

c. Neither the plaintiff Tarkaki, who lives on said Djarrit Island, nor any of his brothers or sisters for whom he claims to act, has any rights of ownership as *alab* or *dri jermal* or otherwise.

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.

4. Time for appeal from this judgment is extended to and including December 23, 1968.

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JEKRON, Plaintiff

v.

SAUL, Defendant

Civil Action No. 287

Trial Division of the High Court

Marshall Islands District

August 31, 1968

Action to determine succession to *alab* on Enemanet Island in Majuro Atoll. The Trial Division of the High Court, E. P. Furber, Temporary Judge, held that under Marshallese customary law the nearest relative in the female line succeeds as *alab* as against a person not related to the former *alab* in the female line.

1. Marshalls Custom-"Iroij Lablab"-Approval of Wills

Even if will offered was approved by the *iroij erik* it was invalid and of no legal effect as it was not approved by the *iroij lablab* concerned.

2. Marshalls Land Law-"Alab"-Succession

Under Marshallese customary law the nearest relative in the female line succeeds as *alab* as against a person not related to the former *alab* in the female line.

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*Counsel for Plaintiff:*

ELLAN

*Counsel for Defendant:*

MICHAEL MADDISON

FURBER, *Temporary Judge*

MEMORANDUM OF PRE-TRIAL CONFERENCE

A pre-trial conference was held by me in the above entitled action on February 14, 1968, with the plaintiff and his counsel and counsel for the defendant.

At this pre-trial conference the following information was developed and action taken.

1. It was agreed as follows:-

a. Although the plaintiff in this action spelled the name of the *wato* in question "Lomejtto", it is the same *wato* which was involved in Civil Action No. 97, 2 T.T.R. 178, in which the name was spelled "Lometto" and in Civil Action No. 135, 2 T.T.R. 178, in which the name was spelled "Lometo." The present plaintiff and the present defendant were parties in both of said actions. The *wato* is located on Enemanet Island in Majuro Atoll, Marshall Islands District.

b. Lojob died on or about December 4, 1964.

c. Libijrokwa (f) had two children, namely, Lijel (f), who was the older, and Lojob (m).

d. Lijel has an only child, Lukelan (f).

e. Lukelan had a son, the plaintiff Jekron, and other younger children.

f. The defendant Saul has worked on the land in question since the death of Lojob and has not paid the *alab*, *iroij erik* or hospital share to the plaintiff nor has he made to the plaintiff the contribution of food required under the custom.

g. The defendant Saul was not related to Lojob in the female line.

h. Michael Maddison is the *iroij erik* of the land in question, which is on "Jebrik's side" of Majuro Atoll as defined in the case of *Jatios v. Levi*, 1 T.T.R. 578.

i. The defendant Saul ceased taking care of Lojob about 1958.

2. The plaintiff Jekron claims as follows:-

a. As Lojob's nearest relative in the female line, Jekron succeeded to the position of *alab* of the land in question on Lojob's death.

b. The will under which the defendant Saul claims to have become *alab* was made in consideration of Saul's taking care of Lojob, but Saul only took care of him for not more than two years and ceased in 1958, the year following the execution of the will, which was never approved by those holding *iroij lablab* powers over the land.

c. Jekron is willing to forget about amounts now due him from the defendant Saul and let Saul stay on the land as a *dri jermal* as long as Saul recognizes Jekron's rights as *alab* and fulfills his obligations to Jekron as *alab* in the future.

3. The defendant Saul claims as follows:-

a. Saul is entitled to be *alab* under a written will, dated April 11, 1957, which was signed by Lojob in the presence of two of the other *iroij erik* on "Jebrik's side" and also by Michael Maddison as *iroij erik* of the land in question. In view of the fact that there is no individual *iroij lablab* on "Jebrik's side" of Majuro Atoll, the signing of the will by Michael Maddison as *iroij erik* and the joining in it as witnesses of two other *iroij erik* on "Jebrik's side" should be sufficient to make the will effective.

b. The defendant has been told by Litabinwa, now deceased, that Luen (f) of Arno is the one who would be in line to succeed Lojob as *alab* of this land if there were no will. Michael Maddison, the *iroij erik* of the land, has written Luen seeking her assistance in straightening this matter out, but has received no reply.

4. The court announced orally in substance the following opinion:-

[1, 2] In view of the previous holdings of this court with regard to the exercise of *iroij lablab* powers on "Jebrik's side" of Majuro Atoll and with regard to the necessity for *iroij lablab* approval of wills under the Marshallese system of land law, the court considers it clear that the will offered by Saul, even if all his allegations of fact in regard to it are true, is clearly invalid and of no legal effect. *Joab J. v. Labwoj*, 3 T.T.R. 72, 2 T.T.R. 172. *Lalik v. Elsen*, 1 T.T.R. 134. The court also considers it clear under Marshallese customary law that as between the parties Jekron is entitled to succeed Lojob as *alab*, regardless of what the situation may be as between Jekron and Luen, who is not a party to, or represented in, this action. No determination is made or implied as to Luen's rights, if any.

Summary judgment-entered August 31, 1968, as of February 14, 1968, when the substance of paragraphs 1 and 2 was announced in open court.

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

1. As between the parties and all persons claiming under them, *alab* and *dri jermal* rights in Lometo *wato* (sometimes spelled "Lometto", "Lomejtto" or "Lomejto") on Enemanet Island in Majuro Atoll, Marshall Islands District, are held as follows:-

a. The plaintiff Jekron, who lives on Djarrit Island (otherwise known as Rita Island) in said Majuro Atoll, is the *alab*.

b. The defendant Saul, who lives on Uliga Island in said Majuro Atoll, is a *dri jermal* under the plaintiff Jekron as *alab*.

c. The rights recognized above of both parties are subject to all the limitations and obligations imposed by Marshallese customary land law and nothing herein shall prevent the normal exercise of powers under such law for any breaches of such obligations in the future.

2. The order for survey issued in this action May 25, 1967, is hereby cancelled.

3. The plaintiff Jekron is awarded one dollar (\$1.00) costs to cover the filing fee.

4. Time for appeal from this judgment is extended to and including December 23, 1968.

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ONGALIBANG UCHEL, Plaintiff

v.

ROBERT P. OWEN, Defendant

Civil Action No. 392

Trial Division of the High Court

Palau District

October 30, 1968

Action to recover for the destruction of a quantity of copra by the Staff Entomologist. The Trial Division of the High Court, Robert Clifton, Temporary Judge, held that the Staff Entomologist could properly order the copra in question destroyed where he considered such to be dangerous to the copra industry in the Trust Territory because of the large infestation by unidentifiable insects some of which were believed to be dangerous to the industry.

1. Agriculture-Insects and Pests--Destruction

The government may provide for the destruction without compensation of property which is infested with pests which are dangerous or suspected to be dangerous to the agricultural industry, where this is reasonably necessary for the protection of the agricultural industry.

2. Public Officers--Powers--Destruction of Property

A public official who destroys property under an unconstitutional statute or who destroys property by willfully acting in excess of his authority under the circumstances, can be held liable as an individual for the destruction of the property illegally destroyed.

3. Public Officers-Powers--Destruction of Property

Under the circumstances presented the public officer involved was justified in ordering the destruction of the property in question under Section 733 of the Code. (T.T.C., Sec. 733)

4. Judgments--Judgments of Acquittal

An acquittal in a criminal prosecution does not constitute evidence of innocence in a subsequent civil action based upon the alleged criminal