LEROIJ REAB AMON, Plaintiff

v.

LABILIET LOKANWA, Defendant

Civil Action No. 15-73

Trial Division of the High Court

Marshall Islands District

January 21, 1974

Dispute over right to *iroij erik* interests in Monbod *Wato*, Ajeltake Island, "Jebrik's side" of Majuro Atoll. The Trial Division of the High Court, D. Kelly Turner, Associate Justice, held that evidence showed plaintiff was successor to *iroij erik* interests in land, and whatever interests defendant had obtained by self-help, including a court ruling in his favor as against another person, or by default by prior *iroij eriks*, could not change the rightful succession.

1. **Marshalls Land Law—"Morjinkot" Land—Generally**

   Morjinkot is a gift, by the successful *iroij lablab* in a civil war, to an outstanding warrior or his *bwij*.

2. **Judgments—Res Judicata**

   In action involving issue who had *iroij erik* rights in *wato* defendant had been determined to have *iroij erik* rights in as against a different person in a prior case, res judicata did not apply, because the parties opposing defendant in instant case were different.

3. **Marshalls Land Law—"Iroij Erik"—Succession**

   Evidence showed plaintiff was successor to *iroij erik* interests in land, and whatever interests defendant had obtained by self-help, including a court ruling in his favor as against another person, or by default by prior *iroij eriks*, could not change the rightful succession.

4. **Marshalls Custom—Succession to Titles—"Iroij" Titles Generally**

   Membership in a royal *bwij* is necessary for holders of *iroij* titles.

5. **Marshalls Land Law—"Morjinkot" Land—Generally**

   Holders of *Morjinkot* land, and their successors and *bwij*, have only *alab* and *dri jerbal* interests, so that one claiming to be a successor to a warrior granted such land cannot successfully claim the *iroij erik* interest.

6. **Marshalls Land Law—"Iroij Lablab"—Refusal to Recognize**

   Defendant was bound under the custom to recognize and comply with *iroij lablab* authority over his land and could not successfully reject all outside authority over the land including the authority of those with *iroij lablab* power.

7. **Marshalls Land Law—"Jebrik's side" of Majuro—Transfers**

   In dispute over *iroij erik* interests in *wato*, petition of all *iroij eriks* on "Jebrik's side" except defendant and his associate, seeking to cut off defendant's interests in his lands for failure to follow custom and court decisions, was too serious to decide as an incident to a land dispute; and in interests of fairness and custom the *iroij eriks* and the 20-20 should give defendant a hearing and then decide the matter, after which the court will be in a position to act.

Assessor: MORRIS JALLY, *Associate Judge, District Court*
Interpreter: OKTAN DAMON
Counsel for Plaintiff: JOHN HEINE and JELTAN LANKI
Counsel for Defendant: JETMAR FELIX

TURNER, *Associate Justice*

This is another of the several cases decided by this court in which the defendant has attempted to assert his independence of the Marshallese system of land law as it has been applied to lands defendant claims he "owns" on "Jebrik's side" of Majuro Atoll. The present case involves the conflicting claims of the plaintiff and defendant to *iroij erik* interests for Monbod *Wato* (also spelled Monbor) on Ajeltake Island, Majuro Atoll.

The defendant and Zedekiah L. litigated land interests for the same *wato*, as between themselves only. *Labiliet v. Zedekiah*, 6 T.T.R. 19. The judgment, entered June 19, 1972, held the plaintiff in that action, Labiliet, held both *iroij erik* and *alab* interests, even though Labiliet's complaint asserted he held *iroij lablab* rights for Monbod, contrary to the land control system prevailing for Jebrik Lukotworok former lands from his death in 1919. There has been no individual *iroij lablab* for Jebrik's former lands. The *iroij lablab* authority has been exercised by Jebrik's *droulul*, which during Japanese times and with the approval of that administration, was represented by the committee of 14, composed of seven *iroij eriks* and seven *alabs*. This group was succeeded after World War II at the beginning of the American administration by the 20-20 committee. For the history of the "Jebrik's side" special arrangements, see *Levi v. Kumtak*, 1 T.T.R. 36 (1953) and the affirming Appellate Division judgment. *Jatios v. Levi*, 1 T.T.R. 578.

