

**IN THE MALAIT LOCAL COURT
LAND CASE NO. 5 OF 2007**

**JUDGEMENT DATE: 10th OCTOBER 2007
LAND IN DISPUTE: SUBEAIANO FAFALASI**

**BETWEEN: 1. LONSDALE ABA of Onoue Village - Plaintiff
2. TIMOTHY DUDDLEY IASUNO (Spokesman)
of Onoue Village**

**AND: 1. ALFRED KIKI of Kakalano Village - Defendants
2. ALBERT DAISI of Kakalano Village**

JUDGEMENT

1. PREVIOUS CASES OF FULIABU LAND:

Fuliabu Customary Land has and had been a zone of land disputes since 1973. Since then, Cases arose one after the other. Such Cases occurred NOT because of just the matter of disputing BUT, because of the various past tribal historical migration histories in the Land. Such Cases are:

- (a) Civil Case No. 27/73 – Native Court
Fuliabu –vs- Gwaunaru – Plf. Oliga –vs- Def. Gua.
- (b) Civil Case No. MD/CLAC/4/76.
Fuliabu Appeal Case – Oliga (Appellant)
- Gua (Respondent).
- (c) Civil Case No. 3/96 – Subeaiano Land. It was done by the Local Court.
1) Plfs. Jonathan Rua and Olifoa of Maku Village vs Defs. Oliga and Alfred Kiki of Kakalana Village.
- (d) Subeaiano/Fuliabu Customary Land Case No. MD/CLAC/4/97 was appealed by Appellants Jonathan Rua and Olifoa and Respondents Oliga and Rinaldo Saeni in 1997.

2. CHIEFS SETTLEMENT.

Kwara'ae House of Chiefs made up of Kwara'ae chieives, Baegu chiefs and Sube chiefs made a settlement of Subeaiano Falasi Customary Land in favour of Lonsdale ABA.

Since the avenues of the chiefs are being exhausted, Lonsdale ABA brings the Case Civil Case No. 5 of 2007 for this Local Court for legal considerations.

3. BURDENS OF PROOFS:

The balance of probability of proofs lies upon both the plaintiff Lonsdale Aba and Alfred Kiki (def.).

The Court must remind itself to be neutral as to have fair dealings with this Case.

4. ISSUE BEFORE THE COURT:

The Issue before this Court is Subeaiano Falasi and Fuliabu Customary Land.

5. CLAIMS:

(a) The plaintiff Lonsdale Aba claims that Fuliabu Customary Land is his land and it is known as Subeaiano Fafalasi.

(b) Genealogy.

The plaintiff, Lonsdale Aba's generation is as follows:-

- (1) Toniwane
- (2) Iliomea
- (3) Ainitoa
- (4) Kwakwale
- (5) Fafatanimae
- (6) Fauabula
- (7) Faorai
- (8) Fakaora
- (9) Iliomea (2)
- (10) Toafolo
- (11) Folimae
- (12) Rilanga
- (13) Lobobae
- (14) Keso
- (15) Dania
- (16) Sabea.

He stated that his ancestor Iliomea came from Akwafali and settled at Funakwao in Subeaiano Fafalasi. He also settled at Fuliabu Tabu Site and then to Gwaunaru.

© Tabu Sites.

His tabu sites are follows:-

- | | |
|-----------------|------------------|
| (1) Akwafali | (9) Olioli |
| (2) Funakwao | (10) Aibaita |
| (3) Kakaloe | (11) Fuliabu |
| (4) Gwanaru | (12) Daneida'ane |
| (5) Faubale | (13) Kwaitoloi |
| (6) Afute | (14) Babari |
| (7) Dangilaulau | (15) Daribini |
| (8) Fite | |

His geneology worship at the above mentioned Tabu sites.

(d) Boundary:

The plaintiff, Lonsdale Aba's boundary of Subeaiano Fafalasi starts at Kwaita'a River goes down and join the big Kware River goes down to the seacoast follow the seacoast north direction to meet the Kware rii River, follows the Kwarerii River to join the Onoue stream and from the Onoue Stream to Kwaita'a Stream. Refer to Plf's map exhibit 1.

(a) On the other hand defendant Alfred Kiki claims Fuliabu Customary Land as his land which is substituted by Subeaiano Fafalasi Customary Land as claimed by the Plaintiff Lonsdale Aba.

