

IN THE TRADITIONAL RIGHTS COURT
OF THE
REPUBLIC OF THE MARSHAL ISLANDS

EMILE AINI,)
)
PLAINTIFF,)
)
VS.)
)
TENSON BENJAMIN, ET AL.,)
)
DEFENDANT.)
_____)

CIVIL ACTION NO. 2012-228

OPINION AND ANSWER OF THE TRADITIONAL RIGHTS
COURT

FILED

APR 15 2016

ASST. CLERK OF COURTS
REPUBLIC OF THE MARSHAL ISLANDS

MEMBERS OF THE TRC PANEL:

GRACE LEBAN, PRESIDING JUDGE

NIXON DAVID, JUDGE

RISI GRAHAM, JUDGE

DATE OF HEARING(S): OCTOBER 13-16, 2015

PLACE OF HEARING(S): MAJURO COURTHOUSE

ACTION TAKEN:

The questions before Panel of the Traditional Rights Court are:

1. IS IT PROPER AND RIGHT FOR PLAINTIFF EMILE AINE TO HOLD THE ALAB TITLE?

ANSWER: Yes, Emile Aine is the proper and rightful person to hold the Alab title on Wojenetao Weto, Woja Island, Majuro Atoll.

2. A. WHICH RIGHT DOES THE DEFENDANT HOLD ON WOJENETAO WETO?

ANSWER: The Defendant, Tenson Benjamin, is from the botoktok, and so he is a dri jermal on Wojenetao Weto.

B. WITH THIS RIGHT, IF ANY, IS IT PROPER FOR THE DEFENDANT TO BUILD HIS FAMILY HOUSE ON WOJENETAO WETO WITHOUT THE CONSENT OF THE IROJ, ALAB, AND/OR SENIOR DRI JERBAL ON THE WETO IN DISPUTE?

ANSWER: Yes, if he informs or notifies the Iroj, Alab, and Senior Dri Jerbal of the weto of his intentions.

3. IF A PERSON HOLDS A TITLE ON A LAND, CAN THE ALAB REMOVE THAT PERSON FROM THE LAND THAT HE HAS RIGHT ON, IF FROM TIME TO TIME HE DOES NOT RESPECT THE ALAB?

ANSWER: Yes, if there are reasonable and proper reasons which are related to Manit (custom).

ISSUE(S) IN THIS CASE:

This matter arises from the time when Defendant Tenson Benjamin built his family house on Wojenetao Weto, on Woja Island, Majuro Atoll. Plaintiff Emile Aine filed a complaint stating that Mr. Benjamin did not inform her of his building a family house, and she further claims that Mr. Benjamin does not respect her as being an Alab for Wojenetao Weto.

According to the testimony of Defendant Tenson Benjamin, he stated before the Court that he did not notify Emile Aine, but he notified her younger brother, Ronnie Smart, the maan-maroron for Emile, and that Smart and Iroj Alden Nemna had already signed and authorized his constructing of a house as shown on Defendant's Exhibit A.

After considering evidence and testimony presented in this case, the Court agrees that it is proper and right for Emile Aine to hold the title of an Alab on Wojenetao Weto, on Woja Island, Majuro Atoll. It is shown in the Judgment in Civil Action No. 1990-14, Anari vs. David (Plaintiff Exhibit C) that the rights of both Alab and ^{Snr.} Dri Jerbal on Wojenetao Weto, went to Berta Anari, who is succeeded now by Emile Aine after Jumos, who is younger than Berta, and older than Emile. This Court also recognizes that Tenson Benjamin also hold rights on Wojenetao Weto, for he comes from the *Botoktok* (bloodline) under Taruk, as shown in the family *Menmenbwij* (Defendant Exhibit A). This Court's finding is supported by the deposition of Alab Emile Aine dated, October 14, 2015, when she stated that Tenson Benjamin can also be considered a dri jerbal on Wojenetao Weto. However, this Court recognizes that according to *Manit*, Tenson Benjamin should have informed the Alab of Wojenetao Weto that he was going to build his house. and that he should respect his Alab. In return, the Alab should look after Benjamin as he is also considered her son and her dri jerbal.

Sue Marshall
Jermian

It is what *Manit* has accorded, which was inherited through our ancestors, that all must respect and care for one another in order to sustain peace and harmony in a *bwij*. The members a *bwij* must respect and care for their Iroj, their Alab, and their Senior Dri Jerbal, and in return, these three title holders must respect their descendants and take good care of them, and see to their needs. In this accordance, we are preserving the custom which is our inheritance.

NAME(S) OF WITNESSES FOR PLAINTIFF:

1. Emila Zedkeia
2. Zed Zedkeia
3. Taḅwi Aine
4. Rošana Wena
5. Eojjm Mella

NAME(S) OF WITNESSES FOR DEFENDANT:

1. Terḅson Benjamin
2. Lisḅn Leit

PLAINTIFF'S IMPORTANT ITEMS AND TANGIBLE AND DOCUMENTARY EVIDENCE RECEIVED:

1. Plaintiff Exhibit A – General Power of Attorney (12/22/08)
2. Plaintiff Exhibit B – Majuro Land Determination (1958)
3. Plaintiff Exhibit C – Family Menmenbwij (Defendant Exhibit 3)
4. Plaintiff Exhibit D – Deed of Sales (October 1995)
5. Plaintiff Exhibit E – Marriage Certificate (8/27/1989)
6. Plaintiff Exhibit F – General Power of Attorney (02/18/14)

DEFENDANT'S IMPORTANT ITEMS AND TANGIBLE AND DOCUMENTARY EVIDENCE RECEIVED:

7. Defendant Exhibit A – Authority to Construct
8. Defendant Exhibit B – Letter of Litiria (3/12/79)

OTHER MATTERS THE COURT PANEL DEEMS IMPORTANT TO MAKE KNOWN:

Defendant Benjamin stated in court that he had informed Iroj Alden Nemna and maan-maronron Ronnie Smart in order to have built his house on Wojenetao Weto. This Court realizes that although Ronnie

Smart is a maan-maronron for his elder sister, however, Benjamin and Smart should have both informed the current Alab. With respect to the signature of Iroj Alden Nemna, there was insufficient evidence since Nemna was not able to appear before the Court although he had arrived back after being abroad during the trial. This Court recognizes that it cannot depend on Litiria's letter (Defendant's Exhibit A) since it mentioned 'Emila Z' when the date on the letter is inconsistent to Emila Zedkeia's date of marriage as shown on Plaintiff Exhibit E.

Dated: 03/04/16

/s/

Grace L. Leban
Presiding Judge
Traditional Rights Court

/s/

Nixon David
Judge
Traditional Rights Court

/s/

Risi Graham
Pro Tem Judge
Traditional Rights Courts