

Ngirmang v. Filibert, 9 ROP 226 (Tr. Div. 1998)
EKLAI RAFAEL “BAO” NGIRMANG
et al.,
Plaintiffs,

v.

LUIS FILIBERT, POLYCARP
BASILIOUS, and BAULANG RDECHOR,
Defendants.

CIVIL ACTION NO. 98-264

Supreme Court, Trial Division
Republic of Palau

Decided: November 20, 1998

[1] **Civil Procedure:** Burden of Proof

To prevail, plaintiff bears the burden of proving only facts that are necessary elements of his claim; he need not prove facts he unnecessarily pleaded.

[2] **Torts:** Defamation

In claim for damages for defamation, plaintiff must prove that the alleged defamatory statements were false.

[3] **Civil Procedure:** Burden of Proof

The burden of proof is generally placed on the party who would lose if no evidence were presented on either side of the issue.

[4] **Civil Procedure:** Burden of Proof; **Custom:** Title Holders

The party who contends he was appointed chief bears the burden on that issue, but the party who contends a chief has been removed has the burden of proof on that issue.

1227

[5] **Custom:** Ourrot; **Words and Phrases**

A senior *ourrot* is generally the oldest female of a maternal line of a clan, provided that she has attained a high enough age and has fulfilled her service and contribution obligations to the clan, but it is not impossible for an *ulechell* female to become a senior *ourrot*, depending on her age and contributions to the clan.

[6] **Custom:** Title Holders

Under Palauan custom, a clan may remove the title from its male title bearer if: (1) the title bearer has committed some offense, not necessarily a criminal offense, but rather some act or omission that calls into question his suitability to continue to hold the title; (2) the female title bearer and the senior *ourrot* of the clan have met with him to notify him of the offense and discuss the matter with him, giving him a chance to explain his conduct, ask to be forgiven, or otherwise attempt to achieve a reconciliation; and (3) the female title bearer and every other senior *ourrot* member of the clan have agreed to remove the title.

[7] **Evidence:** Silence

A court is free to draw the inference that silence means either consent, lack of consent, or something else depending upon the context and circumstances in which the silence occurs.

[8] **Custom:** Title Holders

It is permissible under Palauan custom for the Ebilreklai to give instructions to somebody representing her to say or do specific things and then report back to her.

[9] **Custom:** Silence

If a senior *ourrot* remained silent after being informed that some of the senior *ourrot* met with some of the *okdemaol* and decided to remove a title, the silence did not mean that she agreed to the removal.

[10] **Civil Procedure:** Injunctions

In order to obtain injunctive relief, plaintiff must show that there is a reasonable probability that a real injury, for which there is no adequate remedy at law, will occur if the injunction is not granted.

JEFFREY L. BEATTIE, Associate Justice:

In this action, Plaintiffs¹ seek a declaratory judgment declaring that Rafael “Bao” Ngirmang holds the chiefly title Reklai, the highest male title of Uedes Clan of Melekeok State. They also seek an injunction to prevent defendants from interfering with the performance of Bao’s² duties as Reklai.³ **L228** The bearer of the Reklai title is not only the Chief of Uedes Clan,

¹In addition to Ngirmang, the Uedes Clan is named as a plaintiff. The evidence at trial showed that not all of the senior members of the clan consented to the filing of this case, and, on that ground, defendants moved to dismiss the Clan as a party plaintiff. The Court denied the motion due to the failure to present any authority, under custom or otherwise, that such consent was necessary. That ruling does not affect the outcome of the case, however, in that Ngirmang clearly has standing to bring his individual action in any event.

²The parties referred to each other by their first names in trial, and the Court will do so as well herein.

³The complaint contains other claims for relief, but those claims were dismissed before trial at the request of plaintiffs.

Ngirmang v. Filibert, 9 ROP 226 (Tr. Div. 1998)

Melekeok's first ranking clan, but he is, under Articles VIII and IX of the Melekeok Constitution, also the head of Melekeok State and a member of the Melekeok Legislature. Further, he is the head of the Ngara Bai Melekeong, which is the Melekeok Council of Chiefs, and the traditional head of Bital Eanged, the Northern Half of Palau.