(b) Genealogy:

The def. genealogy is as follows:-

1. Buli
2. Orufiau
3. Abusura
4. O'otee
5. Basilea
6. Ngaritua
7. Monaabu
8. Ngaranitua (2)
9. Madiu
10. Gwanoo
11. Ianigao
12. Sauramoa
13. Robo
14. Uikaula
15. Oliga
16. Alfred Kiki → 17. Derick Laumani → 18. Oliga (2)

The defendant Alfred Kiki's great, great grandfather Buli came from Akwafai to this land called Fuliabu Land. My genealogy is worshipped at Funakwaa Aibaita, Danilaulau, Kaloe, Buburobo, Funagai, Fuliabu and Daane tabu sites. When my tribe inhabited Fuliabui, Subeaiano Falasi was also established next to my boarder line of Fuliabu. Our tribes lived in peace and support each others in past wars (Omea). Subeaiano Falasi belongs to Nafu line.

The reasons why Lonsdale Aba had to move out from Subeaiano Falasi because his devil Fafatanamae killed Ariasi of Subeaiano Falasi. Then when his line stays at Uo, Faorai killed Rikao of Uoilalo. His line went out from Subeaiano Falasi for about thirteen generations ago. After the thirteenth generation he came back to Subeaiano Falasi. He now creates problems with my line. DW2, 3, 4 confirmed.

(c) Boundary

The boundary of Fuliabu is as follows:-

It starts at Kwaita'a Stream and joins the big Kware River to the coast, follow the seacoast and joins the Kware rii (small Kware River), follows Kware rii River up to join the Onoue Stream to Kwaita'a Streams. Refer to def's map exhibit 1. DW2,3,5 confirmed.

(d) COURT FINDINGS:

- (1) The Court finds that both the plfs. line and defs line originated from one common ancestor Toniwane from Akwafali.
- (2) Lonsdale Aba's line and Alfred Kiki line migrated from Akwafali and settled at Funakwao.
- (3) The killing of Ariasi of Subeano Falasi by Fafatamae and the killing of Rikao of Uoilalo by Faorai of Iliomea's line which is of Lonsdale Aba has no material evidence within the disputed area and such killings were not directly affect the line of Alfred Kiki.
- (4) The Civil Case Nos.
 - (1). MD/CLAC/4/76 – Customary Land Appeal.
 - (2). L/C Civil Case No. 3/96 – Local Court.
 - (3). MD/CLAC/4/97 – Customary Land Appeal Court are the Cases support Fuliabu Customary Land which belongs to Oliga and Alfred Kiki the defendant.

(a) BOUNDARY:

The Fuliabu Customary land boundary is confirmed by the Court. Refer to defendant's map Exhibit 1.

- (b) Funakwao Tabu Site is the burial ground of the Plf Lonsdale Aba and def. Alfred Kiki.
- (c) The Kakaloe Tabu Site is of Alfred Kiki's and Lonsdale Aba sacrificial site which continued the modes of worship at Funakwao Principal Tabu Site. Kakaloe is within Funakwao Tabu Site.
- (5) During the survey the Court finds that both showed the same burial area and the same fire site at Funakwao Principal Tabu site within Fuliabu land. The Court also proves that there is no Subeianao Fafalasi exists except Fuliabu Customary Land which has proved by the previous legal land cases. Refer to paragraph 4.

Upon hearing the plaintiff's (Lonsdale) and defendant's (A. Kiki) stories with their witness evidences, the checking of the Court Records and the survey reports, the Court is satisfied to deliver the DECISION.

DECISION:

1. Alfred Kiki and his line has the Primary Rights over Fuliabu Customary Land.
2. Lonsdale Aba has the Secondary Rights of Fuliabu Land.
3. Any future development must be consulted with the Primary Owner.
4. Both parties must respect each others properties in the Land.
5. No order of cost.

RIGHT OF APPEAL

Anyone who is not satisfied with this Decision can appeal within ninety days Wednesday 10th October to 7th January 2008.

Court Officials

1. Rinaldo Talo - Vice President
2. Philip Waletobata - Court Member
3. Lazarus Geniakwasia - Court Member
4. Lucian Kebai - Clerk



R. Talo
Philip Waletobata
Lazarus Geniakwasia
Lucian Kebai