

the question is finally settled this decision shall apply to this parcel. It is,

Ordered, adjudged and decreed:—

1. That defendant and all those claiming under her in her *bwij* are entitled to *alab* interests in the following *watos* in Tenak Island, Arno Atoll: Mebeltobok, Meloren, Mwetera, Teron, Lekin bowon, Wirotbwikor and Buni. The Buni interests are subject to any Government claim, not here determined.

2. No costs are allowed.

3. The defendant is granted 90 days within which to perfect an appeal.

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**KIMAT LOTA, Plaintiff**

v.

**KOMA KOROK, Defendant**

Civil Action No. 349

Trial Division of the High Court

Marshall Islands District

May 16, 1973

Action involving succession to *alab* rights in Monjelto on Roi-Namur, Kwajalein Atoll. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that where evidence showed *iroij lablab* incorrectly determined defendant to be successor, presumption of reasonableness of his determinations was overcome, and declared plaintiff the successor.

**Marshalls Land Law—"Alab"—Succession**

Where plaintiff claimed that matrilineal line holding *alab* rights to certain land ended with death of the *alab* and that plaintiff, being the oldest member of the patrilineal line, succeeded to the title, but the *iroij lablab* declared defendant the *alab* on the basis of succession list prepared in 1935, and evidence showed the list to be incorrect, presumption that *iroij lablab's* determination was reasonable was overcome and court would declare plaintiff the *alab*.

LOTA v. KOROK

<i>Assessor:</i>	LINO KORABB, <i>District Court Associate Judge</i>
<i>Interpreter:</i>	MIKE E. CAPELLE
<i>Reporter:</i>	NANCY K. HATTORI
<i>Counsel for Plaintiff:</i>	ALMA CAPELLE
<i>Counsel for Defendant:</i>	KURMA KOROK

TURNER, *Associate Justice*

REPORT OF HEARING

This trial was held in two parts. August 12, 1971, testimony was received from *Iroi j lablab* Lejelan Kabua that he had designated defendant as *alab* for the land on Roi-Namur, Kwajalein Atoll, known as Monjelto. Thereafter, November 29, 1971, when the court returned to Ebeye, plaintiff's and defendant's testimony was heard.

FINDINGS OF FACT

1. The matrilineal line, Rimae *bwij*, which held the *alab* rights to Monjelto, the lands in question on the southern part of Roi-Namur, ended with the death of *Alab Anej*. Monjelto is the general term for lands consisting of *wato* known as Manjaltok, Mankaruk, and Majen in Enibing. These lands are located on the southern part of Roi-Namur Island and a small adjacent island, Enibing.

2. Kimat, being the oldest member of the patrilineal line, Ri Kwajalein *bwij*, succeeded to the title.

3. The *iroij's* book prepared in 1935 by the predecessor and father of the present *iroij* lists present succession of the *alabs* for Roi-Namur as ten people, some of whom are now deceased and who have no connection with Monjelto except through their claim under the defendant, Li-Koma.

4. The defendant, Li-Koma, has been *alab* of Kajinbwe beginning in Japanese times.

5. Plaintiff has been *dri jermal* on Monjelto beginning in Japanese times.

6. Plaintiff is the patrilineal lineage successor to the following *alabs* for Monjelto: Jablo, who died during Japanese times; Anleri, who died after World War II during the American administration; and Anej, who died in 1962 or 1963.

#### OPINION

This case is unusual in the Marshall Islands in that the claim of the plaintiff is in direct conflict with the determination of the *iroij lablab*. Plaintiff claims to have inherited *alab* rights on the land in question as the senior member of the patrilineal *bwij* when the matrilineal line of succession died out with the death of the predecessor *alab*, Anej.

As against this claim is the determination of the *iroij lablab* that "the *iroij's* book", prepared in 1935 giving the line of succession, names the defendant Koma as the successor *alab*. The difficulty with this determination is that the defendant has been the *alab* since Japanese times on another parcel, Kajinbwe, and has never exercised any rights in the land in question. The plaintiff, however, has lived on and worked Monjelto since Japanese times.

Plaintiff's and defendant's mothers were sisters under the custom and came from Ebon to Kwajalein Atoll. Linidrik, plaintiff's predecessor married Lobwelan and went to live on Roi. The defendant's predecessor, Lareak, married Lijetak and went to live on Kajinbwe. Jeje, the *dri jermal* and son of Kimat, is acting *alab* in her behalf on Monjelto. Kurma, son of Koma, is acting *alab* in her behalf on Kajinbwe.

There were others, including the Trust Territory Land Title Officer who recognized the distinction between the *bwij* of the plaintiff and defendant and their land interests. According to Land Title Office records, Anej was the *alab* for Monjelto. Other witnesses agreed Anej named Jeje acting *alab* because Anej was then living on Lib Island

and was unable to take care of his Kwajalein responsibilities.

