

EMOJ, Plaintiff
v.
JAMES and LOBJU, Defendants
Civil Action No. 67
Trial Division of the High Court
Marshall Islands District
May 11, 1959

Action to determine *alab* and *dri jermal* rights in certain *wato* on Enearnij Island, Ailuk Atoll. The Trial Division of the High Court, Chief Justice E. P. Furber, held that disestablishment of *alab* and *dri jermal* could not properly be made by an *iroij erik* without action of *iroij lablab* or those holding *iroij lablab* rights in the land.

1. Marshalls Land Law—"Iroij Erik"—Limitation of Powers

Under Marshallese custom, where there is dispute within *bwij* as to who is rightful *iroij erik*, there is no proper basis for one claiming to be *iroij erik* to take away party's *alab* and *dri jermal* rights because of party's failure to recognize him as such, and these rights have not yet been determined.

2. Marshalls Land Law—"Iroij Erik"—Limitation of Powers

Under Marshallese custom, disestablishment of *alab* and *dri jermal* cannot properly be made by an *iroij erik* without action of *iroij lablab* or those holding *iroij lablab* rights in the land.

FURBER, *Chief Justice*

This matter came on to be heard at the April–May 1959 sitting of the Trial Division of the High Court on Uliga Island, Majuro Atoll, Marshall Islands District. Neither party was present or represented at the call of the list on the opening day of the sitting, and neither had advised the Clerk of Courts whether they desired to be heard further. Presiding District Court Judge Kabua Kabua, who heard the case as master, reports the parties have indicated they leave it to the court as to whether any further hearing is necessary. The master's report is accordingly approved.

SUMMARY OF FACTS

It appears from the master's report that the plaintiff Emoj was duly established on the whole of Enearmij Island, with both *alab* and *dri jermal* rights, many years ago, and exercised these rights without difficulty up to 1950, when the defendant James endeavored to take away these rights in about half of Enearmij Island, primarily on the ground that Emoj refused to recognize the defendant James as *iroij erik*, though secondarily on the ground that the plaintiff was not adequately developing the land. There is no showing of any action by the *iroij lablab* in connection with this matter.

The court takes judicial notice from the information in its own files concerning Marshall Islands District Civil Action No. 41, that at the time the complaint in this action was filed there was a dispute pending within the *bwij* holding the *iroij erik* rights; that the one whom the plaintiff Emoj recognized as *iroij erik* in his complaint was the senior member of that *bwij* at the time and was the one who under Marshallese custom would ordinarily exercise the *iroij erik* rights; and that this dispute was not finally determined until judgment of this court entered May 11, 1956, in connection with which Lobju gave up all rights in the lands in question in this action, and it was determined that whatever rights the *bwij* formerly held in this land would thereafter belong to the members of the *bwij* other than Lobju, the member next senior to Lobju within the *bwij* being the defendant James.

CONCLUSIONS OF LAW

1. This action involves the question of power of an *iroij erik* to disestablish the *alab* and *dri jermal* rights in part of a piece of land in Ailuk Atoll in the Radak Chain of the Marshall Islands.

[1, 2] 2. In view of the dispute within the *bwij* holding the *iroij erik* rights, and the plaintiff Emoj's willingness to recognize the senior member of that *bwij* as *iroij erik*, the court considers it doubtful whether there was any proper basis for the defendant James attempting to take away any of the plaintiff's rights in the land in question because of his failure to recognize James as *iroij erik* before James' rights with regard to Lobju had been determined. The court is clear, however, that such disestablishment of an *alab* and *dri jermal* could not properly be made by an *iroij erik* without the action of the *iroij lablab* or those holding *iroij lablab* rights in the land.

JUDGMENT

It is ordered, adjudged, and decreed as follows:—

1. As between the parties and all persons claiming under them:—

(a) The plaintiff Emoj, who lives on Kaben Island, Ailuk Atoll, is the *alab* of the whole of Enearmij Island, Ailuk Atoll, Marshall Islands District, and those claiming under him hold the *dri jermal* rights in it.

(b) The defendant James, who also lives on Ailuk Atoll, is the *iroij erik* of the land in question.

(c) The defendant Lobju, who also lives on Ailuk Atoll, now has no rights of ownership in the land in question.

2. The plaintiff Emoj and the defendant James are accountable to each other for the *alab* and *iroij erik* shares, respectively, from all copra produced and sold by them from the land in question since the dispute arose between them in 1950, making due allowance in this accounting for the value of any improvements which the defendant James and those working under him have made on the land which would ordinarily have been made by the plaintiff Emoj and those working under him. The plaintiff

Emoj, as the one in the subordinate position, should take the initiative in working out a practical arrangement for determination of the net amount due either way, and for the regular payment of the *iroij erik* share to the defendant James in the future. If the parties are not able to agree upon these matters within six (6) months from today, any one of them may apply to the court for a further order concerning them.

3. The defendant James is enjoined and prohibited from interfering with the normal exercise of the plaintiff Emoj's *alab* rights in the land in question because of anything which has occurred up to this date.

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

5. No costs are assessed against any party.

6. Time for appeal from this judgment is extended to and including August 11, 1959.