PROCEDURAL BACKGROUND

Three issues were presented for trial. First, whether Bao was properly installed as Reklai under Palauan custom. Second, assuming he was properly installed, was the title removed from him in accordance with Palauan custom? Depending upon the outcome of the first two issues, the third possible issue was whether defendant Luis Filibert ("Luis") was properly installed as the new Reklai under Palauan custom.

Defendants contend that plaintiff bears the burden of proving each and every allegation of his complaint and that, therefore, he has the burden of proving that the Reklai title was not removed from him by the Clan and that Luis was not installed as the new Reklai. The Court disagrees.

BURDEN OF PROOF

[1, 2] In order to prevail on his claim, plaintiff bears the burden of proving "only those facts that are necessary elements of [his] claim; [he] need not prove facts [he] unnecessarily pleaded that are not elements of [his] cause of action." 29 Am. Jur. 2d *Evidence* § 158 at 184. Here, the complaint as originally filed contained claims for damages for defamation based on alleged statements by defendants that the title had been removed from Bao and that Luis was now Reklai. To prove that claim, it was necessary to plead and prove that the alleged defamatory statements were false – that the title was not removed. Restatement (Second) of Torts § 558 and § 613, cmt. j. However, the defamation claims were dismissed before trial and the only claim that remained was a claim for a declaration that Bao is Reklai. The facts necessary to establish a prima facie case for that claim are that Bao was appointed and installed as the bearer of the title in accordance with Palauan custom.

[3] At trial, Bao presented evidence of his appointment and installation as Reklai and, before plaintiffs concluded their presentation, the parties filed a stipulation in which all parties agreed that Bao had been appointed and installed as Reklai in 1992. The burden of proof on an issue is generally placed on the party who would lose if no evidence were presented on either side of the issue. *Bauer v. Clark*, 161 F.2d 397 (7th Cir. 1947). If no evidence were presented on the issue of Bao's appointment as Reklai, Bao would fail in his claim for declaratory judgment. Thus, Bao had the burden of proof on that issue, and the stipulation shows that he satisfied his burden.

[4] Although defendants stipulated that Bao was appointed and installed as Reklai, they still opposed Bao's claim for declaratory judgment, contending that the title had been removed from Bao. Once it was established that Bao had been appointed and confirmed as Reklai, if no evidence were presented on the issue of removal of the title, defendants would be defeated on that issue, and their request that the Complaint be dismissed would fail. Thus, the Court

Ngirmang v. Filibert, 9 ROP 226 (Tr. Div. 1998)

concludes that the party who contends a chief has been removed has the burden of proof on that issue, just as the party who contends he was appointed chief bears the burden on *that* issue.

1229

DISCUSSION

The stipulation of the parties was that Bao “was appointed and confirmed and installed to hold” the title Reklai in or about April of 1992. Defendants contend that Bao’s reign ended on June 13, 1998, when Baulang Rdechor, who is a senior *ourrot* of Uedes, went to Bao’s home and took the title from him. Because the stipulation of the parties established that Bao was duly appointed as Reklai, there are two remaining issues for discussion. The first is whether the Reklai title was removed from Bao in accordance with Palauan custom. If so, the second issue is whether defendant Luis was appointed and confirmed as the new titleholder in accordance with Palauan custom.

Senior *Ourrot* of Uedes

It will be helpful to identify the senior *ourrot* members of Uedes Clan before the Court proceeds further because, under Palauan custom, they play the most important role in the process by which the Reklai title is bestowed and removed.

