

ANJETOB and DRIEO, Plaintiffs

v.

TAKLOB, NEMILLE, and Others, Defendants

Civil Action No. 207

Trial Division of the High Court

Marshall Islands District

August 31, 1968

Action to upset determination of land ownership by an *iroij elap* concerning lands under his control. The Trial Division of the High Court, E. P. Furber, Temporary Judge, held that where so many years had passed since the original determination had been made there was a presumption that the determination was proper.

1. Marshalls Land Law-"Iroij Elap"-Powers

Determinations by an *iroij elap*, with regards to his lands are entitled to great weight and it is to be supposed that they are reasonable unless it is clear they are not.

2. Marshalls Land Law-"Iroij Elap"-Powers

Where so many years had passed since an *iroij's* decision as to succession to certain land the presumption that his determination was reasonable and proper was reinforced by a presumption analogous to the "presumption of grant" or "doctrine of lost grant".

---

FURBER, *Temporary Judge*

FINDINGS OF FACT

1. By an arrangement approved by the then ruling *iroij elap* of the lands in question and recognized by the Japanese authorities well before the end of the Japanese administration, the descendants of Kanaki were excluded from succession to the positions of *alab* and senior *dri jermal* of these lands.

2. The plaintiffs have failed to prove their claim that *Leroij Telinej* ever re-established any rights of ownership in the lands in question in the descendants of Kanaki.

OPINION

[1] This is an action in which the plaintiffs seek to have the court upset the clearly expressed determination of the acknowledged *iroij elap* of lands under the Marshallese system of land ownership as to the holding of subordinate rights in lands under him. The court has repeatedly held that determinations by an *iroij elap* (which is an equivalent term to that of *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 they are not. *Limine v. Lainej*, 1 T.T.R. 107, 231, 595. *Lalik v. Lazarus S.*, 1 T.T.R. 143. *Lalik v. Elsen*, 1 T.T.R. 134.

In this instance the exact reasons for *Iroij Lokoboj Loeak* to approve excluding the descendants of Kanaki from the

succession have not been shown, but it is clear that they were excluded long ago and this was acquiesced in by all those then directly concerned. There is some evidence that some of Kanaki's descendants, for whom the plaintiffs make claim, were permitted to make occasional use of the lands after that, but the court considers this understandable as a matter of common accommodation between relatives under Marshallese custom without necessarily showing acknowledgment of any rights in the lands.

[2] So many years have now gone by since *Iroij* Lokoboj Loeak's exclusion of the descendants of Kanaki from the succession that the presumption that his determination was reasonable and proper is reinforced by a presumption analogous to the "presumption of grant" or "doctrine of lost grant", discussed in the opinion in *Kanser v. Pitor* and *Kanser v. Enita*, 2 T.T.R. 481.

Under the circumstances the court considers that there is nothing unreasonable about the present *Iroij Elap* Albert Loeak's obvious position or determination that the plaintiffs had no rights in the lands in question at the time the Trust Territory Government purchased rights in them. That determination is therefore controlling.

#### JUDGMENT

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

1. As between the parties and all persons claiming under them, the plaintiffs Anjetob and Drieo and the other descendants of Kanaki, for whom the plaintiffs claim in this action, had no rights of ownership, as *dri jermal* or prospective *alab* or otherwise, in the following lands or any of them at the time the Trust Territory Government purchased rights in them, vis:-

Lobatrear *wato*,  
Lobatrelik *wato*,

Mertakrear *wato*, and  
Mertakrelik *wato*,  
all four *wato* being located on Kwajalein Atoll in the  
Marshall Islands District.

2. The plaintiffs are therefore not entitled to share in the purchase money paid by the Trust Territory Government for rights in said *wato* and none of the defendants owe either plaintiff, or any of those for whom the plaintiffs claim, anything.

3. The temporary injunction issued in this action August 21, 1964, is hereby dissolved.

4. The defendants Taklob and Neimille are awarded such costs, if any, as they may have had which are taxable under the first sentence of Section 265 of the Trust Territory Code, provided they file a sworn itemized statement of them by December 2, 1968; otherwise no costs will be allowed. Each plaintiff is liable for the full amount of the costs herein awarded, but the defendants may collect that full amount only once.

5. Time for appeal from this judgment is extended to and including December 2, 1968.