

IN THE MALAITA LOCAL COURT

LAND CASE NO: 23/2007

HELD AT: AUKI

NAME OF LAND IN DISPUTE: FANOABU

JUDGEMENT DATE: 12TH SEPTEMBER 2008

BETWEEN: 1) MARTIN UFI PLAINTIFF
2) JOHN LIU (SPOKESMAN)

AND: DAVID RAMOTALAU DEFENDANT

JUDGEMENT

1. SETTLEMENT

The Chief's Settlement at Dala on the 14th day of August, 2000 was made in favour of Martin Ufi. However, now, the case is brought before this Court as to decide upon.

2. ISSUE BEFORE THE COURT

The very issue before this Court is FANOABU LAND.

3. GAINING THE CASE

The balance of probability of gaining this case 23/2007 – FANOABU depends on EVIDENCES brought forward and proved by this Court. Therefore, the Court is a neutral body as to deal fairly with both parties.

4. PLT’S CLAIMS

A. MIGRATION HISTORY

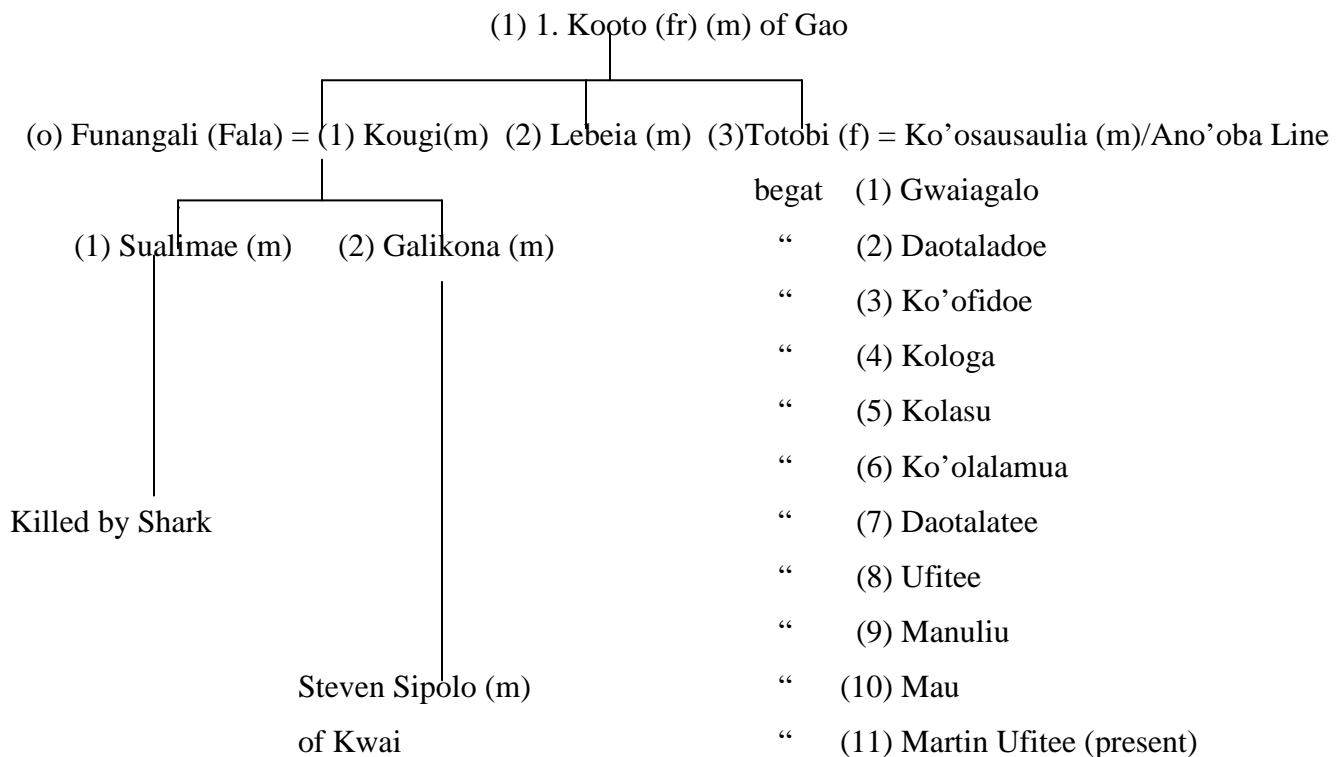
Ko’oto and his two sons, Kougi and Lebeia, and their sister Totobi were said to have traveled from Gao (Isabel) to discover Fanoabu.