[5] There is only a small disagreement among the parties concerning the identity of the senior *ourrot* members of Uedes. A senior *ourrot* is generally the oldest female of a maternal line of a clan, provided that she has attained a high enough age and has fulfilled her service and contribution obligations to the clan. However, it is not impossible for an *ulechell* female to become a senior *ourrot*, depending upon her age and contributions to the clan. The Court finds that the senior *ourrot* members of Uedes Clan are Yaorong Kebou, Baulang Rdechor, Ayako Ongklungel, Kelau Gabriel, Tosko Ikeya, Gracia Yalap, Techereng Baules, and Inglong Ngiraidong.⁴ These same people have been the senior *ourrot* of Uedes since May of 1997. Before that, there was an additional senior *ourrot*, Umai Basilius.

The female counterpart of the Reklai title is Ebilreklai. Umai Basilius held that title of Uedes Clan at the time she died in April of 1997. After Umai's death, Yaorong became Ebilreklai and continues to bear that title.

Facts Relating to the Alleged Removal of Title

The events which took place in a series of meetings held by some members of Uedes are the primary basis for the contention that the Reklai title was removed from Bao. The first time

⁴Kliu Tellei may well be a senior *ourrot* as well. She is 62 years old and is the eldest daughter of the late Olngembang. Defendants claim she is not a senior *ourrot* for various reasons. The Court does not have to decide Kliu’s status in order to decide this case. Because of the reluctance of the Court to get involved in clan disputes except to the extent necessary to decide a case, the Court makes no finding on Kliu’s status. For the purposes of this case only, however, the Court assumes that Defendants are correct and Kliu is not a senior *ourrot*.

any dissatisfaction with the conduct of Bao was mentioned in a Clan meeting was at a meeting held on October 22, 1996, at the home of Yaorong. Bao was present at the meeting, as were some other *okdemaol* members of Uedes Clan. The senior *ourrot* who were present were Yaorong, Baulang, Ayako, Kelau, Tosko, and Gracia. Ebilreklai was not present,⁵ nor were senior *ourrot* members Inglong and **L230** Techereng.

Polycarp Basilius (“Polycarp”), an *okdemaol* member of Uedes, testified that, at this meeting, he told Bao that Bao had caused embarrassment to the Clan, that the Clan was not unified, and that Bao cared more about the general public than he did for the Uedes Clan. Baulang testified that the specific conduct of Bao which was discussed at the meeting was (i) Bao had a quarrel with Techereng at a *Ngasech* which was held at Bao’s home, and that at the *Ngasech*, the new mother descended the stairs as a part of the ceremony, which violated Koror custom; (ii) Bao failed to attend the *omengkad el blals* of Ebilreklai Umai Basilius; (iii) Bao failed to attend the *eldecheduch* of Ngirakebou Polloi; and (iv) Bao left the *ocheraol* of Ngirwii Bingklang before it was over.

The credibility of Baulang’s testimony is somewhat suspect in that Umai Basilius died in April of 1997 and Ngirakebou Polloi died in December 1997. That makes it extremely unlikely that Bao would have been criticized for failing to attend their respective *omengkad el blals* and *eldecheduch* in a meeting held in 1996.⁶ Still, the Court finds that, while none of the senior *ourrot* complained about Bao, Polycarp expressed at least a general dissatisfaction with Bao at this meeting.

There were no more meetings concerning Bao’s behavior during 1996, nor during 1997, and the matter of his conduct appeared to be settled until early 1998 when Polycarp had a dispute with Bao. Polycarp is the Chairman of the Board of the Melekeok Economic Development Authority (“MEDA”). Polycarp, on behalf of MEDA, had entered into an agreement with a person from Singapore under which the Singaporean was to operate a quarry in Melekeok State. An initial payment of US\$100,000 had been made to MEDA pursuant to the agreement. On January 16, 1998, Bao wrote a letter to the quarry manager stating that work on the quarry should be stopped pending further discussions between he and the MEDA chairman. Polycarp went to Bao’s home to discuss the matter with him, and Bao told Polycarp that he would not agree to allow the operation of the quarry to commence until he, the Governor of Melekeok, and the Melekeok Legislature could see the quarry operation contract.

