

**IN THE EFATE ISLAND COURT OF  
THE REPUBLIC OF VANUATU**

*(Civil Jurisdiction)*

**Civil Case No. 16 of 2005.**

**BETWEEN:** Family Peter Maripongi  
( Pileau Peter and Harry Peter )  
Applicant.

**AND:** Kennedy Kalfau Kala  
Johnson Kalfau Kala  
Erick Tom  
Chief Abel Amera  
Peter Henry Kala  
Respondents.

**Coram:** Justice: Erick MESAU  
Justice: Makal KALSONG  
Justice: Anne CARLO

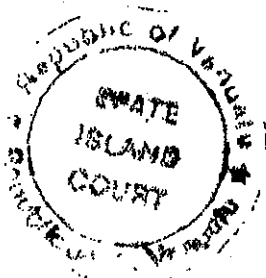
**Clerks:** Shemi JOEL  
Jonah MESAO

**JUDGMENT**

The Court has heard an application filed by the Applicants, named (Pileau Peter and Harry Peter) as Family Peter Maripongi on or about 11<sup>th</sup> of March, 2005. The nature of the application is "failing to obey an order" of the Efate Island Court issued on 6<sup>th</sup> of June, 2003. Applicants claimed that the following Defendants breached orders 2, 3, and 4 of the Said Efate Island Court; *Kennedy Kalfau Kala, Johnson Kalfau Kala, Erick Tom, Peter Henry Kala and Chief Abel Amera.*

Any body found to breached an order of the Island Court shall be dealt with under the powers given in Section 19 of the Island Courts Act CAP 167.

Quoted;



***“ Any person who fails, without reasonable cause (the burden of proof of which is on him) to obey an order of or a summons to attend before, an Island Court shall be guilty of an offence and shall be liable to a fine not exceeding VT 24,000 or imprisonment not exceeding 6 months or to both.”***

The application was to this effect;

1. An order that warrant be issued for the arrest of *Kennedy Kalfau Kala, Johnson Kalfau Kala, Erick Tom, Chief Amera and Peter Henry Kala* and to appear before this Court to show cause why they should not be committed to prison or fined for failing to obey an order of Court for breaching the terms of orders 2, 3, and 4, of the order issued by this Court in this matter on 6<sup>th</sup> June, 2003.
2. Costs of this application.
3. Any further orders the court deems fit and just to make.

Upon the Grounds that:

1. The Applicants has commenced this proceeding in 2002 to challenged the ordination of Kalorongo Kaltong in 1996.
2. On or about 6 June 2003, the Efate Island Court overruled the ordination of Kalorongo Kaltong to hold the chiefly title Maripopongi in 1996 and declared that ordination was invalid.
3. In terms of orders issued on 6 June 2003 by the Efate Island Court, particularly orders 2 and 3 reads;
  - “2. *The Title Maripopongi shall be in the Plaintiff's Possession as of Today's date.*”
  - “3. *The Plaintiff's Families and Relatives to elect a person to be ordained with the name "Maripopongi" no later than 31<sup>st</sup> January, 2004.*”
4. In breach of those orders referred to in the preceding paragraph, the defendants, *Kennedy Kalfau Kala, Johnson Kalfau Kala, Erick Tom, Chief Abel Ameara, and Peter Henry Kala* decided themselves



without authority and permission from wife and son of Chief Claimant family and proceeded to ordain one of them, Peter Henry Kala and bestowed him with the Chiefly title Maripopongi on 5 March 2005 at Suasu in Paunangisu Village.

5. The ordination is clearly in breach of the terms of the Orders issued by the Efate Island Court on 6 June 2003 as the Claimant family did not elect or give endorsement to Peter Henry Kala to be ordained to hold chiefly title Maripopongi.
6. The said ordination was administered by Chief Abel Ameara from Nguna Island. In custom, the rightful chief to administer the ordination is Paramount Chief Manlaewia.
7. The only son of late Chief Peter Maripopongi Harry Peter was asked by her mother to go to Suasu to inform Kennedy Kalfau Kala, Johnson Kalfau Kala, Erick Tom, Chief Abel Ameara, and Peter Henry Kala that his family did not agree to the ordination of Peter Henry Kala to hold his families chiefly title.

