3. No costs are assessed against either party.

LALIK, Plaintiff

v.

LAZARUS S. and JATIOS, Defendants

Civil Action No. 11

Trial Division of the High Court

Marshall Islands District

June 21, 1954

Action to determine *alab* and *dri jermal* rights to land on Delap Island, Majuro Atoll. The Trial Division of the High Court, Chief Justice E. P. Furber, held that where acting *alab* and *dri jermal* could not get along peaceably together on their land, *iroij lablab* acted reasonably in taking away their subordinate rights, pursuant to his duty to make reasonable effort to maintain peace and order on his lands.

1. Marshalls Land Law—"Iroij Lablab"—Powers

Under Marshallese custom, power of *iroij lablab* to take away subordinate rights in land is time-honored.

2. Marshalls Land Law—"Iroij Lablab"—Powers

Where *iroij lablab* took away *alab* and *dri jermal* rights in land due to fact acting *alab* and *dri jermal* could not get along peaceably together, his action was reasonable.

3. Marshalls Land Law—Use Rights

Under Marshallese system of land tenure, there is strong obligation on all those holding various rights in piece of land at same time to cooperate in reasonable and friendly manner.

4. Marshalls Land Law—Use Rights

Under Marshallese system of land tenure, there is obligation on all those holding various rights in piece of land at same time to be loyal to those up the line and to protect welfare of those down the line.

5. Marshalls Land Law—"Iroij Lablab"—Obligations

Under Marshallese custom, *iroij lablab* is expected to make reasonable effort to maintain peace and order on his lands.

6. Marshalls Land Law—"Iroij Lablab"—Powers

Determinations made by *iroij lablab* with regard to his lands are entitled to great weight, and it is to be supposed they are reasonable unless it is clear they are not.

7. Marshalls Land Law—"Iroij Lablab"—Powers

Determination by *iroij lablab* to give land as *kateb* to third party after taking away others' rights therein was properly within his powers, and decision is binding upon parties.

8. Courts—Parties

Where government is not a party to suit, judgment does not give any rights as against it on account of airfield on land in question.

FURBER, *Chief Justice*

FINDINGS OF FACT

1. Shortly after the typhoon of 1918, Lanimon, while *alab* (person in immediate charge of a piece of land), with the approval of the *iroij lablab* (paramount chief), made an establishment of *alab* and *dri jerbai* rights on the land in question under which Lanimon's brother's daughter Litarel, who already had *dri jerbai* rights there, became in effect the acting *alab* and entitled to the *alab's* share from the land, and to succeed Lanimon as *alab* on his death, and the defendant Jatios and his *bwij* became *dri jerbai* with the definite stipulation that they should take care of Litarel.

2. Litarel and Jatios got along well together on the land under the above arrangement for many years, but in the late 1930's and continuing into the early 1940's they got into a series of disputes, with each of them finally refusing to recognize the rights of the other and each refusing to pay the other any part of the copra proceeds.

CONCLUSIONS OF LAW

1. This action was tried with that of *Lalik against Elsen*, 1 T.T.R. 134, and is largely governed by the conclusions of law set forth there.

[1-6] 2. There is, however, the additional question of whether it was within the powers of *Iroiĵ Lablab* Lainlen to take away all of the *alab* and *dri jermal* rights in the land about 1941, while Lanimon was still alive, and then about a year later give the land to the defendant Lazarus as *katleb* land, as it was agreed he purported to do. (*Katleb* is land allocated by an *iroiĵ lablab* to an individual commoner.) The power of an *iroiĵ lablab* to take away subordinate rights in land for a good reason, is a time honored one. The reason given for taking away the rights in this instance was that Litarel, the acting *alab*, and Jattios as *dri jermal*, could not get along peaceably together on the land, and Lanimon did not succeed in controlling the situation. Under the Marshallese system of land tenure, there is a strong obligation on the part of all of those holding various rights in a piece of land at the same time, to cooperate in a reasonable and friendly manner. There is an obligation of loyalty up the line, and an obligation to protect the welfare of those down the line. The *iroiĵ lablab* is also expected, among other things, to make a reasonable effort to maintain peace and order on his lands. As indicated in the pre-trial order, Litarel stated in open court that she now claimed no rights whatever in the land, and had accepted *Iroiĵ Lablab* Lainlen's decision. Under these circumstances the court cannot say, on the basis of the evidence presented, that *Iroiĵ Lablab* Lainlen did not have a good reason for his action, and as explained in the conclusions of law by this court in the case of *Limine v. Lainej*, 1 T.T.R. 107, determinations made by an *iroiĵ lablab* with regard to his lands are entitled to great weight, and it is to be supposed that they are reasonable unless it is clear that they are not.

[7] 3. The court therefore holds that *Iroiĵ Lablab* Lainlen's purported action in this instance in taking away all of the *alab* and *dri jermal* rights in the land, and later

giving the land to the defendant Lazarus S. as *katleb* land, was properly within the powers of the *iroij lablab*, that his determination is binding upon the parties, and that the defendant Lazarus S. is the *alab* and is entitled to exercise the *dri jerbai* rights in the land.

[8] 4. Attention is invited to the fact that it was agreed by all the parties that the land in question is now a part of the airfield used by the government, but the government was not a party and no relief was sought against it by any of the parties. The judgment herein does not purport to give any rights as against the government.

JUDGMENT

It is ordered, adjudged and decreed as follows:—

1. As between the parties and all persons claiming under them, the *alab* and *dri jerbai* rights in Monketem Wato on Delap Island, Majuro Atoll, are as follows:—

(a) The defendant Lazarus S., individually and not as a member of any group, is the *alab* and is also entitled to exercise the *dri jerbai* rights in it.

(b) Neither the plaintiff Lalik and his *bwij* nor the defendant Jatios and his *bwij* have any rights of ownership in it.

2. This judgment shall not affect any rights of way there may be over the land in question.

3. No costs are assessed against any party.