About three days later, on January 21, 1998, a MEDA board meeting was held at the Nikko Hotel to discuss Bao’s letter. Although Bao is not a member of the board, he attended the meeting at the invitation of Polycarp. At the meeting, Polycarp requested that the quarry operation be allowed to proceed. The \$100,000 payment was also discussed. It was reported to be in MEDA’s bank account, and there was a discussion concerning its transfer to the Melekeok State Treasury. Bao stated that before the quarry operation began or the \$100,000 was disbursed, the arrangement with the Singaporean should be clarified and that the contract should be submitted to and approved by Bao, the Governor, and the legislature. A decision was made that

⁵Umai Basilius was the female title bearer at the time.

⁶The *omengkad el blals* and *eldecheduch* are customary functions that take place after a person dies.

Ngirmang v. Filibert, 9 ROP 226 (Tr. Div. 1998)

Polycarp would submit a copy of the quarry contract to Bao in April 1998, and that a decision on the expenditure of the \$100,000 would be deferred.

Polycarp did not provide a copy of the L231 quarry agreement to Bao in April of 1998.⁷ Instead, he met with Luis and some of the other *okdemaol* members of Uedes to discuss Bao's conduct. The meeting was at the home of Kazuo Asanuma, one of the *okdemaol* of Uedes. Only a limited number of the *okdemaol* were notified of the meeting. Bao was not one of them. At this meeting, they decided to call a meeting with some of the *ourrot* of Uedes to discuss Bao's conduct.

Shortly thereafter, Polycarp, Luis, and a few of the other *okdemaol* met with some of the *ourrot* of Uedes at the home of Hermino Olkeriil. Bao was not notified of the meeting and was not present. Ebilreklai Yaorong was not present, nor were senior *ourrot* members Techereng and Inglong. Hermino's home is close to the Koror Jail. The reason why the meeting was held at Hermino's was to enable John O. Ngiraked, an *okdemaol* of Uedes, to attend. Ngiraked is serving a life sentence in the Koror Jail for first degree murder for hiring an assassin to murder Palau's first president, President Remeliik.⁸ See *Ngiraked v. ROP*, 5 ROP Intrm. 159 (1996). It was Ngiraked who told the Uedes *ourrot* in attendance about the bad conduct of Bao – conduct such as the leaving an *ocheraol* before it was over, failing to attend a funeral, and failing to attend the *omengkad el blals* of Umai Basilius.

Kliu Tellei, who is Bao's sister, suggested that if any of the *okdemaol* had a problem with the Reklai, they should go to his house and discuss it with him. Kazuo stated that it was only a matter between Polycarp and Bao, so they should go to Bao's home. Basilia Kintaro, one of Polycarp's sisters, said that if there is somebody bringing business into the state and somebody is against it, they should support the person bringing it in. No consensus was reached at the meeting and none of the *okdemaol* went to Bao's house for any discussion.

Shortly after the meeting at Hermino's house, Polycarp, Luis, and a few of the other *okdemaol* met at Kazuo's house and decided to have a meeting with some of the senior *ourrot* in order to "correct" the Reklai title. Accordingly, in May of 1998⁹ at Kazuo's house, Polycarp, Luis, and some of the other *okdemaol* met with four of the eight senior *ourrot* members of Uedes. The senior *ourrot* who were at that meeting were Baulang, Kelau, Tosko, and Gracia. Neither Reklai nor Ebilreklai were notified of the meeting. Senior *ourrot* members Yaorong, Techereng, Inglong, and Ayako were not present, nor was Bao. It was at this May meeting that defendants claim the senior *ourrot* decided to remove the Reklai title from Bao.

Raymond Ulochong, an *okdemaol* of Uedes Clan, read a statement he had prepared for the meeting. The statement started by apologizing to the *ourrot* for recommending that Bao be

⁷At the time the trial commenced, Polycarp still had not submitted the contract pursuant to the decision made at the MEDA board meeting at the Nikko Hotel.

⁸It is not entirely clear from the testimony how Ngiraked managed to attend the meeting. However, Hermino's house is in close proximity to the jail, and it appears that an arrangement was made with the jail guards that allowed Ngiraked to speak to the others through the jail fence.

