

succeeded to Mitmad's interest in the action. The court, however, makes no determination as to these matters. This judgment will apply to whoever may have succeeded to the interest of either plaintiff.

JUDGMENT

The above-entitled action is dismissed without costs and without prejudice to either plaintiff or her successor or successors in interest bringing a new action concerning the properties still in issue at the close of the trial in this action, *provided* that in the new action (1) the properties are clearly described, preferably by at least a rough survey, (2) the chief or chiefs of each property are designated and made parties, and (3) if the plaintiff claims any action of any of these chiefs, or of any of their predecessors, was improper or ineffective, the plaintiff specify each action to which she or he objects, as nearly as practicable when it was taken and by whom, and why she or he objects to it.

Time for appeal from this judgment is extended to and including October 30, 1968.

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LANGJO, Plaintiff

v.

NEIMORO, JAMES PHILIPPO, HAJO, and PHILIP, Defendants

Civil Action No. 145

Trial Division of the High Court

Marshall Islands District

August 31, 1968

Action to determine *alab* rights in three *wato* on Ailinglaplap Atoll in the Marshalls. The Trial Division of the High Court, E. P. Furber, Temporary Judge, held that a *leroi* could not cut off *alab* rights exercised over a long period of time because of any error there may have been in their establishment or recognition.

## 1. Marshalls Land Law-"Iroij Lablab"-Powers

Detenninations made by an *iroij lablab*, and the female equivalent, a *leroi lablab*, with regard to his lands are entitled to great weight and it is to be presumed that they are reasonable and proper unless it is clearly shown they are not.

## 2. Marshalls Land Law-Generally

Land rights in the Marshalls had become sufficiently finn by the time the American administration took over so that rights once firmly and clearly established and recognized could not be cut off except for good cause arising after their establishment.

## 3. -Marshalls Land Law-"Alab"-Powers

Clearly established *alab* rights exercised over a long period of years could not properly or reasonably be cut off by a *leroi* because of any error there may have been in their establishment or recognition.

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FURBER, *Temporary Judge*

## FINDINGS OF FACT

1. The plaintiff's father Laninaur (sometimes spelled "Lainaur" or "Lananaur") exercised *alab* rights over all three of the *wato* in question from the death of Laibal in the early part of American- time until Laninaur's own death in 1956, in spite of any arguments he may have had with *Leroij* Neimoro or any of the *dri jermal*.

2. Laninaur was affirmatively recognized as *alab* by *Leroij* Laurak while he held the *iroij lablab* rights in these *wato*.

3. The plaintiff Langjo (sometimes spelled Lanjo), after the death of Laninaur, exercised *alab* rights over these *wato* with the conse.nt of all the *dri jermal* involved and the acquiescence of *Leroij* Neimoro until he left for Mejit fora visit about a year after Laninaur's death, leaving instructions with the *dri jermal* for the handling of his and the *leroi* shares. While he was away some of his share was paid in accordance with his instructions and some was not. Since the plaintiff returned in 1960, he has collected the *alab*'s share from some of the *dri jermal* and

others including the defendants James, Bajo, and Philip have withheld it from the plaintiff.

4. Since the decision of this court in Marshall Islands District Civil Action No. 144, *Leroij* Neimoro has definitely stated that she recognizes Libuke as *alab* of Moniouk *wato* and the defendant James as in line to succeed him, and the defendant Bajo as *alab* of Lolanej *wato* and Renialim Island, although she still alleges she has made no change on these lands but is following what was decided before.

#### OPINION

This action involves the ownership of the *alab* rights in three *wato* (pieces of land) on Ailinglaplap Atoll in the Marshall Islands District. It turns primarily on the question of the present day extent of an *iroij lablab's* power or right to determine ownership of *alab* rights in land under him or her.

The question of *alab* rights in two of the three *wato* now involved was considered by this court in *James Philippo v. Lejke, Jacob and Lomaten*, Marshall Islands District Civil Action No. 144. That action was brought by the present defendant James against three *dri jermal* who were working under and recognized the present plaintiff as *alab*, James in that action claiming to be *alab* of both Monloak *wato* and Remalim Island, as well as two other *wato* not involved in the present action. The decision in that action was that as between the parties in it and all persons claiming under them, James, was not *alab* of any of the four *wato* then involved. It appears from the opinion in that action that Laninaur's exercise of *alab* powers was clearly shown as it has been in this action, but that the decision in No. 144 was based in part on the fact, that there had been no *iroij* action to support James' claim. The court there stated :-,

"This court has repeatedly held that an *iroij*, acting reasonably and within his rights, has power to take away or transfer subordinate rights for good reason . . . . However, in this case there is no showing by the plaintiff, and indeed, there was not even a claim on his part, that the present *iroij* or any of her predecessors had taken official action to appoint him *alab* on the *wato* in dispute and, as has been stated above, Neimoro stated clearly that she had taken no action in the matter, leaving the situation as she found it."

