

MIKE M. and SAUL, Plaintiffs
v.
JEKRON and JOAJE, Defendants
Civil Action No. 97
LOJOB and JEKRON, Plaintiffs
v.
SAUL and MIKE MADDISON, Defendants
Civil Action No. 135
Trial Division of the High Court
Marshall Islands District
February 10, 1961

Hearing in contempt proceedings based on Order of Notice to Show Cause, and trial in related civil action were held together by agreement, both relating to same land on "Jebrik's side" of Majuro Atoll. The Trial Division of the High Court, Chief Justice E. P. Furber, held that both *dri jermal* and those acting for *alab* claimed rights in excess of those connected with their respective positions, that both misconstrued former judgment of Court, and that they were unjustified in actions towards each other. Actions of those acting for *alab* were provoked by those of *dri jermal*, no adjudication of contempt was made against them, although they violated judgment in previous Court action.

1. Marshalls Land Law—Generally

Court will neither enlarge nor decrease rights or obligations of *alab* and *dri jermal* under Marshallese custom since rights of both are subject to and dependent on custom.

2. Marshalls Land Law—"Iroij Lablab"—"Jebrik's Side" of Majuro

Although land on "Jebrik's side" of Majuro Atoll has no individual *iroij lablab*, it is definitely subject to *iroij lablab* powers, no matter how these are exercised.

3. Marshalls Land Law—"Dri Jermal"

Under Marshallese custom, if *alab* cuts excessive amounts of copra, matter should be taken up by *dri jermal* with *alab* or with *iroij erik* and those having *iroij lablab* powers over the land.

4. Marshalls Land Law—"Alab"—Limitation of Powers

Under Marshallese custom, if *dri jermal* acts wrongfully towards *alab*, this does not justify those acting for *alab* in trying to stop workers sent by *dri jermal* without further consultations.

5. Marshalls Land Law—"Dri Jermal"—Obligations

Under Marshallese custom, if *alab* cuts excessive amounts of copra, this does not justify *dri jermal* in withholding *alab's* share of copra nor in ceasing to contribute food to *alab's* family.

6. Marshalls Land Law—Use Rights

Under Marshallese custom, both *alab* and *dri jermal* have obligation of cooperation and of mutual consideration for reasonable needs of each other.

7. Marshalls Land Law—"Alab"—Obligations

Under Marshallese custom, those acting for *alab* have obligation to see that their actions are in accord with their authority and do not exceed it.

8. Marshalls Land Law—"Dri Jermal"

Under Marshallese custom, if *dri jermal* is sick and unable to work land himself, he should be allowed, on reasonable notice, to send members of household or others closely connected with him to work for him.

9. Contempt—Civil—Violation of Judgment

Where those acting for *alab* definitely violated judgment in previous civil action because of provocation of *dri jermal*, no adjudication of contempt will be made against them.

FURBER, *Chief Justice*

OPINION

Hearing in the contempt proceedings based on Order of Notice to Show Cause issued December 29, 1959, in Civil Action No. 97 and trial in Civil Action No. 135 were held together by agreement, the order in paragraph 5 of the Memorandum of Pre-Trial Conference, entered August 31, 1960, having been set aside January 19, 1961, after hearing at which it appeared that the plaintiffs in Action No. 135 did not receive notice of the order of August 31, 1960, until after the time for compliance with it had expired and that no order of dismissal had been entered in accordance therewith.

[1, 2] In these matters, which both relate to the same *wato*, the court is satisfied that both the *dri jermal* Saul and those acting for the *alab* Lojob are endeavoring to claim rights in excess of those going with these respective positions and are disregarding the obligations connected with them. The court is clearly of the opinion that

there is nothing in the judgment entered September 16, 1958, in Civil Action No. 97, that is intended to either enlarge or decrease the rights or obligations of Lojob as *alab* and Saul as *dri jermal* under Marshallese customary land law, and that the rights of both of them are subject to and dependent on such customary land law. The statement in the findings of fact in Civil Action No. 97, that the land has no paramount chief, is taken to mean that it has no individual *iroij lablab*. This is land on "Jebrik's side" of Majuro Atoll and the court is firmly of the opinion that, regardless of any doubts there may be as to just how the *iroij lablab* powers over such land may be exercised, these lands are definitely subject to such powers. See opinion in *Joab v. Labwoj*, 2 T.T.R. 172.

[3-8] If the copra cuttings on behalf of the *alab* were really excessive and interfered unreasonably with the exercise of the *dri jermal* rights, this matter should have been taken up with the *alab* and, if necessary, on up the line with the *iroij erik* and those having the *iroij lablab* powers over the land, but it would not justify the *dri jermal* in withholding the *alab's* share from copra produced by the *dri jermal*. Neither should the *dri jermal* have stopped contributing food without consulting the *alab*, even though a member of the *alab's* family, when obviously angry, told the *dri jermal* to stop. Similarly the *dri jermal's* withholding the *alab's* share from a few cuttings and failure to contribute food after being told not to, did not justify those acting for the *alab* trying to stop workers sent by the *dri jermal* without further consultation. Both *alab* and *dri jermal* have an obligation of cooperation and of mutual consideration for the reasonable needs of each other. Those acting for the *alab* also have an obligation to see that their actions are in accord with their authorization from the *alab* and do not exceed it. If Saul, even as a *dri jermal* brought from outside the family or *bwij* of

the *alab*, is sick and unable to work the land himself, he should be allowed, on reasonable notice to the *alab*, to send members of his household or others closely connected with him to work for him.

[9] Jekron and Joaje, purporting to act for Lojob, are considered to have definitely violated paragraph 2 of the Judgment of September 16, 1958, in Civil Action No. 97, by endeavoring to stop workers sent by Saul, under the circumstances shown by the evidence, but in view of the provocation provided by Saul and their apparently honest misunderstanding of the rights in the situation, no adjudication of contempt is made against them at this time, but they are warned that such interference in the future will not be viewed so leniently. At the same time Saul is warned that he should faithfully fulfill his obligations to the *alab* and should consult with him about this sending of other workers when he is unable to work the land himself.

ORDER—Civil Action No. 97

The Order of Notice to Show Cause in Civil Action No. 97, issued by the Marshall Islands District Court December 29, 1959, is dismissed without costs.

JUDGMENT—Civil Action No. 135

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

1. The defendant Saul is to account to the plaintiff Lojob for the *alab's* share of all copra cut by him on Lometo *wato* and is to pay the *iroij erik's* share through Lojob hereafter, and is to resume making the customary contributions of food to Lojob.

2. No costs are assessed against any party.