[1] The judgment in *Labiliet v. Zedekiah*, supra, affirmed the "Jebrik's side" arrangement and denied Labiliet's claim to *iroij lablab* authority over Monbod. However, because of amended pleadings resulting from the pretrial conference, the actual issue between Labiliet and Zedekiah was which one held *alab* and *dri jerbal* rights for

Monbod. The judgment held Labiliet was *alab* because he inherited that title from his ancestors, who were given this *wato* and other lands by *Iroij Lablab* Jebrik Kable as *morjinkot* (a gift by the successful *Iroij Lablab* in Civil War to an outstanding warrior or his *bwij*). See Tobin, Land Tenure Patterns, pp. 34–37. In lieu of finding Labiliet was *iroij lablab*, as he claimed, the judgment held he was *iroij erik* for Monbod *Wato*, even though there was no testimony or other evidence relating to the finding, other than the claim to the higher title which the court denied. The defendant, Zedekiah, was held to hold *dri jerbal* rights for Monbod *Wato*.

The same parties, Labiliet, as plaintiff, and Zedekiah, as defendant, also litigated the same rights for Makije *Wato*, which adjoins Monbod. *Labiliet v. Zedekiah and Lanjen*, 5 T.T.R. 273. The Trial Court, on substantially the same facts as in *Labiliet v. Zedekiah*, supra, and also as testified to in the present case, held Zedekiah to be the *iroij erik*. This result was reversed on appeal, 6 T.T.R. 571.

The first question to be decided in the present case, is whether *Labiliet v. Zedekiah*, supra, is res judicata and therefor binding upon the parties, or whether the court may examine the claims for *iroij erik* authority over Monbod as between Labiliet and Reab? The doctrine of res judicata is defined in 50 C.J.S. Judgments, Sec. 592:—

> "(1) The judgment or decree of a court of competent jurisdiction on the merits concludes the parties and privies to the litigation and constitutes a bar to a new action or suit involving the same cause of action . . . (2) Any right, fact, or matter in issue, and directly adjudicated on, or necessarily involved in the determination . . . is conclusively settled by the judgment therein and cannot be litigated between the parties and privies. . . ."

[2] The question of *iroij erik* rights in Monbod was determined in the prior case and is again before the court, but the parties are not the same in the two cases. Reab can-

not be bound by a decision settling a dispute between Labiliet and Zedekiah, particularly in view of the fact Zedekiah did not claim the *iroij erik* interest in Monbod and did not contest Labiliet's claim to the interest of *iroij lablab* or *iroij erik.*

When the court determined the *alab* and *dri jerbal* conflicting claims, it also "threw in for good measure" by allowance of Labiliet's uncontested claim, first for *iroij lablab* authority and then, as modified subsequently, for *iroij erik* authority. There can be no doubt Reab is not precluded by the doctrine of res judicata from asserting her entitlement to *iroij erik* rights for Monbod, despite the earlier decision holding Labiliet was both *iroij erik* and *alab* as against Zedekiah.

Although Reab's complaint was not technically worded to permit relief from the former judgment, it also is permissible for her to litigate the former judgment under an "independent action" for relief from judgment as authorized by Rule 18(e), Rules of Civil Procedure. The court is guided by two decisions relating to the Trust Territory rule which has been taken from Rule 60b of the Federal Rules of Civil Procedure. These cases are *Phillip v. Carl,* 4 T.T.R. 493, and *Delmel v. Tulop,* 3 T.T.R. 469.

Reab's claim to *iroij erik* interests is in accordance with Marshallese custom of inheritance. Plaintiff is by birth and lineage in the proper line of succession to Loton, her predecessor, who succeeded Tel, who was successor to Jakeo. Jakeo, the evidence shows, was appointed by the committee of 14 and the appointment was approved by the Japanese administration, as *iroij erik* of Monbod *Wato* and other "Jebrik side" lands. No one, including Labiliet, challenged Jakeo's title until after World War II when he died in 1954.