Two sworn statements were filed in support of the application for failing to obey an Order of the Island Court.

The sworn statements of Pileau Simon were to this effect;

1. *I am the wife of late Chief Peter Maripopongi.*
2. *After the judgment of the Efate Island Court on 6 June 2003, I act as custodian of the chiefly title whilst waiting for our family to decide who should ordain to hold the chiefly title Maripopongi.*
3. *I confirmed that Kennedy Kalfau Kala, with members of his family Johnson Kalfau Kala, Erick Tom, Chief Abel Ameara and Peter Henry Kala decided themselves without my authority and permission or of any member of later Maripopongi family proceeded to ordain one of them, Peter Henry Kala and bestowed him with the Chiefly title Maripopongi on 5<sup>th</sup> March 2005 at Suasu in Paunangisu Village.*
4. *The ordination is clearly in breach of the terms of the orders issued by the Efate Island Court on 6 June 2003 as my family did not elect or*

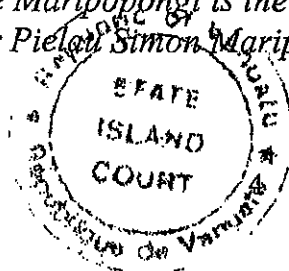


*give endorsement to Peter Henry Kala to be ordained to hold chiefly title Maripopongi.*

5. *The said ordination was administered by Chief Abel Ameara from Nguna Island. In custom, the rightful chief to administer the ordination is Paramount Chief Manlaewia.*
6. *I confirm that I asked my son Harry Peter to go to Suasu to inform Kennedy Kalfau Kala and members of his family Johnson Kalfau Kala, Erick Tom, Chief Abel Ameara, and Peter Henry Kala to inform them that I did not agree to the ordination of Peter Henry Kala to hold my family's chiefly title.*
7. *My son returned and told me that those people swore and said abusive language at him and insult him and said "yu pikinini blong rod"*
8. *What those people have done was a clear breach of the final orders issued in this matter on 6 June 2003 as we the straight family members of Chief Peter Maripopongi did not elect Peter Henry Kala to be ordained to hold my later husband's chiefly title.*
9. *I verily believe that Kennedy Kalfau Kala is person who plan and mastermind the whole process or ordination of his brother Peter Henry Kala to hold my family's chiefly title.*
10. *I confirm that my family had met and have decided to ordain my son Harry Peter to hold the chiefly title. We are preparing for his ordination.*

Sworn statement of Harry Peter was to this effect;

1. *I am the only son of late Chief Peter Maripopongi.*
2. *In custom of Efate, I am the rightful person to be ordained to hold the chiefly title Maripopongi.*
3. *Following the judgment of Efate Island Court of 6 June 2003, the chiefly title Maripopongi is the possession of my family up to date. My mother Pielan Simon Maripopongi is the custodian of the*

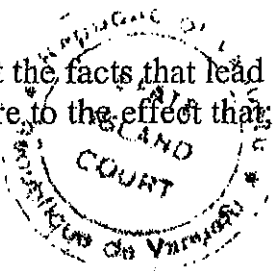


chiefly title after court declared that ordination of the Defendant Kalorongo Kaltong was invalid.

4. *I understand from the judgment of the Efate Island Court that my family would elect a person to be ordained with the name Maripopongi. According to Efate custom the person must be one of us his straight children.*
5. *My family has decided that I will be ordained to hold the title as the only son of my father late Chief Peter Maripopongi.*
6. *Contrary to my families agreement, Kennedy Kalfau Kala, Johnson Kalfau Kala, Erick Tom, Chief Ameara and Peter Henry Kala decided themselves without authority and permission from my mother and family members of later Chief Maripopongi and ordained one of them Peter Henry Kala and bestowed upon him with our family chiefly title Maripopongi on 5 March 2005 at Suasu in Paunagisu Village.*
7. *I confirm that I personally went to advise the above named persons at Suasu that they must stop from proceeding with their planed ordination of Peter Henry Kala to hold my family chiefly title but they swore at me and said words to this effect " **yu pikinini blong rod**" go away. This is an insult to myself and my family who is the rightful line of chiefly title Maripopongi.*
8. *I believe the purported ordination of Peter Henry Kala to hold our chiefly title is a theft of my families right.*
9. *I confirm that the paramount chief of Paunagisu Village Chief Manlaewia did not know and administer the ordination because our family had inform him that my ordination will take place once my family prepared all the things required for my ordination.*

