

LAJIAN v. LIKEBELOK

to the *droulul* for decision. As a final resort, application may be made to this Court. Accordingly, it is

Ordered, that Masa, the successor to and representative of the defendant Saul, promptly submit the determination of his *dri jermal* rights to Lometo *Wato*, Enemanet Island, Majuro Atoll, to the plaintiff Jekron as *alab* and that if agreement is not achieved, both parties shall proceed to a settlement of questions between them in accordance with Marshallese custom.

LAJIAN, Plaintiff

v.

LIKEBELOK, Defendant

Civil Action No. 118

Trial Division of the High Court

Marshall Islands District

July 29, 1971

Motion for order in aid of judgment. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that once a person has been recognized as *dri jermal* he cannot be put off the land without the consent of all members of the *bwij* and the approval, for good cause, of the *iroij erik* and the *droulul*.

1. Marshalls Land Law—"Alab"—Limitation of Powers

Once the *dri jermal* rights have been determined, an *alab* may not cut off those rights, the *dri jermal* may occupy the land and the *alab* may not put him off the land.

2. Marshalls Land Law—"Dri Jermal"—Suspension of Rights

Once a person is recognized as *dri jermal* he cannot be kept off the land without consent of all members of the *bwij* nor without the approval, for good cause, of the *iroij erik* and the *droulul*.

TURNER, *Associate Justice*

The judgment which plaintiff now seeks to enforce in his behalf was entered without finding of facts or opinion on February 9, 1961. At the hearing on the motion, the

parties were present with Ellen Jorkan representing the plaintiff and Levi L., counsel for the defendant. The judgment held that plaintiff and those he represented—his sister Marpe, and Jobkaien and Betwel, adopted children of plaintiff's uncle, were *dri jermal* of Uninekjab wato, Djarrit Island, Majuro Atoll.

The decision, however, without explanation as previously indicated, limited the plaintiff's *dri jermal* rights by the holding:—

“. . . but these rights are subordinate to the rights of the *bwij* and do not necessarily carry with them any right to share in the rental of any part of this *wato*.”

The *bwij* referred to in the judgment was “defendant Likebelok's *bwij*”. Defendant was the *alab* of the land in question. The land, being in Rita Village of the Marshall Islands district center, is extensively developed and the *bwij* receives substantial rental income. Because of the use of the land, no copra is made on it; such coconut trees as there are on it are used for food.

This income is divided into three shares: one for the *iroij erik*, one for the *alab*, and the third paid to Limakuki, described by the defendant *alab* as the “senior *dri jermal*”. In any event, plaintiff, those claiming under him and those he represents, have not shared in the rental income.

Plaintiff admits he has not followed the directions in the judgment to assert his entitlement to a share of the rental income. The Court said in this respect:—

“The question of any such sharing is a matter of negotiation in the first instance with the *alab* and, if agreement cannot be reached with the *alab*, then the matter should be taken up with the *iroij erik* and, if necessary, with those holding the *iroij lablab* powers over that land.”

In view of the history of the relationship between plaintiff, as *dri jermal*, and defendant, as *alab*, since the entry of judgment, it would be futile for the plaintiff to attempt to negotiate with the *alab*. She has refused the plaintiff

permission to enter the land to complete the construction of his house on it.

This Court, however, in view of the judgment cannot now enter an order concerning plaintiff's entitlement to share in the rental income until a determination has been made by the *droulul*, or its executive committee, the 20-20, which largely holds *iroij lablab* power over land once controlled by *Iroij Lablab* Jebrik. *Jatios v. Levi*, 1 T.T.R. 578.

Although plaintiff must pursue his remedy under the custom with regard to sharing the rental income, the situation is altogether different with regard to his *dri jermal* right to enter the land. This has been denied to him by the defendant *alab* largely for the reason she declines to recognize or at least understand the significance of the judgment holding the plaintiff and those he represents to be *dri jermal*.

Plaintiff asked defendant for permission to build a house on the land. This right she denied him, allegedly because she believed the judgment was not in force and therefore she could not follow the order of the court. Plaintiff then got permission of the *iroij erik* to build on the land, but before he completed the house, the defendant and the *eroij erik* went to the District Court where they obtained a note from the presiding judge telling plaintiff to desist from further building until the matter was settled in court.

[1] Once the *dri jermal* rights have been determined, an *alab* may not cut off those rights. The *dri jermal* may occupy the land and the *alab* may not put him off the land. It was said in *Jatios v. Levi*, *supra*, at 1 T.T.R. 587:—

“The court completely rejects the appellant's claim that an *alab* may put *dri jermal* off the land without obtaining anyone else's consent”

[2] This Court having held the plaintiff, Lajian, to be *dri jermal*, he cannot be kept off the land nor prevented from completing his house without consent of all members

of the *bwij* (and plaintiff and those he represents are members of the *bwij*) nor without the approval, for good cause, of the *iroij erik* and the *droulul*. Accordingly, it is

Ordered, that defendant Likebelok be and hereby is restrained from interfering with plaintiff's use and occupancy of a portion of Uninekjab *wato*, Rita Village, Majuro Atoll, and that plaintiff may complete construction of his house on the premises.

Further ordered, that plaintiff is denied relief for his claim for a share of rental income from the land but that he may renew his claim to this Court after a determination of his entitlement by the *droulul* on "*Jebrik's side*" of Majuro Atoll.

**In the Matter of the Adoption of TIANNA SAMUEL,
a Female Child**

Civil Action No. 1189

Trial Division of the High Court

Ponape District

June 22, 1971

Review of record of District Court in adoption case where no appeal was taken. The Trial Division of the High Court, H. W. Burnett, Chief Justice, held that the consent of the natural mother to the adoption cannot be withdrawn once the decree has been entered.

1. Illegitimate Children—Generally

The father of an illegitimate child has no legal claim to it.

2. Domestic Relations—Adoption—Consent of Natural Mother

In the absence of a clear showing of fraud, duress, or lack of jurisdiction in the court, the consent of a natural mother to the adoption of her child cannot be withdrawn after the decree has been entered.

BURNETT, *Chief Justice*

By decree of the Ponape District Court, entered December 29, 1970, Tianna Samuel, an infant, was adopted by