

**INSAED AMBRYM WE SITDAON LONG OLAL
LONG REPUBLIC BLONG VANUATU**

CIVIL JURISDICTION

LAND KES No 5/94

BITWIN:

LAURENT LEINGKONE
long bihalf blong **FAMLI LEINGKONE**
(lukim skedul 2)
1st CLAIMANT

AND:

LOUIS WORWOR
long bihalf blong **TUMOURMAL FAMLI**
(lukim skedul 3)
2nd CLAIMANT

Coram: Magistrate Jimmy Garae
Chief August Taliban
Chief Luke John
Chief John Job

JUDGMENT

Graon we Kot i sitdaon from long Olal blong faenem kastom ona blong em kastom nem blong hem emi "**FONMOUR**". Tu pati i dispiut from graon ia long bifo finis i kam we istap long Olal eria mo bandri blong hem i stap long skej plan. Plaintiff i klem nomo smol pat blong graon ia we emi talem se istap kat rao from Nara pat ino kat dispiut from we i minim se em nao i ona blong pat ia. Kot i faenem se nara pat ia tu i kat rao from mekem se jasmem blong Kot bae i kavarem hol bandri blong Fonmour, emia blong mekem se Kot ino sitdaon bakeken from nara pat ia we Plaintiff i talem se ino kat dispiut long em.

Plaintiff i talem se Fonmour land emi blong em from ol risen ia:

1. Generesen blong em stat long bubu blong em kasem olgeta nao ia ikasem 15.
2. ol frut tri mo ol stamba wud ol bubu blong em oli planem we ikat nem blong ol.
3. long solwora i kat samfala ston we i karem nem blong tu bubu blong em mo long saed blong ol rif oli save nem blong ol rif ia.
4. emi save nem blong ol pispis graon we ol bubu blong em i kivim long ol graon ia.
5. ol woman we ikam aot long famli blong em i maret igo long nara vilij oli kat ol generesen istap.
6. ol bubu blong em ikat tu nasara, Har-Meltolam mo Har Fonmour.

7. land komiti i disaed long 1984 se em nao i lan ona blong Fonmour; mo

8. emi kat 9 generesen istap finis long Fonmour bifo descendants blong difenden igo stap wetem em.

Plaintiff i talem se famli blong em ikam aot long wan sea-shell oli kolem pinpinhal. Shell ia i laef long wan stone oli kolem Mour. Pati ia i givim long Kot geneology blong em we i stat Pinpinhal ikam kasem em tede (lukim skedul 1).

Pati ia i bin detelem tu ol nara issue blong generesen 8, 9, mo 11 mo ol later generesen. Tu emi provaedem nem blong ol pis graon, ol rif, ol ston, ol pases, mo nem blong ol ples long seashore. Pati i soem long Kot wan tabu stone blong em we emi talem se oli salem bifo long wan Franis man mo ston ia ibin stap long wan museum long Paris mo ston ia oli tes karem ikam back long Vanuatu. Laurent emi singim wan kastom singsing blong ston ia. Bakeken pati i soem wan foto blong wan famli we i liv long Aostrolia we i issue blong wan famli blong em we i bin go long Aostrolia long taem blong stilim olman Vanuatu igo wok long ol sugaken plantesen.

Leingkone Laurent i talem se famli blong em i save gud abaot ol grev, nasara, nem blong ol ples, mo ol frut tri we i blong bubu blong ol. Emia i soem mo minim se olgeta i kastom ona blong Fonmour lan. Kot i visitim ol ples ia wetem pati ia.

Fes witness blong plentif emi Nabong Thomas. Witness ia we evidens blong emi six (6) laen nomo emi talem nomo se Walopu we i wan woman long famli blong em i maretem Tibenewor we emi wan descenden blong plentif mo woman ia i bonem Arowud wetem sista blong em, Letunmague. Witness i talem se wan nara man i raetem stetmen blong em.

Seken witness blong plentif emi Wanpwe Louis mo emi tu riten evidens blong emi sot seven (7) laen nomo. Emi talem nomo se emi bilif plentif i kastom ona blong Fonmour graon from sista blong papa blong em woman ia nem blong em Siyekukur i maretem Leingkone, wan man insaed long famli blong plentif. Woman ia i bonem fo (4) boy wetem tu (2) gel. Witness ia tu i talem se naraman i raetem stetmen blong em afta emi tes saenem.

