

glected to take advantage of the proceedings available to him under the Trust Territory Code to enforce this judgment by means of an order in aid of judgment, execution and levy, or other appropriate proceedings, can in no way entitle him to ignore the judgment and bring this action. He may still take steps to enforce the Community Court judgment—he cannot maintain this suit.

Accordingly, it is ordered, adjudged, and decreed that this action be and it is hereby dismissed with prejudice.

JEMBA BEKLUR, Plaintiff

v.

LIJABLUR, Defendant

Civil Action No. 172

Trial Division of the High Court

Marshall Islands District

April 24, 1964

Action to determine *alab* rights in certain *wato* on Rairok Island, Majuro Atoll. The Trial Division of the High Court, Chief Justice E. P. Furber, held that where *iroij erik*, with approval of *iroij lablab*, gave land in question as *kitre* to his wife, with understanding it should pass to their adopted daughter on wife's death, other members of wife's *bwij*, including adopted son, acquired no property rights therein.

1. Marshalls Land Law—"Kabijukinen" Land

Under Marshallese custom, if land is traditional family or *kabijukinen* land, *alab* rights pass down in family *bwij*.

2. Marshalls Land Law—"Kitre"

Under Marshallese custom, where land is given by individual to his wife as *kitre*, other members of her *bwij* acquire no property rights therein.

3. Marshalls Land Law—"Kitre"

Under Marshallese custom, an *iroij erik* and his wife are free to arrange that *alab* rights in *kitre* should pass down to their adopted daughter.

4. Marshalls Land Law—"Dri Jerbal"—Establishment

Under Marshallese custom, where adopted daughter of *iroij erik* receives *alab* rights in land and also is expected to look out for her

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brother by adoption, he is considered to have *dri jermal* rights in land under her, along with her relatives by blood who have been actually using land for some time.

FURBER, *Chief Justice*

FINDINGS OF FACT

1. The land in question was given by Libonju, as *iroij erik*, with the approval of *Iroij Lablab Jebrik* Lukutwerak, to Libonju's wife, Lijironean, as "*kitre*" with the understanding, agreed to by Lijironean, that it should pass on her death to the defendant Lijablur.

2. Libonju directed that Lijablur should take care of her brother by adoption, Jemba.

3. Whatever *alab* rights Beklur may have exercised in this land during his lifetime were only as acting *alab* on behalf of Lijablur, who was absent from the atoll where the land is situated for a considerable time.

OPINION

The plaintiff's principal claim in this action is that the *alab* rights should pass down in Lijironean's *bwij*, except that his father, Beklur, was the last surviving blood member of that *bwij* and therefore on Beklur's death the rights passed to Jemba as his true son.

Both Jemba and Lijablur were adopted by Lijironean. At least Jemba was also adopted by Lijironean's husband, Libonju; and Lijablur was either adopted by Libonju (as Jemba claims) or was his true daughter (as Lijablur claims). In any event, it is clear that Libonju and Lijironean expected Jemba and Lijablur to cooperate fully as adopted brother and sister, in accordance with Marshall-ese custom, just as Lijablur and her adopted mother's brother, Beklur, appear to have done very harmoniously during Beklur's lifetime. It is therefore most regrettable,

and contrary to good Marshallese practice, for either one of them to try to push the other out of the land in question.

[1-4] The trouble with the plaintiff's basic claim is that it assumes that the land was traditional family or "*kabijukinen*" land when it was under Lijironean as *alab*, but as determined in the first finding of fact, this was given her by her husband, not as "*kabijukinen* land" but as "*kitre*", in which the other members of her *bwij* acquired no property rights. She and her husband were accordingly free to arrange, as they did, that the *alab* rights should pass down to Lijablur. Since, however, Lijablur was clearly expected to look out for her brother by adoption, Jemba, it appears to the court that he must be considered to have *dri jermal* rights in the land under Lijablur, along with Lijablur's relatives by blood who have been actually using it for some time, and concerning whose rights there had been no dispute in this action. For a very brief discussion of *kitre* property, see "Land Tenure Patterns, Trust Territory of the Pacific Islands", Vol. 1, p. 40.

JUDGMENT

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

1. As between the parties and all persons claiming under them, the *alab* rights in Komlal and Jabonbar *wato* on Enenelib Island attached to Rairok Island, Majuro Atoll, Marshall Islands District, are held by the defendant Lijablur, who lives on Djarrit Island, Majuro Atoll, and the plaintiff Jemba, who lives on Majuro Island, Majuro Atoll, is one of the *dri jermal* under the defendant Lijablur as *alab*, along with Lijablur's blood relatives whose *dri jermal* rights are not disputed in this action.
2. No costs are assessed against either party.