In any event, Jakeo held title on December 1, 1941, to Monbod and in accordance with the Trust Territory code

continuing from that date all land interests, 1 TTC § 105, the interest is confirmed by statute in Jakeo and his successors. The last of these is the plaintiff, Reab.

Plaintiff's proof also demonstrates that the copra purchase book, dated March 23, 1938, just prior to termination of copra sales to the Japanese because of the impending war, listed Jakeo as the *iroij erik* for Monbod *Wato.* (Exhibit 3.) The evidence also shows that the book of interest holders dated November 8, 1947, and prepared for Jakeo that Jakeo was listed as *iroij elap* (the same title as *iroij lablab*), Zedekiah as *alab* with Likjer as successor, and Ablos as *dri jerbal* for Monbod *Wato.* No *iroij erik* is named. Likjer was designated by Labiliet, according to his testimony, to "look after the land" in his absence from Majuro prior to World War II (Exhibit 2 for the present case and Exhibit 2 for Civil Action No. 399, *Tikoj v. Liwaikan*, 5 T.T.R. 483).

[3] The court concludes all convincing evidence shows Jakeo to have been the appointed *iroij erik* and that plaintiff is the rightful successor. Whatever interests Labiliet obtained by self-help or by Tel's or Loton's default cannot change the rightful succession.

[4, 5] Labiliet's claim in the present case is a marked departure from his prior claims, not only as to Monbod, but also as to other land claims decided by this court. He no longer declares he holds the chief's title to the land, either as *iroij lablab* or as *iroij erik.* By his admission that he is a commoner and therefore not entitled to membership in a royal *bwij* (necessary for holders of *iroij* titles) he has put his claim in perspective with Marshallese custom pertaining to land acquired as *morjinkot.* Holders of this land, their successors, and their *bwij* have only *alab* and *dri jerbal* interests.

The record shows that until Jebrik Lukotworok's death, he had not appointed an *iroij erik* for Monbod *Wato.* He

declared shortly before his death he wanted his land divided among the *iroij eriks*. Where there was no sub-chief, as in Monbod, it was necessary to appoint one. This was done by the committee of 14, which with the approval of the Japanese administration acted for Jebrik's *droulul* from the 1920's until World War II.

Jakeo was selected *iroij erik*. Labiliet was away from Majuro, living variously in Jaluit and as a sailor on an English vessel, until he returned after the war. By his own account, he went to Jakeo on his return to Majuro and demanded his land back because he "owned" it. Whatever actually happened, the record does show Labiliet thereafter began collecting *alab* interests and some of the time, the *iroij erik* share of the copra sales proceeds.

That he received the *iroij erik's* share apparently was by default after Jakeo's death in 1954 because neither Tel nor Loton, the successor *iroij eriks*, enforced their entitlement to authority and copra sales shares over Monbod. It was not until the plaintiff succeeded Loton was any attempt made to limit Labiliet's control.

Labiliet and his only supporting witness both declared neither the *iroij eriks* nor the *droulul* of Jebrik had any authority over lands he "owned." This, of course, has repeatedly been held to be contrary to the special system of control of all of Jebrik's lands established in Japanese times, approved by that administration and confirmed by the many decisions of this court from 1953, when the question came before it in *Levi v. Kumtak*, supra. Labiliet's most recent attempt to ignore the Marshallese land law as it now exists for Jebrik's former lands on Majuro Atoll, was recently rejected by this court in *Taidrik Ladrik v. Labiliet and Joab Jakeo*, 6 T.T.R. 389 (1973).

