TAINA, Plaintiff

v.

NAMO, Defendant

Civil Action No. 54

Trial Division of the High Court

Marshall Islands District

May 7, 1959

Action to determine *dri jerbal* rights in land on Namorik Island, Namorik Atoll. The Trial Division of the High Court, Chief Justice E. P. Furber, held that acting *alab* cannot cut off *dri jerbal* rights of long standing without action of *iroij elap*.

1. **Marshalls Land Law—"Dri Jerbal"—Revocation of Rights**
   Whether or not party is responsible for actions of those under her who grossly disregarded their obligations to acting *alab*, party's *dri jerbal* rights of long standing cannot be cut off by *alab* without action of *iroij elap*.

2. **Marshalls Land Law—Use Rights**
   Parties holding *alab* and *dri jerbal* rights in same land are under continuing obligation of cooperation with each other and with the *iroij elap*.

FURBER, *Chief Justice*

This matter came on to be heard at the April–May 1959 sitting of the High Court on Uliga Island, Majuro Atoll, Marshall Islands District. Neither party was present nor represented at the call of the list on the opening day of the sitting, and neither had advised the Clerk of Courts whether they desired to be heard further. Associate District Court Judge Solomon, who heard the case as master, reports the parties have indicated they leave it to the court as to whether any further hearing is necessary. The master's report is accordingly approved.

SUMMARY OF FACTS

It appears from the master's report and the report of the evidence taken by him, that there is no dispute about the facts in this case, and that the defendant Namo, as acting *alab* (in the absence of his older brother, the true *alab*), is claiming the right to terminate the plaintiff Taina's *dri jerbal* rights of long standing in the land, simply on the ground that Taina acquired her rights through her grandmother's adoption, while Namo inherited his admittedly through blood relationship. There is strong inference from the evidence, however, that Namo is making this claim primarily because two of those claiming under the plaintiff Taina, namely Allo and Labin, have grossly disregarded their obligations to him, and have interfered with the normal exercise of certain of Namo's rights as acting *alab*. The gross disregard is clearly shown by the evidence.

CONCLUSIONS OF LAW

[1] 1. This action involves the question of an *alab's* right to terminate the rights of a *dri jerbal* under him in a piece of land on Namorik Atoll in the Ralik Chain of the Marshall Islands, without any action by the *iroij elap* being shown. The court holds that even if the plaintiff was responsible for the actions of those under who grossly disregarded their obligations to defendant as acting *alab*, still the plaintiff's *dri jerbal* rights of long standing in the land in question cannot be cut off by the *alab* without the action of the *iroij elap*, and his actually depriving the plaintiff of the use of the land since 1953, violated her rights.

[2] 2. No evidence is included in the master's report as to what provocation, if any, there may have been for the disregard by those under the plaintiff of their obligations to the defendant; nor is there any evidence included

as to the extent, if any, to which the plaintiff was responsible for the improper actions of those under her. The court therefore expresses no opinion as to whether the actions of those under the plaintiff are, or are not, sufficient to justify the *iroij elap's* terminating the plaintiff's rights in the land. The court merely holds in this action that the plaintiff's rights could not properly be cut off by the defendant without the action of the *iroij elap*. Both the defendant and certain of those under the plaintiff appear clearly to have disregarded their obligations, seeking to impose punishment or loss of rights upon the other party on their own responsibility instead of submitting the matter to the *iroij elap* and obtaining his determination. Attention of both parties is directed to their continuing obligation of cooperation with each other and with the *iroij elap*.

JUDGMENT

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

1. As between the parties and all persons claiming under them the plaintiff Taina, who lives on Namorik Island, has *dri jerbal* rights in Mwaret *wato* on Namorik Island, Namorik Atoll, Marshall Islands District, and the defendant Namo, who also lives on Namorik Island, is the acting *alab* of that *wato*.

2. The defendant Namo is enjoined and prohibited from interfering with the exercise of the plaintiff Taina's *dri jerbal* rights in the land in question, unless and until the termination or modification of her rights is authorized by the *iroij elap* of the land in accordance with Marshallese customary law.

3. The plaintiff Taina and all persons claiming under her are enjoined and prohibited from interfering with the normal exercise of the defendant Namo's rights in the land, as acting *alab*, and specifically from interfering with

his harvesting the normal food needs of himself and his family from this land, unless and until the termination or modification of his rights in the land is authorized by the *iroij elap* in accordance with Marshallese customary law.

4. Both parties are expected to cooperate in determining the net amount of damages, if any, due to either from the other because of interference by either with the other's rights in this land. If they are not able to agree within four months from today on the net amount of damages due either of them, either party may apply to this court by motion for a determination of the amount due.

5. No costs are assessed against either party.

6. Time for appeal from this judgment is extended to and including August 7, 1959.