

IN THE EFATE ISLAND COURT
OF THE REPUBLIC OF VANUATU CIVIL CASE NO.06 OF 1993

BETWEEN:	FAMILY LEIPOE KALTOAMALAS - Original Claimant
AND:	FAMILY KALTONGO MARAPONGI TARIMIALA MUNUMUNULOU - Land Claimant No. 1
AND:	FAMILY SONGORIKI - Land Claimant No. 2
AND:	FAMILY LAKELEO TAUA - Land Claimant No. 3
AND:	FAMILY KALTAPANG MALASTAPU - Land Claimant No. 4
AND:	FAMILY MASAU VAKALO - Land Claimant No. 5
AND:	FAMILY TARAVAKI - Land Claimant No. 6

JUDGMENT

Hearing Date: 5th July 2004 and 12th July 2004.

Oral Decision delivered on the 12th day of July 2004.

Written Judgment Date: 13th day of July 2004

Period of Appeal commence from the Judgment date.

Coram: Magistrate Nesbeth Wilson
 Mrs Lucy Sandy – Justice of the Island Court
 Mr Makal Kalsong – Justice of the Island Court
 Mr Raymond Marongoe – Justice of the Island Court

NEM BLONG LAND CLAIM : PONATOKA(Long Mele)

Long 1993 Family Leipoe Kaktiamalas oli lodgem land claim long one ples long Mele Village we oli kolem Ponatoka. Taem Family Kaktongo Marapongi Tarimiala Munumunulou oli harem se ikat claim from ples ia Ponatoka oli go long Island Kot oli putum claim blong olgeta tu, hemia long 1994. Long 1995 Island Kot Clark hemi putum notice long ples ia long Mele. Hemia folem Order 6 Rule 8 long Island Court Act CAP 167 we hemi tok olsem, mi quotem long English language "*Where the subject matter of the claim is land the clerk shall, by notice posted on the land and by other appropriate means, advise the public of the date of the hearing of the case and of the names of the parties; and the clerk shall inform the public that all persons having an interest in the proposed cause shall as soon as possible apply to the court to be joined as plaintiff or defendants, as the case may be*".

Long taem blong publication, ibin kat claimant no.1 mo claimant no.2 we naoia hemi Land claimant no.1 be hemi no Original claimant. After notice ibin posted olgeta nara parties ia oli lodgem olgeta claims blong olgeta olsem ol counter claimants. Kes ia ibin listed blong harem long 5 July 2004.

Long namba 5 July court i bin sidaon mo holem conference wetem olgeta parties everywan long land case ia.

During long conference ia kot ibin lukluk long olgeta samting ia:-

1. Kastom blong folem
2. Olgeta files we oli bin stap long foret blong olgeta:
 - (a) Statement blong ol witnesses
 - (b) Family tree blong olgeta parties
3. Mo givim ol directions long olgeta parties mo adjournem kes.

Fastaem yumi mas lukluk long komposision blong kot.

Komposision blong Kot

Long wan Amendment Act No.35 blong 1989, Parliament i bin pasem se anda long seksen 2 blong Aelan Kot Act, CAP 167, taem we Aelan Kot isitaon blong harem dispiut long land bae wan Magistret i mas sitaon wetem trifala Aelan Kot Jastisis. Anda long seksen 2(a) blong Act ia, wan Magistret olsem bae ino save sitaon sapos Jif Jastis ino kivim authoriti long hem. Folem hemia Kot i wandem talem long ol patis se olgeta we oli deal wetem kes blong Ponatoka land oli qualifae evri wan.

Kastom blong usim blong harem land kes ia

Storian we bae ol parties oli talem long kot blong pruvum se who nao iracet kastom owna blong graon ia bae i kam aot nomo long kastom blong yumi long Efate in particular hemia we ol man Mele oli folem. Kastom we olgeta patis oli kat we isemak hemia we land hemi folem man or blood (patrilineal) be ino woman or naflak (Matrilineal) blong kleimem kastom ownaship blong land ia.

During long conference ia kot i faenem se most long olgeta parties oli no submitim olgeta witness statement blong olgeta olsem we loa i providem long Orda 18 rule 2 long Island Court Act CAP 167. Rule 2 blong Order ia iprovidem se; "*... Each witness shall state in writing the evidence he intends to give in court and such written evidence shall be forwarded to the clerk of the court at least 2 weeks before the date of hearing of the case...*" Tu kot i faenem se olgeta parties oli no bin mekem gud ol family tree blong olgeta so kot i mekem sam directions iko long ol parties mo adjournem kes ia kasem 8.30am long 12 July 2004.

Directions ia iko olsem:

1. Original Claimant togeta wetem claimant no.1, 2, 3, 4, mo 5 oli mas providem olgeta witness statements blong olgeta igo long kot by 4pm Thursday 8 July.
2. Olgeta parties everywan oli mas providem better family tree blong olgeta igo long kot by 4pm Thursday 8th July 2004.
3. Court i adjournem kes ia iko kasem 8.30am long Monday 12th July 2004.

