

JITIAM v. LITABTOK

Ordered, that Bwijtak, having been found in contempt of this court's judgment by his failure to comply with it, shall be relieved of punishment by compliance in the future by the payment of *iroij lablab* copra sales shares to Mo J. and by the payment to Mo J. of the sum of fifty dollars (\$50.00) for past withholding.

MO JITIAM, Plaintiff

v.

LITABTOK, KEJMEN, and Others, Defendants

Civil Action No. 431

Trial Division of the High Court

Marshall Islands District

November 9, 1971

Action to determine *iroij lablab* rights for certain *wato* on Nalu Island, Mili Atoll. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that where matilineal succession was interrupted by a special arrangement which was for one generation only then matrilineal succession resumes thereafter.

1. Marshalls Custom—Succession to Titles—Generally

The normal pattern of Marshallese succession for any land interest title is by descent through the matrilineal line and when it becomes extinct, a patrilineal succession may occur for one generation and after that the interests pass in the new matrilineal line.

2. Marshalls Custom—Succession to Titles—Special Arrangements

There is no support under the custom for the theory that once there has been an "election" of *iroij lablab*, then all successors must be elected.

3. Marshalls Custom—Succession to Titles—Special Arrangements

When there is a special arrangement for succession, then matrilineal succession resumes thereafter and it does not follow that if there is one special arrangement, all succession thereafter shall be by special arrangement.

Assessor: KABUA KABUA, *Presiding Judge of the District Court*
Interpreter: OKTAN DAMON
Reporter: NANCY K. HATTORI
Counsel for Plaintiff: ERWIN BOLLONG
Counsel for Defendant: KEJMEN

TURNER, *Associate Justice*

RECORD OF HEARING

This action involves plaintiff's right to *iroij lablab* interests for the following *wato* located on Nalu Island, Mili Atoll:—

Jabelare
Limonkoko
Tonke
Boken
Maluen

Plaintiff claimed he had not received his *iroij lablab* share of copra sales from the five *wato* from the time he became *iroij lablab* upon the death of Lanjen, his mother and predecessor *leroj lablab*, in 1970. Defendants insisted plaintiff actually had collected from the copra buyers. Since neither side was prepared to offer evidence on the issue the court declined to either re-open or rule on the point. Trial was held on Nalu Island, Mili Atoll, and this case concluded the special sitting, the court returning by ship the day following this trial to Majuro.

FINDINGS OF FACT

1. Laninat was *iroij lablab* over the land in question, together with many other parcels in both Mili and Majuro.
2. At the request of a Japanese administration official that a successor be designated, Laninat named his adopted son, Lobollon, as his successor.

3. Lobollon was a member of Laninat's royal *bwij*, as were Lanjen and Mo Jitiam.

4. Lobollon died in 1945 and within the year the *alabs* and *dri jermal* met and acknowledged that Lanjen, who was Lobollon's mother, should become the *leroi lablab*, she being the senior member of the royal *bwij*.

5. From 1946 until her death in 1970, Lanjen held the title of *leroi lablab*. Her title was confirmed over some *wato* on Mili Atoll by this court in its decision in *Lanjen v. Namilur and Others*, Civil Action No. 113, February 9, 1961, not reported, which superseded and reversed the prior reported holding in Civil Action No. 68, *Laibon v. Namilur*, 2 T.T.R. 52. Also see, *Mo J., Successor to Lanjen, v. Bwijtak and Others*, Order in Aid of Judgment, 5 T.T.R. 510. These prior decisions arose out of Jera's challenge to Lanjen's title.

6. The plaintiff, Mo Jitiam, was the younger brother of Lobollon and son of Lanjen. He inherited the title of *iroij lablab* from his mother upon her death and was acknowledged as the titleholder by the *iroij eriks*, the *alabs* and *dri jermal* for the lands controlled by Lanjen, except for the present defendants and except for two *wato*, not here involved, on which Bwijtak was a *dri jermal*. (See Order in Aid of Judgment, Civil Action No. 113, 5 T.T.R. 510.)

OPINION

The controversy between plaintiff and defendants turns on succession patterns under Marshallese customary law. Defendants insisted, and enforced that position by refusing to recognize Mo as *iroij lablab*, that because Lanjen had been "elected" by the *alabs* and *dri jermal* as successor paramount chief to her son, Lobollon, that the successor *iroij lablab* to Lanjen also should be elected. Mo was not elected but claimed the title by right of inheritance

under the custom. Following the death of Lanjen in 1970, defendants have insisted no one holds the title and that there will be no *iroij lablab* until Lanjen's successor is elected.

Defendants are the only holders of land interest in lands formerly controlled by Lanjen who have not acknowledged Mo as *iroij lablab*. *Bwijtak*, also failed to recognize Mo over two *wato* for a reason entirely unrelated to the present controversy.

As a result of the order in aid of judgment in Civil Action No. 113, *Bwijtak* now understands Mo's claim and recognizes him as *iroij lablab*. Defendant Litabtok is the *alab* and defendant Kejmen is the senior *dri jermal* over the lands in question.

