

**IN THE WEST RENNELL LOCAL COURT
OF SOLOMON ISLANDS**

BETWEEN: JOHN PANIO **Plaintiff**
AND: ERIC BAIABE **Defendant**

IN THE MATTER: TEPUIPUI *and* TEATUKABA LANDS

JUDGMENT

The matter of dispute is between JOHN PANIO, Plaintiff and ERIC BAIABE, Defendant. The matter of dispute is about two separate portions of lands. They are called in the language of Rennellese as TEPUIPUI and TE'ATUKABA. The two lands in dispute situated in separate locations. Tepuipui is situated/ located North West of Kagua, along the Niupani road and Te'atikaba located some few kilometres, North West of Kagua along the Magautu road.

However, according to the Local Courts Amendment Act CAP 19, it stipulates in section 12(1) (a) and (b) that: "*no Local Court shall have jurisdiction to hear and determine any customary land dispute unless it is satisfied that –*

- (a) *the parties to the dispute had referred the dispute to the chiefs, and*
- (b) *all traditional means of solving the dispute have been exhausted"*

In this case, the parties have referred the matter to the Council of Chiefs and they determined the ownership of the land in favour of the Defendant on 15th February, 1999. The referring of the case to the ^{Local Court} chiefs had fulfilled the requirement of section 12(1) (a) and (b) of the Act and therefore, it is the duty of the Local Court to deal with this case and determine the ownership of Tepuipui and Te'atukaba lands as stated on the case file.

Before the Local Court actually determine the ownership of the lands in question, it must first remind itself that the decision must be based on all the evidences submitted by both parties in this case.

The Court must also take into consideration of the tradition and land tenure system practiced on Rennell, and also consider that its determination is based mainly on the

The original written judgment was signed by the justices

merit of the case. Therefore, in order to determine this case, the Court must use the burden of proof normally used in civil matters to prove the evidences before it. The issue before the Court now is that, who should be the rightful owner of Tepuipui and Te'atukaba lands?

By looking into the Plaintiff's and Defendant's evidences before the Court, it found that both parties descended from two brothers, Baiabe and Temoa. The Plaintiff is the third generation from Temoa and the Defendant is also a third generation from the brother of Temoa, namely Baiabe. The Court had found out that both parties are very close as their relationships as second cousins are concerned. Also the Court found out that the Plaintiff and Defendant are of the same tribe, GAGONIU.

The Plaintiff claimed that the lands in dispute were given him by his mother, Tepegi while the Defendant in his evidence, said that the lands were not handed down from Tepegi to John Panio but they were given to the Plaintiff by his uncle, the Defendant's late father, Tekehu.

Although, other evidences as to whom own the properties on the land is considered especially coconuts. The Court found out that the main root of the dispute arise from a different cause which is not to be considered in detail in this case.

The cause of dispute which leads to the claim of ownership of the two lands began from incest in the family of both parties. The Court takes into account that for any dispute to arise, it must have a cause, which is not an exception in this case.

The Court consider that the Defendant's late father wrote a letter to the Council of Chiefs to reclaim the two portion of lands he once given out to the Plaintiff. However, since no witnesses were called by both parties, the Court takes into account ^{of} any form of evidences produced in Court.

The Court having considered all the evidences before it; must make sure that all the evidences are weighed on the balance of probability.

After a careful study of the evidences and maps produced by both parties, the Court is satisfied on the balance of probability and concludes to make the following Orders:

The original written judgment was signed by the justices

ORDERS

- (1) The chiefs' decision in respect of TEPUIPUI and TE'ATUKABA Lands is quashed.
- (2) The Court awarded the ownership of TEPUIPUI land to the Plaintiff, JOHN PANIO but excluding any land not covered in this proceeding.
- (3) The Defendant, ERIC BAIABE is awarded the ownership of TE'ATUKABA land.
- (4) Any properties such as the coconut plantation in the land awarded to the Defendant, ERIC BAIABE, will remain the properties of the Plaintiff, JOHN PANIO.
- (5) No Order as to costs of this proceeding.

Right of Appeal to CLAC within 3 months from the date of this Judgment.

Dated at Tigoa Station, West Rennell this 30th day of November 2006

Mathias Tapolo _____ signed _____ President

Moses Tepai _____ signed _____ Member

Raymond Sau _____ signed _____ Member

Paul Ngaingeri _____ signed _____ Secretary/LC Officer



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