Namba tri witness emi Tom Sari we hem givim evidens se sista blong em, Esther Marpimel i maretem Tumurkone Pierrenade blong Fonmour land mo em nao wetem ol pikinini blong em oli plaintiff.

Las witness blong plaintiff emi Manman Abraham. Witness ia evidens blong em i sot nomo, emi 8 laen mo emi talem nomo se emi bilif se Leingkone Bernard i kastom ona blong Fonmour lan from wan woman nem blong em Papakon we emi wan famli blong em i maretem Mwelwar, wan man insaed long famli blong plaintiff. Mo tu emi kat bilif ia from Bernard i bin talem long em plande taem se em nao i kastom ona blong Fonmour. Witnes i talem se Leingkone Laurent i raetem stetment blong em afta emi saenem.

Emia nao emi kes blong plaintiff

Lino Worwor i toktok long behalf blong Famli Tumourmal

Pati ia givim evidens se emi kastom ona blong Fonmour graon folem histri we oli kat, ol kastom olting we oli kat insaed long sabjek graon olsem nasara, ol grev blong bubu blong em we i stap, ol wok ol bubu mo papa blong em we oli wokem long graon ia, tu ikat wan agrimen we ikam aot long 27 Mei 1969 we Bernard Leingkone i wan signatory long em, mo bakeken Kapman blong Vanuatu i diklerem em olsem kastom ona long namba 15 Julae 1986.

Blong soem se em i kastom ona blong Fonmour pati ia i talem se stamba bubu blong em emi Horong. Horong ikat tu pikinini, Teterbal mo Maguernakon.

Teterbal i kat pikinini nem blong em, Sangul. Pati ia i talem se Sangul i bin wan hae jif long Fonmour mo taem emi kilim pig emi karem nem; Horongmal. Kastom rank blong em i go antap taem emi kilim pig bakeken long stone. Mour we istap long solwota mo emi kasem nem, Tumourmal. Pati i talem se Tumourmal i Mal tu taem mo emi bin kam paramaon or hae jif olgeta long Fonmour, mo emi bin kat control long ol ples igo kasem Hahom-Fonmour.

Taem emi mekem namangi or killim pig pati ia i talem se Tumourmal i pem Fonmour tu taem long ol hae man blong Not Ambrem. Ol jif we oli sitdaon wetem mi oli advaesem me se long kastom emia ino min se Tumourmal i pem Fonmour graon be emi pem ol niu kastom rank we emi kasem mo emia i stret folem kastom long Ambrem. Mi akseptem advaes ia blong ol jif.

Pati ia i talem se bae jif ia Tumourmal ikat wan pikinini. Maguemetanwelian, nara nem blong em emi Maguernakon. Em tu i hae jif olsem papa blong em mo taem emi kilim pig emi kasem kastom nem, Kasap Meleun.

Maguemetanwelian i maretem wan woman, Mago-Taolal we emi blong Olal mo tufala ikat fo (4) pikinini, Worwor Etinne, Wokon Dennis, Yewle Joachim mo Sangul Jeremie. Pati i talem se olgeta ia tu oli kat pikinini.

Brata blong Terterbal or Tumourmal, Maguernakon emi tu ikat pikinini nem blong em Talhu. Talhu, pikinini blong em ikat Rene wetem Celestine Wolul. Wan long ol pikinini blong Celestine Wolul emi Chanel Wolul mo Chanel Wolul fes pikinini blong em emi Guy Leingkone.

Pati ia i talem se emi kat tri (3) generesen istap finis long Fonmour bifo bubu blong plaintiff iko liv wetem olgeta.

Pati ia i talem tu se olgeta i ona blong Fonmour from Bernard Leingkone i saen long wan agrimen we ikam aot long 27 May 1969 bitwin Jeremie wetem Xavier long wan saed mo Etienne wetem Dennis long narasaed. Franis Distrik long Norsup i bin lidim ol toktok we i mekem se agrimen ia ikam aot.

