

ly and with the intent to injure the plaintiff, we may not award punitive damages. Punitive damages are usually an amount in excess of proven compensatory damages, and punitive damages are awarded merely as punishment to prevent the defendant and others from committing the same offense or a like offense. The Court will not presume the existence of malice in the face of direct testimony that immediately following the incident the defendant expressed regret for his actions and offered to apologize to the plaintiff. Because the evidence shows that the plaintiff was struck by the defendant and that he did in fact suffer some injury, this Court must find in favor of the plaintiff. The Court must decline to award any punitive damages and, since there are no monetary damages shown or proved or in evidence here, the Court will award the plaintiff nominal damages in the amount of one dollar (\$1.00). Costs of suit, ordinary costs, that is, as authorized by the Trust Territory Code, are taxed to the defendant.

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YOKOB BAILELE, Plaintiff

v.

SERAI and BINA, Defendants

Civil Action No. 333

Trial Division of the High Court

Marshall Islands District

May 22, 1969

Action to determine *Iroij Erik* rights on Arno Atoll. The Trial Division of the High Court, R. K. Shoecraft, Chief Justice, held that on Arno Atoll the *Alab*, if there was only one *Alab* on the *wato*, could select the *Iroij Lablab* and the *Iroij Lablab* so selected had the power to name the *Iroij Erik* or could act as *Iroij Erik*.

**Marshalls Land Law—"Iroij Lablab"—Powers**

On Arno Atoll, if there is only one *Alab* on a particular *wato*, that *Alab* may select the *Iroij Lablab* for that *wato* and the *Iroij Lablab* so selected has the right to designate the *Iroij Erik*, and such *Iroij Lablab* may act as the *Iroij Erik*.

SHOECRAFT, *Chief Justice*

FINDINGS OF FACT

1. Defendant, Bina (also known by the more formal name of Labina), is *Leroij Lablab* of Monpel and Jobwor *watos*, located on Ijoen, Arno Atoll, Marshall Islands, having been elected as such by Serai (sometimes spelled "Jerai"), who is the *alab* on said *watos*.

2. Defendant, Bina, as *Leroij Lablab* under Marshallese custom, has the authority to designate the *Iroij Erik*, and her continuation of herself as *Iroij Erik* on said *watos* is proper under the custom.

3. Plaintiff, Yokob Bailele, performed the functions of *Iroij Erik* on said *watos* on behalf of his mother, Ada, but his authority to so act terminated upon the death of his mother.

OPINION

This action involves the *Iroij Erik* rights to Monpel and Jobwor *watos* in Arno Atoll, the plaintiff contending that money which should be paid to himself as *Iroij Erik* on said *watos* is being wrongfully paid by Serai, the *Alab*, to Bina. Plaintiff contends that he is the rightful *Iroij Erik* on said *watos* since his mother, Ada, was *Iroij Erik* and he has acted on her behalf to collect the *Iroij Erik* share of the proceeds of said *watos*. However, as is the custom on Arno Atoll, if there is only one *Alab* on a particular *wato*, that *Alab* may select the *Iroij Lablab* for that *wato* and the *Iroij Lablab* so selected has the right to designate the *Iroij Erik*. The testimony of the *Alab*, Serai, is unequivocal that she has selected Bina as *Leroij Lablab* (the female equivalent of *Iroij Lablab*) of said *watos*. Bina, as *Leroij Lablab*, has not named another person to act as *Iroij Erik*, but has continued herself as *Iroij Erik*. The plaintiff has failed to sustain the burden of proving that the defendant Serai's payment of the *Iroij*

*Erik* share to the defendant Bina is improper and not in accordance with accepted Marshallese custom on Arno Atoll.

## JUDGMENT

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

1. As between the parties hereto and all persons claiming under them, the *Iroij Erik* rights in the *watos* of Monpel and Jobwor, Ijoen Island, Arno Atoll, are held by Bina, subject to the Marshallese system of land law as generally accepted on Arno Atoll.

Costs are assessed against the plaintiff.

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In the Matter of the Estate of JOSE FUYIHIRA, Deceased

Civil Action No. 161

Trial Division of the High Court

Mariana Islands District

July 7, 1969

Petition for distribution of estate. The Trial Division of the High Court, R. K. Shoecraft, Chief Justice, held that where person in question had been missing for 25 years he was presumed to be dead.

Distribution ordered.

**Decedents' Estates—Presumption of Death**

Where person had been missing for more than 25 years he was presumed to be dead.

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SHOECRAFT, *Chief Justice*

This matter came on to be heard upon the sworn petition, the land records in the Mariana Islands District Land Office, and those in the Office of the Clerk of Courts for the Mariana Islands District, and the signed consent by Carmen Sablan Reyes, also known as Carmen Sablan Fuyihira, widow of Jose Fuyihira, deceased.