The “disinterested” witnesses called by the plaintiff—the Ebeye magistrate, the Land and Claims Officer at Ebeye and a local community leader—all agreed with the line of succession for Monjelto up to and including Anej and whom plaintiff should succeed under Marshallese inheritance patterns. However, none of these people, who had no direct interest in the dispute, would express themselves as to the holder of present *alab* rights. None of them, including the Kwajalein Land Title Officer, purportedly know who the present *alab* was.

All of them knew that the *iroij lablab* had designated the defendant as *alab* but they would not affirm her title as against the plaintiff. The power and authority of an *iroij lablab* is indeed great and is generally not subject to dispute by the *Kajur*, the common folk, even though they may well believe the *iroij* to be wrong.

The plaintiff’s witnesses, and according to them the Kwajalein people generally, were unwilling to challenge the determination of the *iroij* even though they did not agree with his determination. All of them, except the plaintiff and her son, Jeje, were willing to apply in this instance the dicta of this court found in *Limine v. Lainej*, 1 T.T.R. 107:

“Determinations made by an *iroij 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.”

The limitation upon this presumption of infallibility, absent a “clear” showing to the contrary is set forth in *Likinono v. Nako*, 3 T.T.R. 120:

“This court has several times held that the decisions of an *iroij lablab* are entitled to great weight, but it has also held the freedom of discretion of *iroij lablab* under the Marshallese system is much more limited than it used to be, and that their decisions to be

effective must be made like those of a responsible official with due regard for the rights already established.”

In this case, the *iroij* did not discuss nor examine the genealogical chart for the *alab* succession but merely followed the “*iroij* book” of succession, without determining whether it was right or wrong. The testimony of the *iroij* indicated he made no examination of lineage descent but only followed “what the books were saying.”

The defendant’s case was based solely on the infallibility of the *iroij*. Defendant’s only witness was her son and counsel. Defendant did not appear in court and her son disavowed having any genealogical information but rested his case on the statement the “*iroij* cannot make a mistake in stating who is the next *alab*.”

The mistake—and the court is convinced there was one—was made by the predecessor *iroij* in 1935 when he recorded the present and future *alabs* for all of the land subject to his jurisdiction—usually referred to inaccurately as being “owned” by the *iroij*. Although we do not have “the book” in evidence, a comparison of the *iroij*’s testimony based upon the book and the generally recognized genealogical line of succession to the land in question indicates confusion between this parcel and Kajinbwe for which the defendant holds *alab* rights.

The court must accept the clear evidence which contradicts the presumption the *iroij*’s determination is “reasonable” and correct in the absence of any evidence other than “what the book says.” We believe, and therefore hold, the entries in the book were confused with other lands and were therefore erroneous.

Ordered, adjudged and decreed:—

That the plaintiff, Kimat Lota, is the successor *alab* to Anej for the lands collectively known as Monjelto and comprising Manjaltok and Mankaruk on Roi-Namur Island and the adjacent Majen in Enibing Island, Kwajalein

RENGIIL v. DERBAI

Atoll. That Jeje is the acting *alab* and *dri jermal* for this land.

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RDIALUL RENGIL, Appellant

v.

SECHARMIDAL DERBAI, Appellee

Civil Action No. 536

Trial Division of the High Court

Palau District

May 24, 1973

Dispute over rightful holder of principal title, *Rengiil*, of Eluil clan of Ngerkebasang hamlet of Arkabesang Island, Palau District. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that judgment was sustained by the evidence and applicable custom.

1. Appeal and Error—Scope of Review—Weight of Evidence

Reweighting evidence is not a function of an appellate court.

2. Appeal and Error—Evidentiary Error—Hearsay

In dispute over who was rightful holder of chief's title, testimony offered by defendant to effect that plaintiff's sister declared at a public meeting that plaintiff only wanted the title so he could sell the clan lands, not denied by sister, who claimed she could not remember what she said, if hearsay, was not of such a nature as to warrant upsetting judgment for defendant.

3. Appeal and Error—Evidentiary Error—Prejudice

Absent a showing of specific prejudice, evidentiary error does not warrant reversal of a judgment.

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Assessor:

PABLO RINGANG, *Presiding  
Judge, District Court*

Interpreter:

AMADOR D. NGIRKELAU

Counsel for Appellant:

FRANCISCO ARMALUUK

Counsel for Appellee:

BAULES SECHELONG

TURNER, *Associate Justice*

The principal, or chief's, title, *Rengiil*, of Eluil clan of Ngerkebasang hamlet of Arkabesang Island, Palau Dis.