⁹Baulang said the meeting was in April, and Polycarp said it was either May or June.

Ngirmang v. Filibert, 9 ROP 226 (Tr. Div. 1998)

appointed Reklai in 1992. It said that Bao had joined those who habitually oppose the public interest, and it went on to discuss the quarry project in Melekeok. Next, the statement recited various alleged **1232** transgressions of Bao relating to customary functions. First, it said Bao gave a speech in Koror at the Palau Constitution Day ceremony, despite the fact that the program did not include Chief Ibedul as a speaker. Second, it said Bao allowed a *Ngasech* to be at his house in a manner which violated Koror custom, presumably referring to the fact that, as part of the ceremony, the new mother started at the top of the stairs and then descended the stairs. This caused a heated argument between Bao and Techereng. Third, Bao failed to attend two *omengkad el blals* for Uedes *ourrot* members. Fourth, Bao failed to attend two *eldecheduchs*. Fifth, Bao left an *ocheraol* before it ended. Sixth, Bao failed to account for a *diall* payment he received on behalf of the late Ebilreklai Umai Basilius. At trial, Raymond admitted that he had no facts to support the statement that Bao habitually opposed the public interest, that he had no personal knowledge of some of the other allegations, and that he did not attempt to verify the allegations.

After the statement was read, Polycarp said that Bao is stupid – he disagrees with the quarry. One of the senior *ourrot*, Tosko, asked if she could show the written statement to Bao, but she was not allowed to do so. Kelau asked Polycarp why he didn't talk to Bao face to face about it. Two of the four senior *ourrot* present, Baulang and Gracia, testified that, at this meeting, a decision was made to remove the title from Bao. The other two, Kelau and Tosko, testified that no decision was made to remove the title.

In early June, Polycarp, Luis and some other *okdemaol* of Uedes met with two senior *ourrot*, Gracia and Baulang. At this meeting they decided that Baulang would go to Bao's home and "take the title from him". On June 13, 1998, Baulang went to Bao's house and told him that a decision had been made to remove the title from him. Baulang is Polycarp's sister and holds no title in Uedes Clan.

Next began a series of meetings designed to select somebody to be the new Reklai. Polycarp, Luis, and their group of *okdemaol* met at Kazuo's house. The only senior *ourrot* present were Baulang and Gracia. They selected Ngiraibai Uduch, who is the oldest *okdemaol* of Uedes Clan, to be the new title bearer. Ngiraibai was not given notice of any of the 1998 meetings discussed herein, nor was he present at any of them. When he was told he had been selected, he declined the offer.

Polycarp, Luis and their group of *okdemaol* then had another meeting at Kazuo's house. Again, the only senior *ourrot* present were Baulang and Gracia. They selected Hesus Ngiriou to bear the title. When Hesus was told he had been selected, he also declined.

Polycarp, Luis, and their group of *okdemaol* then had another meeting at Kazuo's. Again, the only senior *ourrot* present were Baulang and Gracia. At this meeting, they selected Luis to bear the title. He accepted.

ANALYSIS

[6] The Court will first address the issue whether the title was removed from Bao, because, if it was not, defendants concede that Luis could not be appointed – there must be a vacancy in the title before a title bearer can be appointed. In determining whether the Reklai title has been removed from Bao, the first task is to ascertain the process by which, under Palauan custom, a clan may remove the title **L233** from its male title bearer.¹⁰ First, the title bearer must have committed some offense, not necessarily a criminal offense, but rather some act or omission that calls into question his suitability to continue to hold the title. Second, the female title bearer – his counterpart – and the senior *ourrot* of the clan meet with him to notify him of the offense and discuss the matter with him. At this meeting, he can explain his conduct, ask to be forgiven, or otherwise attempt to achieve a reconciliation. Third, the female title bearer and every other senior *ourrot* member of the clan must agree to remove the title.¹¹ There is normally other activity surrounding the removal, such as the *ourrot* consulting with the *okdemaol* on the matter, but these three steps are the basic steps which were established by clear and convincing evidence. The Court will first examine whether defendants have established that Ebilreklai and all of the other senior *ourrot* members of Uedes Clan agreed to the removal of the Reklai title from Bao, because that is an essential requirement for the removal of the title.

