

IN THE CUSTOMARY LAND APPEAL COURT)
FOR THE CENTRAL ISLANDS PROVINCE)

CLAC NO. 8/78

ABOUT: TAGIUA LAND

BETWEEN: EDWIN TEPAI Appellant

AND: EDWARD TINGIIA Respondent

JUDGMENT

This land was one of a number of lands belonging to NASIU, from whom both Edwin TEPAI and TINGIIA are descended. Both agree that before NASIU died, he shared his lands out between his eldest son TEPAI (grandfather of the present respondent TINGIIA) and his younger sons PANIO (father of the appellant TEPAI) and HEGONGA (who died without issue).

There is no dispute about one land called MATAKIUEVA, which was given to the late TEPAI and now belongs to TINGIIA. TINGIIA claims TAGIUA and HENUATONU are different lands (separated by the track which leads from TIGOA to LAVAGU). TINGIIA says NASIU gave HENUATONU to the appellant TEPAI's father PANIO, but TAGIUA to HEGONGA. When HEGONGA died, TEPAI made TAGIUA tabu, in other words seized it, so that it has passed by inheritance to TANGIIA. The appellant TEPAI, on the other hand, says that HENUATONU is an area inside TAGIUA, which was all given to his father PANIO. HEGONGA lived there with him, and held it after him, but as he had no children, the land passed to TEPAI.

We know from our own customary knowledge that HENUATONU is inside TAGIUA land, and not separated from it by the track. We also believe that TEPAI does have customary properties there (coconuts and his father's grave). So we accept TEPAI's account of the division by NASIU, and reject TINGIIA's. It follows that we allow this appeal.

However, two things more have to be said before come to our decree. First, there is only the roughest possible sketch map (A1) and the long list of names in the Local Court record to define the boundaries of this land. Anyone who wants that done more definitely and precisely will have to pay for a new land case in the Local Court for that purpose. Second, a previous case about this land was mentioned by TINGIIA's side in the Local Court. TEPAI tried to tell us about it, but we refused to hear him on that without seeing a certified or other official copy of the decision.

(He said it was made in 1972, so it must be in the National Archives by now). The decree we are making is subject to the effect of the final decision between the lines involved in that earlier land case, which must come first in importance as in time. If TINGIIA found out that the earlier decision was in his favour, there is nothing to stop him getting a certified copy of it, and producing it to the High Court on the hearing of any appeal he cares to bring.

Meanwhile we make the following:-

DECREE


TAGIUA includes HENUATONU land and belongs to TEPAI.

.....
PAUL TAUNI (PRESIDENT)

.....
MOSES PULOKA (AJ)

.....
E. TAKI (AJ)

.....
PAUL RASA (AJ)


.....
JOHN FREEMAN (MAGISTRATE)

Dated this 15th day of October 1984.

Original signed by all members - others now returned home.

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