Three other witnesses filed in their statement in support of the application. They are Chief Tagaraspokasi Dick Kalmer, Edward Kaloris and Chief Raymond Marongoe.

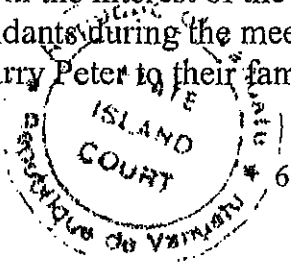
Applicant mention that the facts that lead to the "failing to obey the orders" of the Island Court were, to the effect that:



1. On Saturday 5<sup>th</sup> March 2005, there was an Ordination performed at Suasu settlement, in land Paunagisu, and Peter Hendry Kala was ordained and bestowed the Chiefly named Maripopongi.
2. The Ordination was clearly a breached of the Island Court Orders of 6<sup>th</sup> June, 2003 since the defendants performed the ordination without the Consent and Knowledge of the Plaintiffs family who were Pileau Peter and Harry Peter. The applicant claimed to have no knowledge of Peter Henry Kala as the candidate elected to succeed this named.
3. the applicants claimed that they were not part of any election as mention in order 3 of Orders of 6<sup>th</sup> June, 2003 which reads "*The plaintiffs Families and Relatives to elect a person to be ordained with the named Maripopongi no later than 31<sup>st</sup> January, 2004.*"
4. Applicants continued that the Plaintiffs Families and Relatives are two separate group of people. Immediate Families would include Pileau Peter who is wife of late Peter, Lucy Talimaire who is the only adopted daughter of late Peter and Harry Peter who is the adopted Son of late Peter. Immediate Relatives would be the class of people categorized as those outside of the household, and Dick Tagaraspokasi Kalmer who is adopted brother of late Peter. Other relatives would include those having close ties or relationship with late Peter and his wife.
5. Pileau Peter, Harry Peter, and Dick Kalmer were part of few meetings organized by the defendants but were reluctant to participate any further when they realized that defendants were dictating the meeting on their interest.

**WITNESS PILEAU PETER.**

Witness Pileau Peter was called in to testify on her knowledge and involvement on the organization of the Ordination performed on 5<sup>th</sup> March 2005. She confirmed that she was in one or two meetings arranged by the defendants but was reluctant to participate any further when realized the meeting was done in the interest of the defendants. She was insulted by words of the defendants during the meetings. She confirmed to have adopted Lucy Peter and Harry Peter to their family. She claimed to be the Custodian



or (Tukurao) of the named Maripongi since her husband late Peter died. Further more, she denied handing over the Chiefly Title Maripongi to the defendants before the ordination of 5<sup>th</sup> March 2005.

**WITNESS HARRY SIMON**

Harry Simon testify that he is the only adopted son of later Peter Maripongi. He further said that according to Efate Custom, he is the rightful son of the late Chief and has all the right to inherit any property belonging to the Chief. He confirmed to be in the second last meeting arranged by the defendants but have no knowledge of the candidate to be ordained.

On that meeting, her sister Lucy informed the defendants of their fathers will that Harry is to succeed the title Maripongi and Lucy to TAPANGTAMATE. However, the defendants did not agree on the mention and Harry withdraw.

**WITNESS DICK KALMER**

On Oath, Dick Kalmer claimed his Chiefly title is TAGARASPOKASI. He is the Adopted brother of later Peter Maripongi. He have no knowledge of the ordination of 5<sup>th</sup> March, 2005. Defendant do not consult him, no informed him of any candidate to be ordained. He was in one or two meetings arranged by the defendants but withdraw since the defendants were conducting the meetings on their interest.