Plaintiff's witnesses stoutly denied Lanjen was elected as her son's successor, but insisted the *alabs* and *dri jermal* "recognized" her entitlement to the office of *leroi* because of her position in the royal *bwij*. If succession continues by matrilineal inheritance, which is in accordance with Marshallese custom, there can be no doubt that Mo succeeded his mother as *iroij lablab* and that Mo's niece and Lanjen's granddaughter (the daughter of Lobolon) Chiaya, holds the title of *leroi lablab* over the lands in question as well as all the other lands formerly controlled by Lanjen. According to the genealogical chart involved for this royal *bwij*, the person in line for future succession to Mo and Chiaya is her younger brother.

[1] The normal pattern of Marshallese succession for any land interest title is by descent through the matrilineal line. When it becomes extinct, a patrilineal succession may occur for one generation and after that the interests pass in the new matrilineal line. J. A. Tobin, "Land Tenure Patterns", p. 18.

The break in matrilineal succession in the present case occurred when Laninat designated his adopted son, Lobol-

lon, as his successor. The normal matrilineal succession began when Mo succeeded his older brother, Lobollon. However, because of his mother's position in the *bwij*, it was reasonable that her right to the title, following her son's death, should be recognized by all who held land interests.

[2] This does not mean that the court agrees with the defendants that Lanjen was elected. In fact, it is unnecessary to decide whether she was elected or not because the pattern of matrilineal succession resumed with Mo as successor to both his brother and his mother, and Chiaya as the next generation successor. The court definitely does not agree with defendants, because it is not in accordance with Marshallese custom, that once there has been an "election" of *iroij lablab*, then all successors must be elected. There is no support for such a theory under the custom and the citation from Land Tenure Patterns is contrary to this notion.

This court has been vexed in the past with situations in which, for one reason or another, the normal matrilineal succession has been interrupted and controversy has arisen as to the successor to the person who changed the normal pattern.

In *Lijbalang Binni, et al. v. Adre Mwedriktok, et al.*, 5 T.T.R. 451, Judgment on Retrial, held that an "interrupted" succession did not "revert" to the former line of succession but that succession followed the lineage of the person who interrupted the former line. In this particular, the *Binni* case is the same as the present case before this court. In *Binni* it was said:—

"Without a clear showing that a special arrangement, such as here, only was intended to be an interest for one lifetime, we hold that such interest does not revert but continues in the lineage of the appointee under a special arrangement that terminated or upset the normal course of succession."

[3] It is unnecessary to decide defendants' argument that Lanjen was elected to succeed her son as *iroij lablab*. All we need to say is that her succession to the title after her son was a part of a special arrangement for one generation only and after that the title passed in the "new matrilineal line" of Lanjen, which also was the same lineage established by Laninat by his appointment of Lobolon. When there is a "special arrangement", or as defendants called it, an election, then matrilineal succession resumes thereafter and it does not follow that if there is one special arrangement, all succession thereafter shall be by "special arrangement" or election. Such theory is completely contrary to Marshallese custom.

Whatever claim Mo may have had against defendants for withholding the *iroij lablab* share either from 1970 or from August, 1971, he waived his right to recovery in his action by failing to present evidence on or enter into a stipulation with the defendants as to the amount withheld.

It is noted that such withholding, because of defendants' refusal to acknowledge Mo as the *iroij lablab* did not constitute good cause under these special circumstances to justify their removal from the land. Any future failure to pay the *iroij lablab* share or to otherwise acknowledge Mo as holder of the title and to accordingly perform their obligations to him under the custom would be an entirely different matter and might reasonably justify termination of the defendants' interest in the land in question.

Ordered, adjudged, and decreed:—

That the plaintiff, Mo Jitiam, holds the title of *iroij lablab*, as successor to his mother, Lanjen, to Jabelare, Limonkoko, Tonke, Boken and Maluen *wato*, Nalu Island, Mili Atoll, and as rightful holder of such title, he is entitled to have the defendants perform all obligations due that office under the custom to him including the payment

of the *iroij lablab* share of copra sold from the land in question.

DAIMOND MAKRORO, Plaintiff

v.

BENJAMIN L., Defendant

Civil Action No. 410

Trial Division of the High Court

Marshall Islands District

November 15, 1971

Action to determine *dri jermal* rights on Ronbod Wato, Majuro Atoll. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that while the failure of the *dri jermal* to pay the *alab* his share may lead to the suspension of his rights, it is not sufficient to oust the *dri jermal* from the land completely.

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

An *alab* may not terminate or change interests in land by himself, he must have the approval and acquiescence of the *iroij lablab* or, on "Jebrik's side" of Majuro Atoll, the *droulul* or group exercising the *iroij lablab* rights.

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

Under the custom an *alab*, acting with the approval of the *iroij lablab* or those holding those powers, may not terminate a long-vested interest in land without good cause.

3. Marshalls Land Law—"Dri Jermal"—Suspension of Rights

The most an *alab* can do to a *dri jermal* who has not paid the *alab's* share is to suspend the *dri jermal's* interest until the share is paid.

4. Marshalls Land Law—Generally

Under the custom, the interests between persons holding land rights are mutual, thus the *dri jermal* are required to perform the obligations due the *alab* and the *alab* in turn must respect the rights of the *dri jermal*.