

**IN THE TRADITIONAL RIGHTS COURT
OF THE
REPUBLIC OF THE MARSHALL ISLANDS**

JIEN LEKKA, Plaintiff, vs. TOBIN KAIKO and KEY KAIKO, Defendants.	CIVIL ACTION NO. 2017-149 <u>TRC PANEL ANSWER & OPINION</u>
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MEMBERS OF THE PANEL: Hon. Grace L. Leban
Presiding Judge

Hon. Nixon David
Associate Judge

Hon. Milton Zackios
Pro Tem Associate Judge

PLACE OF HEARING: Majuro Courthouse

DATE OF HEARING: August 25th, 2021

QUESTION(S) REFERRED TO THE PANEL:

On December 06, 2018, after reviewing the opinion of the Traditional Rights Court on the questions referred to it initially, the High Court referred additional questions for the TRC Panel to answer. The following questions are:

1. If the husband and wife are divorced, is there, or what is the Marshallese custom applicable to determine who, between them, would acquire the rights over the home or residence they shared as husband and wife, if neither the husband or wife hold any rights over the property or land parcel in which the residence is situated?
2. If there is a custom that is applicable in this type of situation, does that custom, based on the evidence presented in this case, apply therein?

ANSWER:

1. According to Marshallese custom, Jien and Key resided on the weto on the basis of a lease between Jien Lekka and the Alab and Senior Dri Jerbal of the weto. Jien Lekka was granted authority to construct a house on the weto for the purpose of living with his wife, Key Kaiko, and their children under the aforementioned lease between Jien Lekka and the Alab and Senior Dri Jerbal of the weto.
2. The applicable Marshallese custom of *Amnak* or to reside, on the basis of the lease, was granted to Jien, thereby giving Jien the right to build on the land so they (Jien and Key), can reside on the land with their children. When they separated, Jien left the residence and allowed, and was okay with, Key staying there and taking care of their children. Jien, however, had another agreement with Key in that she would have to leave the house once she has a husband or is remarried.

Dated: 7 September 2021.

_____/s/
Hon. Grace L. Leban
Presiding Judge, TRC

_____/s/
Hon. Nixon David
Associate Judge, TRC

_____/s/
Hon. Milton Zackios
Pro Tem, Associate Judge, TRC