

IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU
(Land Jurisdiction)

Land Case no.4 of 1994

BETWEEN: PAUL VEREVUR (for Tavulai Community)
Applicant

AND: MARY MOMO KULUKUL (for Family Vareng Veat)
Respondent 1

AND: ALICK FRANK & FAMILY
Respondent 2

AND: VAULELI COMMUNITY
Respondent 3

Coram: Magistrate Edwin A Macreveth
Island Court Justice Morris Knos
Island Court Justice Roy Morsen
Island Court Justice Edna Wilson

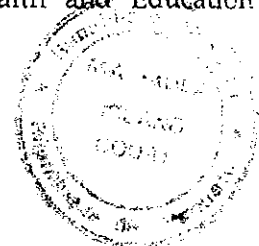
Clerk: Manu Jacky Alfred

Date of hearing & decision: 8th of October, 2012

DECISION

This court issued judgment on the 22nd day of October, 2007 declaring Mary Momo Kulukul and her family besides the original claimant as customary owners of the land of Lehili land boundaries commencing from Ndasok to Nahosali housing Lehili school.

After such declaration, a number of court proceedings then followed on the part of Paul Vurevur with attempts to challenge and reverse the decision. Amidst these events the applicant managed to convince by producing misleading information to relevant governmental departments such as the Land, Health and Education



ministries to turn down requests for rental proceeds for the land housing the current operating Lehili school and the health clinic stationed thereon.

These unwarranted events led to a long delay of denial to the rights of ownership of the land of Lehili as conferred. Litigation went far as the Supreme court in Land Appeal Case no. 3 of 2008 but such appeal was dismissed on the 13th day of April, 2012 for want of standing on the part of the appellant who is the applicant in this proceeding.

It follows from the mentioned developments that the applicant then decided to file a motion dated 22nd September, 2012 seeking clarification from the court over the judgment. The second and third respondents choose not to appear with reasons that the application does not question their declared territories.

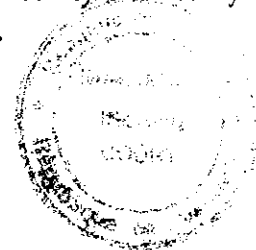
The applicant is specifically requesting the court to dwell on the following tasks.

1. Clarify which school was declared to Mary Momo Kulukul and her family
2. Clarify whether the 1904 survey map used by respondent 1 correspond with the declared territories.

In his address, he submitted that there are two separate school premises on the land. One being the present Lehili French school and the vacated area of the Presbyterian Mission school built during the colonial administration.

In addition, he argues that due to the fact that the court opted not to visit the land as per the Island Court Act, there is likelihood of misunderstanding and dislocation of the declared boundaries. He concludes that for such failure, it is his submission that the declaration had only declared the site formerly housing the Presbyterian Mission school to the first respondent, leaving out the current Lehili French school outside the declared territories. To his understanding Lehili French school forms part of Magasome Land Title no. D271 J.744 & 915 once sold to Trader Richard Facio in 1898 which he asserts it to have been duly declared by the Tamaso Council of Chiefs of Paama island sometimes in 1994.

Mary Momo Kulukul, in reply to the applicant's presentation explains that the survey map used in the court in 2007 correctly correspond to the landscape territories being declared to her family. She argues that it is the applicant who is causing confusion to government authorities over the declaration. She concludes that the declared boundaries allocated to her family and the original claimant begins from the western side at *Ndasok* marked by Black rock point on the north extending southwards to *Tasimate* marked by a Natapoa tree standing by the sea shore. Her family's land ends at the fence of the school compound traditionally marked by a reef known as *Sa houlu* located some distance towards deep sea.



The court after inspecting the land areas of Lehili school and in comparison to the surveyed map in issue found no differences. The disputed part of the map surrounding Lehili school and its vicinities on paper and land clearly houses Lehili school, the Presbyterian Mission school vacated site and a coconut plantation once owned by the Presbyterian Mission school. Meaning its boundary limit from the south ends just after the Presbyterian Mission school site.

From the last court, it could be noted that Mary Momo Kulukul and her family are only claiming land which does not include the Presbyterian Mission school site which is situated within the survey map as well. Their claimed and declared land territories stop at the present school enclosure marked by the fence and *Sa houlu* reef.

Our observation obviously shows that none of the parties is confused so as to warrant a clarification. This filed motion can only be seen as just another medium where the applicant could further manipulate the court and respondent 1 with confusing statements. This is reflected by his given attempt in trying to re locate the survey map and pushing the declared boundaries southwards.

However, his perception of the map and relocation of the declared boundaries could not be sustained. The map according to our verification and understanding correctly corresponds to the geographical background of the land areas being declared to Mary Momo Kulukul and her family.

Other raised issues concerning non visitation of land and purported declaration by the Paama Tamaso Council of chiefs have already been given consideration by this court in the October, 2007 judgment. They cannot be raised in this forum again for we consider them as subjects that could only be determined by way of an appeal to the Supreme court. This is an abuse of the court process.

Needless of making clarification directions though, for purposes of clarity to readers and the parties to this case, the court wishes to clarify as follows;

1. That the issued judgment dated 22nd day of October, 2007 declaring Mary Momo Kulukul and her family as customary owner of the land of Lehili land boundaries commencing from Ndasok to Nahosali housing Lehili school is re confirmed as effective.
2. The declared land territories commence at the north at *Ndasok* (Black rock point) where the original spear line rests dividing Tavulai land and runs down ending at the fence marking the limits of the Lehili school compound.

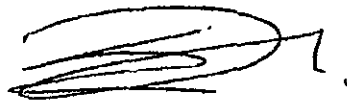


3. The declared surveyed land map of 1904 used by respondent 1 representing her proper land claimed territories embodies both the Presbyterian Mission school site , the current Lehili French school and the clinic.
4. The declared boundaries allocated to Mary Momo Kulukul and her family Vareng Veat and Alick Frank begins from the western side at *Ndasok* marked by Black rock point on the north. It ends at *Tasimate* marked by a Natapoa tree standing by the sea shoreline on the south bordering with Kelai land.
5. Description as to boundary limits of Lehili land on the north is bounded by the land of Tavulai from *Ndasok* (Black point rock). It runs eastwards to a *nabankura tree* and up the hill to the fence of Tevali village. On the east, it follows the fence to the village of Tevaliaut in line with a banian tree knows as *Holaivek*. It then follows westwards the traditional boundary limits separating Lehili and Kelai land territories as declared in *Land Case no 3 of 1993* by this court joining up at the sea coast at *Tasimate* village marked by the *Natapoa tree*. Its frontier on the western part is bordered by the sea coast.

Having made these clarifications, it is further directed that only Mary Momo Kulukul and her family representatives as customary owners of the land housing the clinic and Lehili school have the absolute right to negotiate any formal lease agreement with the relevant governmental ministries. All land lease rental payments should only be paid to Mary Momo Kulukul or other representative of family Vareng Veat. Any current rental proceeds of land lease payment made to parties other than the declared owners should forthwith cease at the receipt of this order.

Dated at Port Vila, this 11th day of October, 2012

BY THE COURT



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Edwin A Macreveth
Presiding Magistrate