Insaed long agrimen ia tu pati ia i agri se Jeremie wetem Xavier i leko graon wetem kokonat plantesen we istap long Fonmour ikam long exclusive property blong Etienne wetem Dennis, mo Etienne wetem Dennis lego graon wetem kokonat plantation we istap long Olal ikam exclusive property blong Jeremie wetem Xavier.

Long saed blong ol witness blong defendant, maybi from misantanding or from oli no bin klia long toktok blong Kot Klak, riten stetmen blong 5 witnes istap nomo long wan stemen. Kot, folem O. 18 r.2 blong Aelan Kot Sivil Prosija Rul i mekem ruling se bae emi akseptem stetmen ia olsem wan witness nomo, mo emi ekskludim ol nara 4 witnes blong no givim evidens.

Witness we defenden i sing aotem emi Bonglibu Edmon. Witness ia i talem se stret famli blong plaintiff i olsem se wan woman nem blong em, Veri, emi blong Willit, i maret igo long wan man nem blong em Vivinaim we emi wan man blong Lonbasil. Taem Vivinaim i tet Veri i maret bakeken long Talhu or Gabarnaim wan man blong Fonmour. Witness i talem se bifo Veri i maret igo long Talhu emi gat bell finis long Leingkone we i papa blong Bernard wetem Marco. Emia i min se Leingkone i pikinini blong Vivinaim blong Lonbasil. Folem emia witness i talem se Bernard Leingkone i karem bak wan pis graon long Jeremie Sangul we i stap long Lonbasil we

Jeremie i pem aot finis Bernard Leingkone ikarem aot graon ia from emi talem se emi blong Lonbasil.

Bonglibu Edmond i talem se ol nem we Famli Leingkone i putum long geneology blong em i no tru. Emi talem se pinpinhal emi nem blong wan shell-fish we i laef long ol stone long solwota, mo nem ia i min samting we i go olbaot or man we i folem ol man olbaot. Witness i talem se nem Houlver or Olwer we plaintiff i yusum i min strong hed or man we i no harem toktok blong ol nara man taem man ia i karem samting blong nara man.

Long saed long nem Tumourkone, witness i talem se bifo man i kasem nem ia fastaem emi mas kilim pig long stone ia Mour blong emi tabu. Tumourmal i kilim pig long stone ia afta emi kasem nem ia Tumourmal.

Melganimur or Mwelgaimour (tu pati i yusum difren spelling, witnes i talem se emi nem blong Tumourmal taem emi statem blong kilim pig long stone Mour blong kam hae man long kastom).

Long saed long nem Maguernakon or Mguetanwelean witnes i talem se emi nem blong bubu blong defenden we kastom nem blong em emi Kasap Meleu.

Defenden i talem se plaintiff emi tes go nomo long Fonmour, fastaem emi bin stap long Taneow Lonmare. Plaintiff i talem se defenden emi blong West Ambrem.

Emia emi kes blong defenden.

Tu pati long kes ia ino helpem Kot nating from ino bit kat gud evidens i sapotem klem blong wan wan long tufala.

Plaintiff i kat fo (4) witness, evriwan long olgeta evidens blong olgeta i jas tu short, length blong riten evidens blong ol i few laen nomo. Tri long olgeta, Nabong Thomas, Wanpwe Louis mo Manman Abraham, demeanour or fasin blong olsem wanem oli givim toktok long Kot i mekem se i difficult blong Kot i bilivim toktok blong trifala. Long cross-examination oli seksek tumas mo oli karem wan hard taem blong ansa ol kwesten. Taem oli ansa ol kwesten eye mo toktok blong ol igo long pati we oli witnesem. Kot i rimaenem olgeta se oli mas toktok ikam long Kot. Wan witnes italem long Kot se bae emi nomo ansa ol kwesten from evri toktok blong em istap finis long stetmen blong hem. Kot i talem long em se emi mas ansa ol relevant kwesten we nara pati i askem i go long em.

Namba tri witnes i givim smol evidens nomo se sista blong em, Esther Marpirmel emi blong nasara blong Veri mo emi maretem Tumurkong blong Pierrenade blong Fonmour. Difenden i akseptem toktok blong em.

Folem evri toktok ia kwesten blong kot i disaedem emi weswe plentif i pruvum kes blong em blong sapotem klem blong em or no?