There were no occupants at the area upon their arrival or discovery. Then they went ashore, erected a Bibi, and searched further in-land for a place to settle, and then they found a cave. The cave is called after Kougi’s name.

The family thus, made a new settlement at Lumadia and thereafter, set a sacrificial site. It is believed by Martin Ufi (plaintiff) that the first settlers came in a Roka (raft) from Gao (Isabel) to Fanoabu, the newly discovered land. Then, a dysentery epidemic killed Kougi’s family and he had to flee to Fiu and thereafter, died a natural death.

B. GENEOLOGY

Martin Ufi claims that he is of the female line by the name Totobi, the sister of Kougi. His woman line is as follows:-



C. KOUGI'S CUSTOM SIGNS

Martin Ufi claims the custom signs of Kougi:-

1. Lumadia tambu site
2. Tafurae
3. Kougi's cave (compensation of \$500. by Golden Spring Logging Co.).
4. Fanoabu Bibi
5. Akalonifolo – land protection devil

D. WITNESSES

The PW1, Peter Ufa and PW2, Maebinua support the line of Martin Ufi in saying that their lines once get permissions to plant gardens of yams and taros near Namogwariako stream and coconuts at Fanoabu sea shore respectively.

E. BOUNDARY

The boundary of Fanoabu as claimed by the plaintiff: 1) Starts at Kukulefe point (west) goes east passing Fiafole to meet north main road, to the Namogwairako stream, follows the stream to meet Namotofu (south) and follows the Bio river down to the sea coast (west), follows the sea coast (north) to join the Kukulefe point. Refer to Plaintiff's map. EXHIBIT NO.1

F. PROPERTIES

1. One coconut plantation
2. PW1, Maebinua's house

On the other hand, the defendant David Ramotalau also claims Fanoabu as his land.

5. DEFT'S CLAIMS

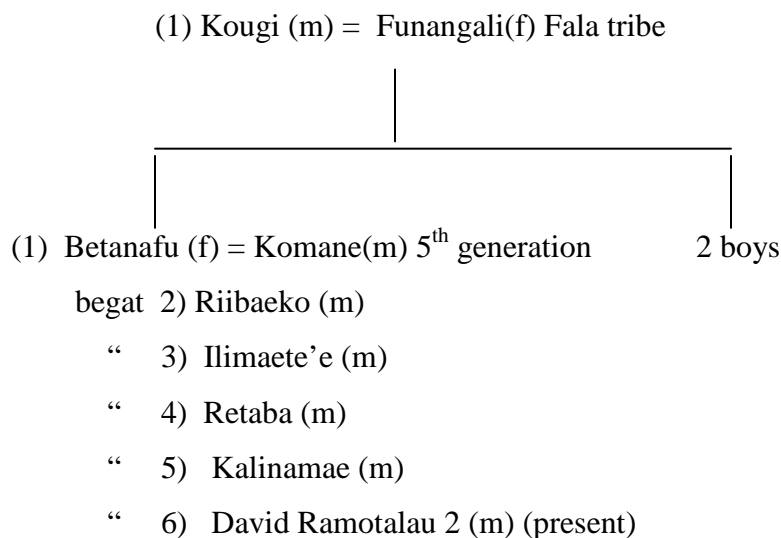
A. MOVEMENT OF KOUGI

It is believed by the defendant David Ramotalau that Kougi came from Ndai, lands at O'ole (Fote). Kougi is chased out because his devil of protection (Mu'uoga) is killing the people of O'ole (Fote). Kougi leaves O'ole and goes on and lands at Fanoabu.

As a sea man, Kougi usually follows the sea to Kelokwai. At one stage he is killed by Irobina of Kelokwai. His body is returned home and is buried by his people in a cave at Fanoabu.

B. GENEALOGY

David Ramotalau, the defendant says that he is of a woman of Kougi. His line is as follows:- *



*Refer to Case No. 7/97 and Case No. 23/2007 records as compiled

C. DEFENDANT'S CUSTOM SIGNS AS LEFT BY KOUGI

1. Fanoabu tambu site
2. Kougi's cave
3. Tofu 1 + 2
4. Anobulu
5. Roaabu
6. Su'uarafa
7. Orobirana

D. PROPERTIES

1. Coconut plantation.
2. Sold parcel of land to Steven Tonafalea
3. Other people's coconut plantations.

E. BOUNDARY

The defendant claims that Fanoabu land starts at a point at the seashore at Lumadia goes up (east) to meet the north main road, passing the road to Fiafole, meet the kunu-Gwariako (east south direction) to Toroanila at the Kwainarako river, follow Kwainarako river into Bio river and down to the sea coast (market place). Refer to Def.'s map EXHIBIT No.1.