Long Friday 9 July 2004 olgeta witness statements every wan wetem family tree blong Original Claimant, Land Claimant no. 1,2,3,4, mo 5 oli bin submitim ikam long kot. Land Claimant no. 6 i just submitim family tree blong hem long Monday morning 12th July 2004. Clerk ibin manage blong servem olgeta copies blong ol statements mo family trees ia long ol parties long Friday be olgeta justices oli just receivim olgeta copies long Monday morning, mekem, se oli takem sometaem long Monday morning long 12 July blong lukluk long olgeta stament ia wetem family tree before kot isitaon mo holem nara conference.

Kot i sitaon start long 9.00am mo holem wan nara conference after ibin faenem se ikat two parties oli kat sem family tree mo sem history.

During long conference ia Kot ibin explain long ol parties why kot ino save gohed blong harem kes kasem taem ol issues we oli kam up oli sorted aot.

First issue we kot iwantem deal wetem hemi family tree. After kot ireceivim olgeta family tree wetem written statement blong olgeta witnesses. Olgeta justices oli faenem se two family trees tufala isem mak nomo. Hemia family tree blong Original Claimant wetem Land Claimant No.4. Family trees ia tufalai shoem se Malastapu hemi maret wetem Leipoe. Spokesman blong Family Leipoe Kaltoamalas hemi pikinini blong Leipoe mo Delarue Guy. Leipoe ia hemi named after long Leipoe we hemi wife blong Malastapu. Although Leipoe Delarue

hemi gat sam brothers original claimant i claim under long nem ia Leipoe instead blong claim under long nem blong Malastapu.

Kot imas decide whether blong acceptem Original Claimant blong claim under long nem blong Leipoe we hemi folem woman or no.

After we olgeta parties everywan oli bin agree long day one(1) se bae kastom blong folem blong decided who nao hemi raet kastom owna long graon ia bae ifolem man or blood (patrilineal) be ino woman or naflak (matrilineal) kot iexplain long ol parties se bae ino save acceptem Original Claimant blong save stanap hemwan blong mekem claim. Hemi mas join wetem family Malastapu blong claim tugeta. Ikat wan indication ikam long kot from Noel Malas we hemi spokes man blong Family Malastapu se bae ino possible blong tufala iko togeta mo claim together. Therefore kot imekem ruling long ples ia se bae Family Leipoe Kaltoamalas oli no save kam wan Claimant long kes ia.

After long ruling ia kot itakem ol parties iko back long public notice we ibin posted long 1995 we ibin kat two(2) Original Claimant mo explain long olgeta se bae ikat chanis long ples ia we bae isave allowem Family Kaltango Marapongi Tarimial Munumunulou blong save become original claimant mo bae isave kat 5 counterclaimants. Spokesman blong Original claimant italem long kot se long 1993 taem hemi putum claim blong hem mo pem fee blong hem ibin kat hem nomo olsem original claimant. Claimant No.1 hemi just makem claim blong hem wan yia later, (mo hemi shoem receipt blong hem long kot.) Land Claimant No.1 hemi confirmem long kot se hemi mekem claim blong hem long 1994 mo pem fees blong hem. Kot ibin inquire sapos hemibin mekem claim blong hem olsem original claimant tu be hemi talem long kot se no hemi counter-claim long claim we Family Leipoe Kaltoamalas imekem.

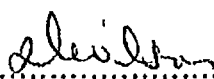
After Kot iharem Original Claimant mo Land Claimant No.1 kot ifaenem se Familly Leipoe Kaltoamalas ino save stanap under long nem ia Leipoe blong mekem claim, Mo tu kot ifaenem se Land

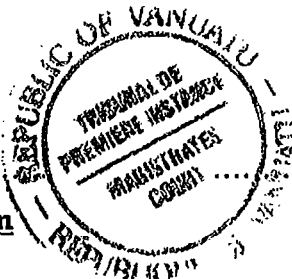
Claimant No.1 hemi no prepare blong kam wan Original Claimant therefore inokat any Original Claimant, naoe bae ino kat Land claim therefore ino kat any claim blong ol nara parties olsem Land Claimant Nos.1, 2, 3, 4, 5, mo 6 blong oli counter claim long hem.


Nao ia kot imekem ol order olsem:

1. Forom se ino kat any Original Claimant, nao inokat any claim therefore kot inao sakem aot kes ia without any costs.
2. Folem seksion 22 blong Aelan Kot Act CAP 167 patis oli kat 30 deis blong appeal sapos oli no hapi long desison ia.

Detem long Port Vila long 13 dei blong July 2004.


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Nesbeth Wilson
Magistrate




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Lucy Sandy
Aelan Kot Jastis


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Makal Kalsong
Aelan Kot Jastis


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Raymond Marongoe
Aelan Kot Jastis