Kot i mekem disisen finis se evidens blong tri witnes blong plentif bae emi no rilae long olgeta. Tri witness ia plentif i sing aotem trifala blong pruvum geneology we emi presentem. Tri witnes ia, including nara witnes blong plentif oli givim evidens blong sapotem generesen ia we i stat nomo long 7th generesen aot long 15 generesen. Evri wan oli givim evidens se wan woman blong famli blong em i maret ikam insaed long famli blong plentif insaed long graon blong Fonmour. Meibi wanem oli talem i tru be Kot, long balens of probabiliti i kat doubt long evidens blong oli mekem se Kot i kat doubt long 15 generesen we plentif i stanap long em blong klem Fonmour.

Plentif i stanap long fes generesen blong em we i Pinpinhal. Long saed ia ol jif i advaes se long kastom pinpinhal emi min se man blong wokbaot long rod, tu, nem ia i nem blong wan sea-shell long solwora we i stap muv olbaot tu long ol stone long solwora, nao ol jif oli advaes se spos plentif i klem folem nem ia i min se olgeta i descendent blong man we i bin stap muv olbaot mo i tes ko settle long Fonmour. Mi akseptem advaes ia blong ol jif.

Plentif i kivim evidens se ol bubu blong em oli kat grev insaed long Fonmour. Nao insaed long disputed graon ia i kat wan bikfala spesel grev long kastom oli kolek, Worwor, emi burial graon blong ol haest jif blong Fonmour. Plentif ino kat wan bubu blong em we oli berem insaed long worwor ia we insaed ikat nomo ol remains blong ol bubu blong difenden we oli bin haest jif long Fonmour long taem blong wan wan long olgeta. Ol presiding jif oli advaes se long kastom blong Ambrym, long bifo, sapos nasara i blong wan hae jif blong wan graon bae oli berem em insaed long worwor from emi blong ples ia. Therefore, long saed ia mi akseptem advaes blong ol jif we i min se nasara long Fonmour i blong laen along difenden from oli stret man blong Fonmour. Meibi ol bubu blong plentif oli mekem namangi long Fonmour be oli no berem olgeta insaed long worwor from olgeta ino stret man blong Fonmour.

Folem ol reasoning ia antap Bernard Leingkone i wan singatory long wan agrimen we ikam aot bitwin Jeremie wetem Xavier long wan saed mo Etinne wetem Dennie long nara saed we ikam aot long 27 Mei 1969 we i concernem tu graon blong Fonmour. Nao sapos Bernard Leingkone long taem ia emi bilif se emi kastom ona blong Fonmour bae emi aplae long Franis Distrik Ejen we i dil wetem kes ia blong joen olsem wan pati. Emi no bin aplae blong joen olsem wan pati we i minim se long taem ia emi bin save gud se Fonmour i blong difenden mekem se emi saen long akrimen ia we i rekoknaesem nara man olsem land ona blong Fonmour. Therefore, emia i minim se klem blong plentif emi tes mekem ap nomo.