6. COURT'S CONFIRMATIONS

- A. The Court confirms Martin Ufi (Plt's) Case No. 23/2007 is a new case and allows it for a fresh hearing.

B. HISTORY OF ORIGIN

The Court understands that Plt, Martin Ufi and Def, David Ramotalau tell different stories of Kougi and his family. Martin Ufi says that Kougi and his Family come from Gao [Isabel] while David Ramotalau says that Kougi comes from Ndai. Such conflicting histories are set aside and the Court focuses on Kougi's arrival at Fanoabu and what CUSTOM EVIDENCES Kougi and his line have left in history for the Plaintiff, Defendant, and the Court to see.

C. GENERATIONS

Both the Plf, Martin Ufi and Def, David Ramotalau are female related to Kougi's line.

D. TABU SITES

1. Lumadia Tabu Site.

The Lumadia tabu site is confirmed to be a settlement although, a bibi, a fire-site (fouboso/black stones) and bones are also found. The bones taken from the area and buried by the PLT's father near a big stone next to the settlement are the bones of those who have died of the dysentery sickness. It is not of Malaita Custom to worship people who die of such nature. However, the fire-site at Lumadia must be related to a Tabu-Site. The Court is in the view of the site as a fire-site of FANOABU Tabu Site and Lumadia is the Settlement related to the history of Kougi and his line.

2. Fanoabu Tabu Site

The Def's Fanoabu Tabu Site is confirmed through the records of Case no. 7/97. It reads:-

“ Court on survey is satisfied with Fanoabu Tabu Site because Court saw human bones believed to be bones of Kougi. Also Court saw wall stone although Fanoabu had been partly damaged by logging activities.”

E. BOUNDARY/SPEARLINE

- a) The Plaintiff's boundary of Fanoabu in map - EXHIBIT No.1 in this Case No. 23/2007 is confirmed.
- b) The Defendant's boundary map – EXHIBIT No. 1 of this Case No. 23/2007 is cancelled
- c) David Ramotalau's Spearline map in Case No. 7/97 is accepted.
- d) The true boundary of Fanoabu land in the records of Case No. 7/97 as reads:

“From Malitakwa'a Aramae going upward to the bush along the old foot path until it reach Akwa tree marked “x”. From Akwa tree marked “x” straight to Fi'iafole to Namogwariako stream. From Namogwariako Stream going along this stream until it reaches Kwainarako River. From Kwainarako River going along this river until it reach the sea coast. From sea side (ie. mouth of Kwainarako River/Bio River) going along the sea coast until it reach Malitakwa Aramae.”

* The PLT Martin Ufi's map- EXHIBIT NO. 1 agrees with the old boundary map in EXHIBIT NO. 1 in the Case No. 7/97.

F. PROPERTIES

The PLT, Martin Ufi, Def. David Ramotalau and Bio people have coconut plantations in Fanoabu.

SUMMARY

Having gone through the proceeds of this Case No. 23/2007 and Case No. 7/97, the Court is clear to say that Kougi and his line is the Central Figure in the history of Fanoabu Land. The evidences found in Lumadia Settlement are related to Fanoabu Tabu Site. The PLT, Martin Ufi and Def, David Ramotalau are both female related to Kougi. David Ramotalau's Spearlines in the previous Case No. 7/1997 and Martin Ufi's boundary in this Case No. 23/2007 are the same. The evidences brought up by Martin Ufi, the Plaintiff in this case (Case No. 23/2007) proves he also has primary rights over Fanoabu Land. David Ramotalau's decision in his Case No. 7/1997 already determined him to have primary rights over Fanoabu Land. Being satisfied, the Court gives its decision.

DECISION

1. The Plaintiff, Martin Ufi and Defendant, David Ramotalau have Primary Rights over Fanoabu Land
2. Property owners in Fanoabu have rights to use and own their properties.
3. Parties should not damage each other's properties.
4. Any future developments in Fanoabu must be agreed upon by the two parties.
5. No order of costs

RIGHT OF APPEAL

Any of the parties want to appeal have to make within ninety days starting from 12th September to 10th December 2008.

Court Officials:

- 1). Rinaldo Talo (VP).....
- 2). Eddie Wasi (CM).....
- 3). Alphonsus Wale (CM).....
- 4). Hillary D. Fioru (LC/Clerk).....