[6] Despite his adamant rejection of all outside authority over "his" lands, Labiliet knows or should know he is bound under the custom to recognize and comply with

iroij lablab authority over his land whether it was exercised by one individual as was the situation until Jebrik's death in 1919, or by Jebrik's *droulul* or the committee and *iroij eriks* representing the *droulul.* The land control law should have been brought home to him in the decision in *Lobwera v. Labiliet,* 2 T.T.R. 559 (1964). In that case, Labiliet had given *alab* and later *dri jerbal* interests in Bwirrik South *Wato,* located on Laura, to Lobwera and then, on his own initiative, attempted to cut off Lobwera's interests. The transfer to Lobwera by Labiliet was confirmed in writing and then was approved by the committee of 14. This was prior to World War II. When Labiliet attempted to terminate the interests after the war, the court said at 2 T.T.R. 562:—

". . . Labiliet's gifts of the *alab* rights and later the *dri jerbal* rights in this *wato* are believed to be binding between the parties and Lobwera having acted upon the gifts in good faith and developed the land and made substantial improvements, his rights cannot be cut off without good cause, and without the consent of the person or persons exercising the *iroij lablab* powers over the land."

Labiliet, it appears from this case, at one time, recognized the exercise of authority over his lands by the committee of 14, when he obtained its approval to transfer *alab* interests. However, Labiliet neglected to obtain the approval of either Jebrik's *droulul* or the *iroij eriks* or the 20-20 when he attempted to cut off those rights, and this court held he could not do so without approval. Whether or not it was caused by the 1964 ruling against him, the fact remains that in the present case he announced his complete rejection of the authority of the *droulul* or the 20-20 or even the pre-war committee of 14 over his lands. The *iroij lablab* authority of "Jebrik's side" Labiliet now refuses to recognize.

He cannot, in this case, change the law just as he was unsuccessful in attempting to do by cutting off Lobwera's

rights. This court denied Labiliet's power to "act alone" over his own land in the case of Lobwera, and there has been no change in law or custom to justify this court from deciding any differently in the present case.

Both Labiliet and his associate Joab, in refusing to recognize the "Jebrik's side" authority over former lands of *iroij lablab*, Jebrik have been well informed by this court of their powers or lack of powers over their lands. In *Joab v. Labwoj*, 2 T.T.R. 172, 174, this court told Joab:—

> "The court is clear that such cutting off (by Joab of Labwoj's *dri jerbal* rights) which would otherwise continue indefinitely can be done only by the *iroij lablab* or those having the *iroij lablab* rights in the land and that an *iroij erik* alone cannot do so."

Both Labiliet and Joab having been ruled against by this court, they are now the only two of the "Jebrik's side" *iroij eriks* who do not join with the 20-20 in making determinations as to Jebrik's former lands.

[7] All of the "Jebrik's side" *iroij eriks* but Labiliet and Joab signed a petition together with all members of Jebrik's *droulul* as constituted in 1972, Exhibit 1 in the present case, and filed with the court after the trial of *Labiliet v. Zedekiah*, supra, making charges against Labiliet and seeking to cut off his interests in his "Jebrik's side" lands. The petition declares Labiliet has disregarded prior and the present American Administration "settlements," (meaning determinations). It also says he "walked out from 'Jebrik's side'" to join "Kaibuki's side" and that he transferred lands out of "Jebrik's side" without authority. This latter action was thwarted by the decision in *Ladrik v. Labilliet*, 6 T.T.R. 389 (1973).

This court, while agreeing that some of the charges are supported by the evidence, nevertheless, believes this is entirely too serious a matter to be decided as an incidental result of a land dispute. In the interests of fair play and in

accordance with the custom, the people of "Jebrik's side", as represented by the *iroij eriks* and the 20-20, should meet and give Labiliet an opportunity to defend himself, if he cares to, by refuting the charges of the petition. If it is then decided to cut off all of Labiliet's interests, and a showing is made to this court in an appropriate proceeding, then the court will be in a position to act on the matter. Until that is done, the court declines to do more at this time than settle the dispute between Reab and Labiliet. Accordingly, it is,

Ordered, adjudged and decreed:—

1. That plaintiff holds the title and interests of *iroij erik* for Monbod *Wato*, Ajeltake Island, Majuro Atoll.

2. No determination is made as to *alab* and *dri jerbal* interests in the *wato*.

3. No costs are assessed.