

BAULOL and NEPTALI, Plaintiffs

v.

HELKENA LANIKIEO, Defendant

Civil Action No. 280

Trial Division of the High Court

Marshall Islands District

March 26, 1969

Action to determine *Alab* and *Dri Jermal* on Rita Island, Majuro Atoll. The Trial Division of the High Court, R. K. Shoecraft, Chief Justice, held that where determination of *Iroi Erik* was not shown to be improper or contrary to Marshallese custom, such determination would not be upset by court.

1. Marshalls Land Law—"Iroi Erik"—Limitation of Powers

Rights once established in accordance with Marshallese custom, and concurred in over the years by successors to the *Iroi* who established those rights, should not be upset by the courts without a showing of strong cause, such as that the establishment of those rights by the *Iroi* was a flagrant or arbitrary abuse of his authority under Marshallese custom.

2. Marshalls Land Law—"Iroi Erik"—Limitation of Powers

Where plaintiffs neither showed that *Iroi* abused his authority in establishing rights nor that defendant's ownership of such rights were contrary to Marshallese custom, then such rights would not be upset.

SHOECRAFT, *Chief Justice*

FINDINGS OF FACT

1. Defendant, Helkena Lanikieo, entered upon and commenced clearing the lands known as Alwal and Loene *Watos*, Rita Island, Majuro Atoll, in 1951, with permission of *Iroi Erik* Tel.

2. Defendant's designation as *Alab* and *Dri Jermal* of said *Watos* is recognized and approved by the present *Iroi Erik*, Loton.

3. Plaintiffs have not exercised the rights of *Alab* or *Dri Jermal* on said *Watos* since at least 1951.

4. Plaintiffs were expelled from said land as a result of a dispute between them and *Iroi Erik* Tel.

5. *Iroij Erik* Tel, on November 9, 1959, confirmed his designation of defendant as *Alab* and *Dri Jerbal* of *Alwal Wato* in the District Land Office at Majuro.

OPINION

This action involves the ownership of *Alab* and *Dri Jerbal* rights in the *watos* known as *Alwal* and *Loene*, on *Rita Island*, *Majuro Atoll*.

The plaintiffs claim that they are entitled, by birth, to exercise the *Alab* and *Dri Jerbal* rights in the *watos* in question, and under the usual Marshallese custom this is true. However, the evidence shows that, as a result of a dispute with *Iroij Erik* Tel (now deceased), plaintiffs, or their predecessors, were expelled from the land and that they agreed to leave the said land never to return.

The evidence further shows that the entry of defendant on said *watos* was by the authority of *Iroij Erik* Tel and the then *Alab*, *Julios*, and in 1959 after the death of *Alab* *Julios*, *Iroij Erik* Tel designated defendant as *Alab* and *Dri Jerbal* of said *watos*. The present *Iroij Erik*, *Loton*, testified that he has complied with the "will" of his predecessor, *Tel*, and that he recognizes defendant as the rightful owner of *Alab* and *Dri Jerbal* rights to said *watos*.

[1,2] It is believed that rights once established in accordance with Marshallese custom, and concurred in over the years by successors to the *Iroij* who established those rights, should not be upset by the Courts without a showing of strong cause, such as that the establishment of those rights by the *Iroij* was a flagrant or arbitrary abuse of his authority under Marshallese custom. The plaintiffs here have made no such showing, nor have they sustained the burden of proving that defendant's ownership of *Alab* and *Dri Jerbal* rights in said lands is contrary to Marshallese custom.

JUDGMENT

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

1. As between the parties and all persons claiming under them, the *Alab* and *Dri Jerbal* rights in the *watos* of Alwal and Loene, located on Rita Island, Majuro Atoll, are held by Helkena Lanikieo.

2. The rights of the parties are subject to the Marshallese system of land law and nothing in this judgment shall prevent those having the *Iroi* *Lablab* powers over Alwal and Loene *watos* from considering any change in these rights which should be made for good cause in accordance with Marshallese customary land law.

Costs are assessed against the plaintiffs.

MOSES S. WALKER, Plaintiff

v.

ROBERT KINNEY, Defendant

Civil Action No. 285

Trial Division of the High Court

Mariana Islands District

April 28, 1969

Appellate Court Opinion—5 T.T.R. 87

Action for damages for injuries resulting from an assault. The Trial Division of the High Court, R. K. Shoecraft, Chief Justice, held that in order to recover punitive damages the plaintiff would have to show compensatory damages and in the absence of such showing no punitive damages would be allowed and also where no compensatory damages were shown court would award plaintiff only nominal damages.

1. Civil Procedure—Demand for Trial

The effect of defendant's demand for trial was to put in issue every allegation of the plaintiff.

2. Torts—Damages—Punitive Damages

Punitive damages depend upon the existence of compensatory damages.