

In the Malaita Local Court

Held at Auki on 18th August, 2015

Before: E. Wasi (Ag V/P), L. Geniakwasia (M) and A. Wale (M)

Inquiry into Case No. 19 of 1997.



Between: Timothy Abalate & others *plaintiff*

And: Lawrence Founanau & another *defendant*

Matter: Nimausi and Suuli customary, West Kwaio

Attendance

Plaintiff: Timothy Abalote i/c

John Tafogeni i/c

Claudius Lakumae

Defendant: Lawrence Founanau i/c

Court enquires of parties on chief's settlement

Court: The Accepted Settlement form is a true form?

Plaintiff: Yes

Defendant: Not sure because it is a long time now

Court: You remember signing the Accepted Settlement form?

Plaintiff: Yes

Defendant: Yes, but I wrote a letter against the settlement

Both parties confirm Accepted Settlement but defendant says he objected later.

Court adjourn for 1:00 pm for ruling.

Court resumes at 1:30 pm

Findings of Court on Inquiry.

- 1) The matter is an Accepted Settlement made between the plaintiff and defendant on 16th March 1997 before the Logoalata House of Chiefs of Ward 26, West Kwaio, Malaita Province.
- 2) It was filed with the Malaita Local Court by the plaintiff on 19 September 1997 under GTR No. B590162
- 3) Upon enquiry, it is found that both parties confirm signing the Form II "Accepted Settlement" Certificate.
- 4) The defendant says that he wrote a letter of complaint against the Accepted Settlement. The Court did not find any copy of the letter. Defendant also did not produce evidence of the letter
- 5) Defendant now disputes the Accepted Settlement.

Deliberation

In the absence of the letter of complaint claimed by the defendant, this court is not able to say whether or not the letter was lodged within the 3-month grace period commencing from when the chiefs decision was made, that is, from 16th March, 1997 (see Accepted Settlement form).

If the letter was lodged within the 3-month grace period, the Local Court cannot record the decision of the chiefs as the decision of the Court pursuant to section 14 of the Local Court Act, Cap 19. The letter now cancels the Accepted Settlement where the defendant had now decided not to accept the decision given by the chiefs.

If the letter of complaint was lodged after the 3-month grace period then it cannot cancel the Accepted Settlement (or decision given by the chiefs). The Local Court should record the decision given by the chiefs as the decision of the Local Court pursuant to section 14 of the Local Court Act, Cap 19.

As stated above, in the absence of the letter of complaint by the defendant against the Accepted Settlement, there is nothing that this court can do in relation to section 14 of the Act.

Under the circumstances of this case, this court rules as follows:

Ruling

- 1) For current purposes, the decision made by the chiefs on 16 March 1997 remain valid under section 12 but not section 14 of the Local Court Act, Cap 19,
- 2) Court fees are non-refundable
- 3) Parties to bear own costs incidental to this hearing.

Dated this 18th day of August 2015

