

**KIMAT LOTA, Plaintiff-Appellant**  
**v.**  
**KOMA KOROK, Defendant-Appellee**  
Civil Appeal No. 168  
Appellate Division of the High Court  
Marshall Islands District  
January 3, 1979

*Alab* rights dispute. The Appellant Division of the High Court, Burnett, Chief Justice, held that where matrilineal line through which rights of last *alab* (prior to dispute over *alab* rights) were derived was not extinct, appellee, as a member of that lineage, took the *alab* rights through that line and appellant's claim to patrilineal succession must necessarily fail.

**1. Marshalls Custom—"Iroij Lablab"—Presumption of Reasonable Determinations**

Determinations by an *iroij* are presumed to be reasonable and proper unless it is clearly shown they are not.

**2. Marshalls Custom—"Iroij Lablab"—Approval of Wills**

Party claiming on one day of trial that he did not know why *iroij* had not approved will under which he claimed an interest in land, and claiming the next day that *iroij* had withheld approval because *iroij* had wanted to give the land to the other party to the action because that party had a child by the younger brother of the *iroij*, failed to carry the burden of showing that the *iroij* had acted unreasonably.

**3. Marshalls Custom—"Alab"—Approval of Wills**

*Iroij* could not without justification properly approve will giving *alab* rights where the approval would cut off the rights of the person who had the *alab* rights by reason of matrilineal succession.

**4. Appeal and Error—Reviewability of Issues—Matters Not Raised Below**

Complaint that trial court failed to make a certain finding could not be successful on appeal where the finding sought was not raised below.

**5. Appeal and Error—Harmless Error—Particular Errors**

Whether it was error for court to take in evidence the prior testimony of an *iroij* as to *iroij's* designation regarding who had *alab* rights in issue in the case was immaterial, for if it was error the error was harmless in view of court's holding that it need not rely on the *iroij's* designation.

**6. Marshalls Custom—"Alab"—Succession to Rights**

Where matrilineal line through which rights of last *alab* (prior to dispute over *alab* rights) were derived was not extinct, appellee, as a member of that lineage, took the *alab* rights through that line and appellant's claim to patrilineal succession must necessarily fail.

*Counsel for Appellant:* JAMES A. BRANCH, Micronesian  
Legal Services Corporation

*Counsel for Appellee:* JIMA J. ALIK, Majuro, Marshall  
Islands

Before BURNETT, *Chief Justice*, NAKAMURA, *Associate Justice*, and GIANOTTI, *Associate Justice*

BURNETT, *Chief Justice*

Plaintiff below appeals from judgment vesting *alab* rights to Manjaltok and Mankaruk *wetos* on Roi Island, and Majen on Enibing Island, Kwajalein Atoll, in Toka as successor to the rights of defendant.

Both parties agreed that the last *alab* prior to the dispute was Anej, and both claim under him. The Trial Court held for defendant by right of succession in the matrilineal line.

The Court rejected appellant's first contention that Anej had given the rights to him by written will, since the will, received in evidence, had not been approved by the *iroij lablab*. On appeal, he urges this as error since, while acknowledging the requirement under custom that a will must be so approved, he contends that the *iroij* had unreasonably withheld his approval, citing *Abija v. Larbit*, 1 T.T.R. 382 (Tr. Div. 1958), for a discussion of the limitations on power of an *iroij*.

Appellant correctly cites the law, but the facts are not with him. On the opening day of trial, appellant professed not to know why the *iroij* had withheld his approval. Upon being recalled the following day, his memory had revived and he testified that the *iroij* had wanted to give the land to appellee because she had a child by his younger brother. The Trial Court, properly warned that, in view of the circumstances, the changed testimony was most suspect. No other evidence of improper action by the *iroij* was presented.

[1-3] Determinations made by the *iroij* are presumed to be reasonable and proper unless it is clearly shown that they are not. *Langjo v. Neimoro*, 4 T.T.R. 115, 118 (Tr. Div. 1968). Appellant failed to carry the burden of showing that the *iroij* had acted unreasonably. In fact, given the Trial Court's finding that appellee had rights by reason of matrilineal succession, the *iroij* could not have properly approved the will, thus cutting off her rights, without justification. *Edwin v. Thomas*, 5 T.T.R. 326, 329 (Tr. Div. 1971).

[4] Appellant complains of the Court's failure to make a finding as to whether or not this is *ninnen* land. At no time during the course of proceedings in the Trial Court was such a claim made. The sole "evidence" on the point was a single statement of the plaintiff to that effect. There was nothing on which a finding that this is *ninnen* land could rest.

[5] Appellant also claims error in the receipt in evidence of prior testimony of the *iroij*. Whether this was error is immaterial; if it was, the error was harmless, since the Court specifically held that it need not rely on the designation made by the *iroij*.

[6] The Court found that the matrilineal line, through which Anej's rights as *alab* were derived, was not extinct, that appellee is a member of that lineage and takes *alab* rights through the matrilineal line. The evidence fully supports that finding, and appellant's claim to patrilineal succession must necessarily fail.

We have reviewed the entire record and find no error. Judgment of the Trial Court is therefor affirmed.