**EDWARD KALORIS**

Edward Kaloris on oath. He claimed to have been with late Peter during his last days when he was at Vila Central Hospital. Before he died he told this witness of his will that Harry is to succeed his title Maripongi and Lucy to have right over the title TAPANGATAMATE

During cross examination, Edward Kaloris revealed that there is no more decedents of Maripongi exist. In that case, Peter has the right to choose who to succeed his title and re affirmed Peters Will that Harry will Succeed the title Maripongi.



## CHIEF RAYMOND MARONGOE

The only reliable evidence this witness gave is that Harry Peter's adoption was done in Accordance with the Custom of Efate. Harry has the right to inherit any property belonging to late Peter Maripongi. He further reveals that everybody knows that Pileau is the custodian of title Maripongi during the death of later Peter until today.

## DEFENSE

A respond on the Application for failing to obey an order was filed by the defendants on or about 23<sup>rd</sup> March 2005 upon the followings grounds;

- 1). The title Maripongi was in the possession of Family Peter Maripongi as of 6<sup>th</sup> June, 2003.
- 2). That Families and Relatives to elect a person to be ordained Maripongi. (Defendants refer to Appendix 1-8 which are the minutes of several meetings organized by the defendants).

The Court decided that no evidence to the following will be heard by this Court further.

1]. Family Tree

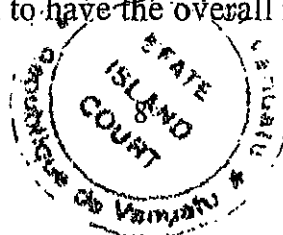
That is decided only after a close consideration and discovery that there were certain changes in the Family Tree and is different from the one used in the first court. The Court warned it self not to accept any more new history and family tree for possibility of creating a new dispute.

2]. Bloodline

There are no longer any bloodline connected to the Maripongi existed today.

## FIRST WITNESS

Kennedy Kalfau testify to the effect that he is the main person who master mined the ordination performed on 5<sup>th</sup> of March, 2005, at Suasu settlement. He claimed to have the support of the majority of the families and relatives of Maripongi. He claimed to have the overall responsibility of





Maripopongi. That right was gained when he stand on top of the late Chiefs Mat when he died. On that same occasion, he claimed to purchase the title Maripopongi and Tangtamate from the late Chief with a pig, 10 Mats, and VT10,000.

This evidence clearly contradicted the evidence adduced in the previous Court of 6<sup>th</sup> June, 2003. During the course of hearing of the previous Court, this Court heard that the title Maripopongi was under the custodian of Pileau Peter or she was the (Tukurao) of the Title. There were no evidence to the effect that Kennedy Kalfau purchase the same title on the previous Court. These are unreliable information and source, and the Court decided not to accept them as reliable.

2). **JOEL KALTANG MALELE BULE**

Joel Kaltang was a witness during the ordination of 5<sup>th</sup> March, 2005. This witness does not reveal any relevant information that is helpful to this Court.

3). **LUCY TALEMAIRE**

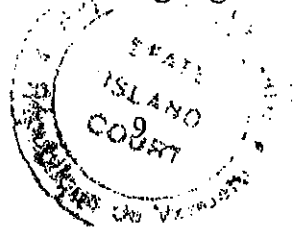
She is the eldest adopted daughter to Maripopongi. She claimed to be the only surviving daughter from the bloodline Maripopongi through the Matrilineal system. She confirmed to have been in the meeting and agree on the name Peter Harry to be ordained Maripopongi. All evidenced produced by this witness are clearly irrelevant to the evidence of late Peter's wife and the evidence gathered by this court in CC # 54/2002.

4). **ASSISTANT CHIEF JOHNSON KALFAU**

He is assistant Chief Maripopongi with Chiefly name ATAVIRUA. He claimed to have overall responsibility of Maripopongi. He was ordained together with Maripopongi. All his evidence, the Court ruled as unreliable and that is because all the other evidence were not reliable and contradicting the findings of first court.