The May 1998 meeting at Kazuo's house was the meeting in which defendants contend the decision to remove the title from Bao was made. Only four of the eight senior *ourrot* were present at that meeting, however, so it is clear that what transpired at the meeting did not amount to a decision by the senior *ourrot* of Uedes Clan to remove the title from Bao, even if one accepts defendants' version of what happened at the meeting. Further, the Court finds that two of the senior *ourrot* present, Kelau and Tosko, did not agree to the removal of the title. Finally, and most importantly, the female title bearer, Ebilreklai, did not agree to the removal of the title at the meeting – she wasn't even there.

[7] In response to these obstacles to their case, defendants claim that the absent senior *ourrot* members were eventually informed of the decision made at the May meeting and that none of them voiced any objection.¹² To the defendants, this means the senior *ourrot* all agreed to the removal of the title. That contention seems questionable if one credits the testimony of plaintiff's expert witness on custom, who said that Palauans remain silent when they do *not* agree. The Court is doubtful, however, that the meaning of silence is wholly a matter of custom. The Court believes it is free to draw the inference that silence means either consent, lack of

¹⁰Based upon the expert testimony, the Court finds that defendants did not establish that the process for the removal of the Reklai title is materially different than the process under general Palauan custom.

¹¹Plaintiff's expert testified that it is also essential that the council of chiefs, in this case the Ngara Bai Melekeong, agree to the removal of the title. Defendant's expert, who is the Director of MEDA, a Uedes member, and served as the assistant to defendant's attorney throughout the trial, strongly disagreed. As will be seen, in view of the Court's finding on the third requirement, it is not necessary to decide whether the agreement of the Ngara Bai Melekeong is required in order to remove the Reklai title, and the Court does not make any finding on that issue herein.

¹²Implicit in this contention is the assumption that Palauan custom allows a decision to remove a title to be made without the female title bearer meeting with the other senior *ourrot* to discuss the matter. That is doubtful because it would eliminate the important process of reaching a consensus by discussing the matter until all are in agreement. The Court is not required to determine this question of custom due to the fact that it was not established that the post-meeting consents were obtained in any event.

consent, or something else depending upon the context **L234** and circumstances in which the silence occurs.¹³ Here, the Court cannot find that any alleged silence constituted consent to the removal of the title in view of the circumstances under which the May meeting was held, the way it was called, those not in attendance, and the events which followed. Certainly the alleged lack of objection by Kelau and Tosko at the meeting did not mean they consented to the removal in view of, among other things, what they did say at the meeting.

Another problem with defendants' contention is that they did not establish that all of the senior *ourrot* who were not present at the May meeting were informed of the alleged decision and, once informed, did not object. Specifically, it was not established by a preponderance of evidence that Ayako, Inglong, or Yaorong were informed and did not object.

[8] Defendants claim that Yaorong did, in effect, attend the May meeting and agree to remove the title because she had appointed Baulang as "acting Ebilreklai". The evidence presented did not establish that Yaorong had appointed Baulang as acting Ebilreklai in the sense that Yaorong had transferred the authority of the Ebilreklai title to Baulang.¹⁴ Baulang, however, may have represented Yaorong in attending certain functions such as funerals and performing some of the duties of Yaorong. It is permissible under Palauan custom for the Ebilreklai to give instructions to somebody representing her to say or do specific things – with prior authorization from Ebilreklai – and then report back to her, but that is not what occurred with respect to the attempt to remove the title from Bao.

To the contrary, Baulang testified that, although under custom a meeting to remove title should be held at the Clan's house or at the house of Reklai or Ebilreklai, they met at Kazuo's house because they did not want Yaorong or Bao to know about the meeting. Baulang also testified that she did not inform Yaorong of the alleged decision to remove the title after the May meeting at Kazuo's house. Nor did Baulang inform Yaorong that they had decided that Baulang would go to Bao's house and take the title from him.

