

The fact that the *Albert Hartman* decision resulted in corner boundary markers of one side of the land in dispute in this case requires our acceptance of the 1969 survey which used the *Hartman* corners as the proper starting points for the Nesok boundary.

The evidence is much more certain in this case than it was in Civil Action No. 556, 5 T.T.R. 504, that the Nesok boundary surveyed by the Office of Land Management represents the correct lines between plaintiff's property and the municipal land.

Ordered, adjudged, and decreed:—

1. That the dividing line between plaintiff's land known as Nesok and the municipal land, designated Lot No. 60393, is that which is shown by Land Management Drawing No. 6032/69.

2. That plaintiff has no right, title and interest in land which includes the present community office building.

3. That the municipality has no right, title and interest in plaintiff's land on which the community school building is located except as plaintiff may permit its continued use by the municipality and, in the event plaintiff terminates permissive use, plaintiff shall either recover occupancy of the portion so used or shall be entitled to reasonable rental for its continued use.

MO J., Successor to LANJEN, Plaintiff

v.

BWIJTAK, and Others, Defendants

Civil Action No. 113

Trial Division of the High Court

Marshall Islands District

November 4, 1971

Motion for order in aid of judgment. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that where defendant cut copra with

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the permission of the *alab* and acquiescence of the *iroij lablab* he was obligated to pay them their share of the proceeds.

Marshalls Land Law—Use Rights

Defendant's interest, if any, in land in question was that of a worker who could cut copra with the permission of the *alab* and the acquiescence of the *iroij lablab* and, in accordance with custom, he was required to pay the shares due those holding superior interests.

<i>Assessor:</i>	KABUA KABUA, <i>Presiding Judge of the District Court</i>
<i>Interpreter:</i>	OKTAN DAMON
<i>Reporter:</i>	NANCY K. HATTORI
<i>Counsel for Plaintiff:</i>	ERWIN BOLLONG
<i>Counsel for Defendant</i>	
<i>Bwijtak:</i>	PRO SE

TURNER, *Associate Justice*

REPORT OF HEARING

Motion for order in aid of judgment was made by Mo J., successor to Lanjen as *iroij lablab* for the first eight *wato* mentioned in Civil Action No. 113, *Lanjen v. Namilur and Others*, not reported, for enforcement of the judgment against Bwijtak with respect to Depdep (also known as Drebren) an island adjacent to Lukonwor Island (and erroneously described as a *wato* on Lukonwor Island in Civil Action No. 113), and Bokanman *Wato* on Lukonwor Island, both in Mili Atoll. Civil Action No. 113, entered February 9, 1961, superseded and corrected judgments involving the same parcels of land and some of the same people in Civil Action No. 68, *Laibon v. Namilur*, 2 T.T.R. 52, entered May 12, 1959, and in Civil Action No. 80, not reported and also entered May 12, 1959. Hearing on this motion was held on Nalu Island, Mili Atoll.

SUMMARY OF FACTS

The defendant Bwijtak was not a party named in the three prior judgments but he now claims to have succes-

sor interests to the defendant Jera (also spelled Sera) who was held to be the *leroi* *lablab* of the thirteen *wato* mentioned in the judgment in Civil Action No. 68. Two of the thirteen are those which are the subject of this motion for order in aid of judgment. Bwijtak readily admitted he had not paid the *iroi* *lablab* share of the copra he cut and sold from Depdep and Bokanman during the last three years. The reason for this withholding was because of his claim under Jera and the judgment in Civil Action No. 68.

Accepting Bwijtak's statement at its face value, it is evident that he never saw, or understood, or at least failed to recognize the significance of the judgment two years later in *Lanjen v. Namilur and Others*, supra, which superseded and reversed the holding in No. 68 that Jera was the *leroi* *lablab* by the correcting decision that Lanjen was the *leroi* *lablab*.

It is clear *Iroi* *lablab* Mo is the successor to his mother, Lanjen. The evidence also indicated Rita held *alab* rights on the two *wato* and that she paid *iroi* *lablab* shares to Mo.

Bwijtak's interest, if any, in the land in question is that of a worker who may cut copra with the permission of the *alab* and the acquiescence of the *iroi* *lablab*. In accordance with the custom, he is required to pay the shares due those holding superior interests.

By his own admission, Bwijtak failed to comply with the court's judgment in Civil Action No. 113. It would be unfair to punish him for contempt for failure to comply with the judgment because Bwijtak actually was in compliance with the earlier judgment of No. 68.

Iroi *lablab* Mo and Bwijtak agreed and accordingly stipulated to the court that the value of the share withheld from Mo was fifty dollars (\$50.00). Accordingly, it is

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Ordered, that Bwijtak, having been found in contempt of this court's judgment by his failure to comply with it, shall be relieved of punishment by compliance in the future by the payment of *iroij lablab* copra sales shares to Mo J. and by the payment to Mo J. of the sum of fifty dollars (\$50.00) for past withholding.

MO JITIAM, Plaintiff

v.

LITABTOK, KEJMEN, and Others, Defendants

Civil Action No. 431

Trial Division of the High Court

Marshall Islands District

November 9, 1971

Action to determine *iroij lablab* rights for certain *wato* on Nalu Island, Mili Atoll. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that where matilineal succession was interrupted by a special arrangement which was for one generation only then matrilineal succession resumes thereafter.

1. Marshalls Custom—Succession to Titles—Generally

The normal pattern of Marshallese succession for any land interest title is by descent through the matrilineal line and when it becomes extinct, a patrilineal succession may occur for one generation and after that the interests pass in the new matrilineal line.

2. Marshalls Custom—Succession to Titles—Special Arrangements

There is no support under the custom for the theory that once there has been an "election" of *iroij lablab*, then all successors must be elected.

3. Marshalls Custom—Succession to Titles—Special Arrangements

When there is a special arrangement for succession, then matrilineal succession resumes thereafter and it does not follow that if there is one special arrangement, all succession thereafter shall be by special arrangement.