

3. Both parties are required to make a sincere effort to agree as to the use and control of the said lands according to traditional Yapese custom in solving disputes of this kind. If they are unable to reach such agreement within six (6) months from this date, either party may ask the court by written motion to make a final determination as to the use and control of the said lands.

4. No costs are assessed against any party.

JOAB J. (sometimes written JOAB S.), Plaintiff

v.

LABWOJ, Defendant

Civil Action No. 125

Trial Division of the High Court

Marshall Islands District

December 7, 1965

See, also, 2 T.T.R. 172

Hearing on motion for further order in aid of judgment, and incorporating motion for injunction. In earlier judgment by Trial Division of the High Court, plaintiff was recognized as *iroij erik* and defendant was recognized as holding *alab* rights on certain *wato* on "Jebrik's Side" of Majuro Atoll. Judgment had not been recognized by defendant, who refused to cooperate with plaintiff as required by Marshallese custom. The Trial Division of the High Court, Chief Justice E. P. Furber, held that defendant was enjoined from exercising *alab* rights on the land during his lifetime. Acting *alab* rights for the remainder of defendant's lifetime were granted to relative of defendant, who agreed to cooperate with plaintiff and recognize plaintiff's *iroij erik* powers over the land.

Motions granted.

Assessor:

Interpreter:

Counsel for Plaintiff:

Counsel for Defendant:

JUDGE SOLOMON

LANGINMO JACOB

LEVI, L.

Acting for himself on December 1;
not present or represented December 7, 1965

FURBER, *Chief Justice*

It was agreed that Tomijwa having died since the original judgment in this action entered February 9, 1961, the defendant Labwoj had succeeded Tomijwa as *alab*.

The court pointed out that this was the third time the defendant had been brought before the court for failure to comply with the judgment in this action, that on August 13, 1964, he had been adjudged in contempt but that punishment had been suspended on his promise to comply, that on March 1, 1965, he had again been adjudged in contempt and that time committed to jail. The defendant Labwoj admitted he had not recognized the plaintiff Joab as *iroij erik* nor paid the amount due Joab under the judgment entered August 13, 1964, and that he had already been in jail for his refusal to do so. He stated flatly that he never would recognize Joab or cooperate with him as *iroij erik*, and was ready to accept whatever punishment the court wished to order rather than do so.

In response to questions by the court, Labwoj stated that he had coconut and breadfruit trees, pandanus, and about seven dwelling houses with accompanying cook-houses, shower houses and toilets on the land, that he was living in one of the houses and the rest were occupied by his relatives, but that he would leave the land completely rather than recognize Joab. The court then inquired as to the possibility of obtaining cooperation with the plaintiff through some of the defendant's relatives on the land. Plaintiff's counsel stated that he believed defendant's grandchild Drori would be willing to cooperate with the plaintiff. In response to further questions by the court, the defendant stated that Likine, the wife of Tarkio and daughter of the defendant's niece, was next in line to him in the female line, but that he considered his grandchildren Anlek and Mutak as his successors,

that Anlek was over thirty years old but lived on the defendant's land in Jaluit, that Mutak was living with the defendant but was only sixteen years old. Tarkio, who was present in the courtroom, stated he believed that Drori and his sisters and brothers including Likine (f), Lomok (m), and Jirok (m), were ready to recognize Joab as *iroij erik* and cooperate with him, and that Joab had received his share from them. The court thereupon announced that in view of all of the circumstances, including the defendant's persistent and long-continued refusal to comply with his obligations under the original judgment entered February 9, 1961, and the later judgment entered August 13, 1964, in this action, the court would be ready to enjoin the defendant from personally exercising his *alab* rights in the land, but that rather than order him to vacate the property, the court would be willing to appoint a relative of his as acting *alab*, provided a suitable relative was willing to arrange with the plaintiff to serve as acting *alab* and cooperate with the plaintiff as *iroij erik*. Tarkio stated he would take this matter up with his wife Likine and see if such an arrangement could be made, and that he believed it could be. The hearing was thereupon suspended until 8:30 a.m., December 7, 1965, with the consent of the plaintiff and his counsel, and the defendant Labwoj stated that he would leave the land.

The hearing was resumed December 7 with the plaintiff Joab, his counsel Levi L., Likine, and Tarkio present. Labwoj was absent and the plaintiff's counsel, Levi, stated that Labwoj had reported to him that he was not coming. The plaintiff Joab admitted he had received some of the *iroij erik* share from those on the land while Labwoj was in jail and that this part of his share had been brought to him by Tarkio. He stated that if Likine and Tarkio would cooperate with him, it was all right with him for

Likine to be appointed acting *alab*. Likine stated that she was willing to so act and cooperate with Joab as *iroij erik*; she and Tarkio then signed and filed in this action a statement which plaintiff and his counsel stated was satisfactory.

The court thereupon issued the following:-

INJUNCTION AND ORDER IN AID OF JUDGMENT:-

Until further order of this court, it is

Ordered as follows : –

1. The defendant Labwoj is enjoined and prohibited from exercising any *alab* rights over Terakwot *wato*, located on Darrit (sometimes spelt Djarrit) Island, Majuro Atoll.

2. Likine, who lives on Berakwot *wato*, is hereby appointed acting *alabof* said *wato* and authorized to exercise all *thealab* powers held by the defendant Labwoj, during the rest of Labwoj's lifetime.

3. The defendant Labwoj and all persons claiming underhimare enjoined and prohibited from interfering in any way with the exercise of the *alab* powers over Berakwot *wato* by Likine as acting *alab*.