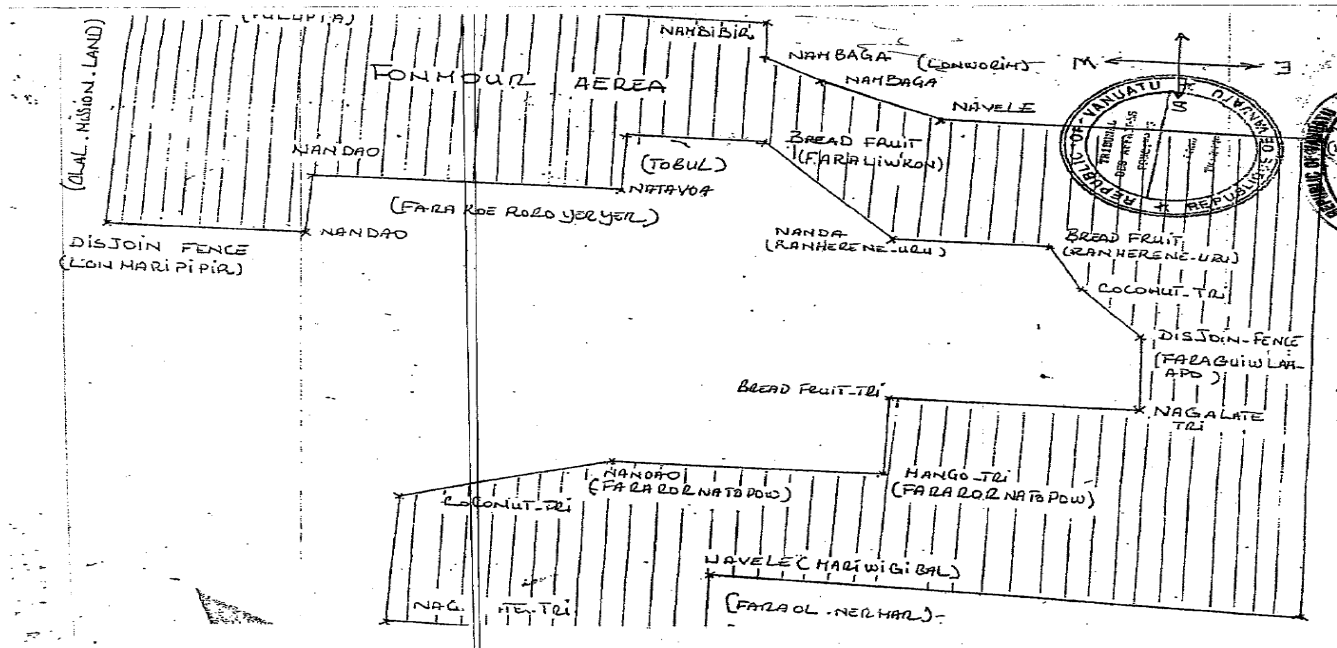
Difenden i kivim evidens se sam yia i pas nao we Jif Willie Bongmatur i kilim wan pig igo long Lonbasil mo Bernard Leingkone nao i holem rope blong pig ia. Ol jif oli advaes se long kastom blong Ambrym taem Bernard Leingkone i holem rope blong pig emia i minim se emi blong Lonbasil. Mi akseptem advaes ia blong ol jif we i minim se plentif ino blong Fonmour. Blong establishim se plentif emi blong Lonbasil, difenden i kivim evidens se Bernard Leingkone i karem aot wan pis graon long Jeremie we istap long Lonbasil we Jeremie i pem aot finis from Bernard Leingkone i talem se emi blong Lonbasil.

Folem evri toktok ia Kot i dismisim klem blong plentif mo diklerem difenden olsem kastom land ona blong graon ia, Fonmour. Be plentif bae oli kohet blong stap long Fonmour anda long difenden. Bae plentif i kohet blong onem ol propeti we emi kat insaed long Fonmour spos i kat eni such propeti. Sapos plentif iwantem karem aot eni development long Fonmour bae emi askem permission blong difenden.

Tugeta pati i allow leave blong apil agensem jasmen ia insaed long 30 dei stat long tedei.

Dated at Luganville this 2nd day of January 1996

JIMMY GARAE
President blong Ambrym Island Court



LEINGKONE LAURENT istanap mo ikleim FONMOUR LAND on bihaf blong family ia:

LEINGKONE BERNARD:

- LEINGKONE IRENE
- LEINGKONE GUILLAIDIE
- LEINGKONE MATHIEU
- LEINGKONE BRUNO

HIVIRD MARCO:

- HIVIR SILVER
- HIVIR JACOB
- HIVIR MARTIN

ATINGTING MOISE:

- ATINGTING YANICK

WOLUL CHANEL:

- WOLUL GUY

WOLUL AUGUSTIN:

- WOLUL CHRISTIAN

WOLUL CYPRIEN:

- WOLUL THIERRY

WOLUL LAURENT:

- WOLUL ROBERT
- WOLUL CELESTIN
- WOLUL TOBI
- WOLUL JUDIGAEL
- WOLUL JEAN LUCK

BONGVIVI DAMIEN:

- BONGVIVI LINO
- BONGVIVI EMILE
- BONGVIVI IGNACIO
- BONGVIVI SAGAN
- BONGVIVI PEDRO ATEL