5). **PETER HENRY KALA**

On oath, this witness revealed he have no knowledge of him to be ordained on 5<sup>th</sup> March, 2005 until the last meeting organized by the defendants. On



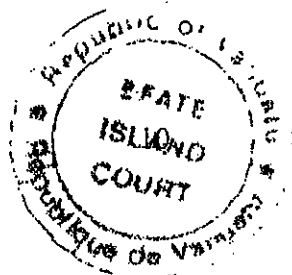
hearing him, the Court finds that this witness is the victim of the ordination of 5<sup>th</sup> March, 2005.

For ease of better understanding, Unless and until this honorable Court can be satisfy with confidence that the order of 6<sup>th</sup> June, 2003 is breached, the following must be established;

1. That there is a valid existing Order of the Said Efate Island Court during the time alleged breached.
2. The ordination performed on 5<sup>th</sup> March, 2003 was done without the consent of the applicants as plaintiffs in CC # 54/2002.
3. Defendants are not the family and relatives of the applicants as plaintiffs in Civil Case No 54/2002.

Upon hearing both parties, the following is found;

- 1) The Court is Satisfy that this Court issued an Order on the 6<sup>th</sup> of June, 2003, and Orders 2, 3, and 4 are detailed in the application mention earlier.
- 2) Defendants did not comply with Orders of Island Court of 6<sup>th</sup> June, 2003 when Pileau, Harry and Dick Kalmer as immediate families of late Peter did not give their consent and endorsement to Peter Henry Kala to be ordained or they were not part of the election of Peter Henry Kala to be ordained as stipulated in order 3 of the Orders of 6<sup>th</sup> June, 2003.  
On cross examination, Kennedy Kalfau Kala and Johnson Kalfau Kala were the main persons to used their powers and initiatives for the Ordination of 5<sup>th</sup> March, 2005.
- 3) There is no cooperation between the Families and Relatives of Peter Maripongi to comply with orders of 6<sup>th</sup> June, 2003.
- 4) Defendants were categorized outside the house hold family of late Peter and of course they are relatives of late Peter. They are relatives of Applicants in CC # 54/2002.



- 5) No facts to this Court that proved Mr. Erick Tom to be directly involved and is in breached of the Orders. He is there fore released immediately.
- 6) Chief Abel Amera exercised his powers to Ordained Mr Kennedy Kalfau and Upon that Powers, Kennedy proceed further to Ordained Peter Henry Kala and bestowed him Chiefly name Maripongi. Because of him that illegal ordination was done on the 5<sup>th</sup> of March, 2005.

Before this Court handed down its decision, this Court must clearly emphasis that there is no cooperation between the two separate group of families and relatives on this application namely Pileau Peter and Harry Peter as the family of late Peter Maripongi and the defendants claimed to be relatives. This kind of attitude of making ordination without proper custom procedures cannot prevail in the future within communities to restore peace and unity for the interest of the people. Since there are more and more of cases with this nature in dispute before this




court, then this court must make sure they are handled by responsible people properly for the interest of Communities.

Because we are dealing with an Application for "failing to obey" the order of 6<sup>th</sup> June, 2003, the Court is satisfy that the Order is breached and thinks the proper punishment for this breached is imprisonment.

### ORDERS

- 1) Defendant Kennedy Kalfau Kala is hereby imprisoned for a period of 5 months.
- 2) That defendant Johnson Kalfau Kala, Peter Henry Kala are hereby imprisoned for a period of 4 Months.
- 3) That Chief Abel Amera is hereby imprisoned for a period of 3 months.
- 4) The Ordination performed on the 5<sup>th</sup> of March, 2005 is Invalid and have no recognition in custom.
- 5) No Order as to Costs.
- 6) 14 days to appeal.

Dated at Port Vila this 6<sup>th</sup> Day of May, 2005.

  
Justice Erick MESAU.

  
Justice Ann KALO

  
Justice Makal KALSONG.