The court considers it clear that under the family situation shown here whatever *alab* rights Laninaur had in the lands in question passed down to the plaintiff Langjo, and that under the facts found Langjo is the *alab* unless *Leroij* Neimoro's actions shown in the fourth finding of fact have changed the situation.

[1,2] Her determinations were obviously made after extended deliberation, but it appears from all the evidence that her dominant consideration has been to reestablish those who, she believes, should have succeeded to the *alab* positions under a settlement she believes was made by her father *Iroij* Litokwa following the civil war between *Iroij* Kabua and *Iroij* Litokwa in early German times, and to exclude the plaintiff as the successor of those who committed a grievous wrong to her father in that civil war. The evidence, particularly as to the actions of the predecessors in interest of the parties, makes it uncertain what the exact terms of that settlement were and there is strong evidence tending to show that they were modified later during *Iroij* Litokwa's lifetime, but again the exact terms of the modification are not clear. The court recognizes that determinations made by an *iroij lablab* (and *leroj lablab* is just the female equivalent of that) with regard to his lands are entitled to great weight and that it is to be presumed that they are reasonable and proper unless it is clearly shown they are not. It is also recognized that this going backward to reestablish a situation which had not

been in effect for years may have been permissible in ancient days in the Marshalls and was done in feudal days in England. It is believed, however, that land rights in the Marshalls had become sufficiently firm by the time the American administration took over so that rights once firmly and clearly established and recognized could not be cut off except for good cause arising after their establishment.

**[3]** The court therefore holds that in this instance the clearly established *alab* rights of Laninaur exercised over a long period of years could not properly or reasonably be cut off by *Leroij* Neimoro because of any error there may have been in their establishment or recognition. There is some evidence that Laninaur, and Langjo himself on one cutting, may not have fully accounted for the *iroij* share, but *Leroij* Neimoro has not purported to base her action on this, but on Laninaur's alleged complete lack of right, and it is not considered that such failure to fully account would justify cutting off of rights without an honest attempt to work out a proper accounting.

The court therefore holds that *Leroij* Neimoro's attempt to disregard the plaintiff Langjo and establish others in his place as *alab* is not reasonable by present day standards and is of no legal effect. *Limine v. Lainij*, 1 T.T.R. 107, 231,595.

#### JUDGMENT

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

1. As between the parties and all persons claiming under them, the plaintiff Langjo, who lives on Uliga Island, Majuro Atoll, Marshall Islands District, is the *alab* of Monloak and Lolanej *wato* on Jeh Island and of Remalim (sometimes spelled ".Remelin") Island, which is a *wato* by itself, all located on Ailinglaplap Atoll, Marshall Islands District, and has been since the death of Laninaur in 1956.

2. The defendants James Philippo, Bajo and Philip, all of whom live on said Jeh Island, are accountable to the plaintiff Langjo for the *alab's* share of copra made by them respectively, and those claiming under them, from these *wato* since 1957. These defendants, as the ones in the subordinate position, should take the initiative in making this accounting and arranging for the payment of the amounts due from them respectively. Similarly the plaintiff Langjo has an obligation to account to the defendant *Leroij* Neimoro, who lives on said Uliga Island, for any copra which he has cut on any of said *wato* and on which he has not already paid her the *iroij lablab* share. As the one in the subordinate position, he should take the initiative in making this accounting and arranging for payment of any amount due. If the parties are not able to agree upon these matters within six (6) months from today, anyone of them may, by motion in this action, apply for a further order concerning them.

3. No costs are assessed against any party.

4. Time for appeal from this judgment is extended to and including December 2, 1968.

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ANJETOB and DRIEO, Plaintiffs

v.

TAKLOB, NEMILLE, and Others, Defendants

Civil Action No. 207

Trial Division of the High Court

Marshall Islands District

August 31, 1968

Action to upset determination of land ownership by an *iroij elap* concerning lands under his control. The Trial Division of the High Court, E. P. Furber, Temporary Judge, held that where so many years had passed since the original determination had been made there was a presumption that the determination was proper.