Ebilreklai and Reklai were not the only Uedes members who were kept in the dark. The notices of the 1998 meetings, at least insofar as the *okdemaol* were concerned, were handled by Hermino Olkeriil and Ramona Andres. Hermino and Ramona are employees of Polycarp's company, Palau Sea and Air. Hermino told Ramona who to notify, and she made the phone calls. The list of names given to Ramona was not a long one and omitted several *okdemaol*, including Ngiraibai, Ubal Tellei, and, of course, Bao.

[9] These irregularities in the process by which the alleged impeachment of Bao was accomplished reinforces the Court's findings that, if a senior *ourrot* remained silent after being informed that some of the senior *ourrot* met with some of the *okdemaol* and decided to remove the title, the silence did not mean that she agreed to the removal. The meeting was without the

¹³For example, defendant's expert testified that if, at a meeting of *ourrot*, Ebilreklai announces a decision concerning a matter discussed at the meeting and nobody objects, a consensus has been reached. That, of course, did not happen in this case.

¹⁴Indeed, it was not established that Baulang represented Ebilreklai in any sense at the time of the May meeting. Baulang testified that she did not begin to represent Ebilreklai until the end of May.

Ngirmang v. Filibert, 9 ROP 226 (Tr. Div. 1998)

presence of Ebilreklai and several 1235 other senior *ourrot*, so it would be obvious that the decision to remove the title was ineffective under Palauan custom. Therefore, even if the senior *ourrot* who were informed after the meeting strongly disagreed, there was no compelling reason to say so upon being informed of what happened.

Also, the fact that the first two people who were selected to be the new Reklai turned down the job may well say something about whether they thought there was a legitimate vacancy in the title. When Luis had his feast after he, was “appointed”, the only senior *ourrot* who attended were Baulang, Techereng, and Gracia. Only two of the eleven members of the Ngara Bai Melekeong attended, one of whom was Polycarp. The Ngara Bai Melekeong recognizes Bao as Reklai and has not received any notification from Ebilreklai that Bao has been removed or that Luis is Reklai. Defendants did not establish by a preponderance of the evidence that any senior *ourrot* other than Baulang, Techereng, and Gracia consented to the removal of the title from Bao or recognize Luis as Reklai. Tosko, Kelau, and Ayako all testified that they never agreed to the removal of Bao and that they still recognize him as Reklai. Neither Yaorong nor Inglong testified, either in person or by deposition.

For the foregoing reasons, the Court concludes that the Reklai title was never removed from Bao because Ebilreklai and the senior *ourrot* of Uedes Clan never agreed to the removal. Because such agreement is essential under Palauan custom in order to remove the title, the Court need not discuss any of the other customary steps in the removal procedure. Accordingly, judgment will enter for Plaintiffs declaring that Bao is Chief Reklai of Uedes Clan.

REQUEST FOR INJUNCTION

[10] Plaintiffs have requested that the Court issue an injunction prohibiting defendants from making any public statements that Luis is Reklai and from taking any action to interfere with Bao’s performance of his duties as Reklai or enjoyment of the privileges of the title. In order to obtain injunctive relief, plaintiffs must show that, there is a “reasonable probability that a real injury, for which there is no adequate remedy at law, will occur if the injunction is not granted.” 42 Am. Jur. 2d *Injunctions* § 31 at 767 (1969). While it is true that defendants made statements and performed some acts which called Bao’s title into question before trial, the Court is not convinced that they will continue to do so now that the Court has decided that the title was not removed. Moreover, there are remedies at law for defamation which will be available if appropriate. Accordingly, the request for injunction is denied.

CONCLUSION

For the foregoing reasons, the Court concludes that plaintiff Rafael “Bao” Ngirmang holds the chiefly title Reklai of Uedes Clan of Melekeok State. Judgment will enter accordingly.