

**IN THE MALEKULA ISLAND COURT  
HELD AT LAKATORO/ MALEKULA**

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(Civil Jurisdiction)

Civil Case No. 33 of 2009

**BETWEEN: MALTERONG MATHEW**  
Original Claimant  
**AND: FAMILY BAHORMAL**  
1<sup>st</sup> Counter Claimant  
**AND: FAMILY NORONMAL**  
2<sup>nd</sup> Counter Claimant  
**AND: WANIEL EMIL**  
3<sup>rd</sup> Counter Claimant  
**AND: FAMILY MRENMAL**  
4<sup>th</sup> Counter Claimant  
**AND: ALBERTO MUTOSERLUO**  
5<sup>th</sup> Counter Claimant  
**AND: FAMILY MALSERAKE**  
6<sup>th</sup> Counter Claimant  
**AND: MALTELOUR TITO**  
7<sup>th</sup> Counter Claimant

**MATTER: DISPUTE OVER LONG JIFLY TAETOL BLONG LOWO  
NASARA, WALA SMOL AELAN.**

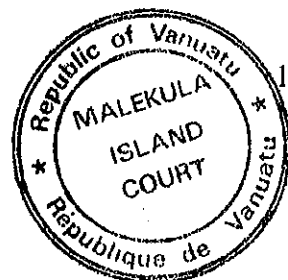
**Jastices:** Jastis Kalman Hapsai  
Jastis Wesly Tawi  
Jastis Maxwell Arnhampath

**Clerk:** Joel Jacob

**JUDGMENT**

**Brief backgraon blong case:**

Civil Case # 33/2009 hemi wan customary matter concernem dispute long Jifly taetol blong Lowo Nasara blong Wala Smol Aelan. Aelen kot hemi bin arem case ia wan taem finis mo ikat several patis ibing apilim iko long Magistrate kot. Afta Magistrate kot hemi kwasem dicisen blong aelan kot mo riverem kes ia ikam pak blong bae hemi mas kat anata riering pakeken. Tudei 21<sup>st</sup> kasem 24<sup>th</sup> May 2013, kot hemi bing sitaon pakeken blong lukluk long ful issue ia.



**Issue:**

Who nao hemi fes man long olketa patis ia ikam mekemap Lowo nasara? Hem nao hemi stret man blong save tekem taetel ia.

**Smol Histri blong case:**

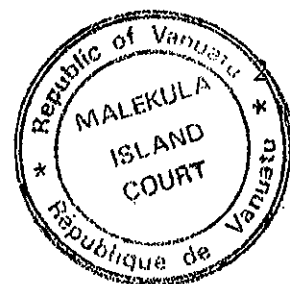
**Original Claimant** – OC hemi talemaot long kot ia se olketa nao oli ol tru man Lowo. Hemi statem famili tri blong hem long Nimalseresu we hemi maretem Leatlo ikam kasem long Mathieu pikinini blong Tobie we I maretem Marinicol, tufala kat 6 boe mo 2 kel. Hemi talemaot ol blad laen blong ol chiefs we hemi stat long N. Malseresu kasem N.Mal Tobie we hemi total long 9 everywan. Hemi talemaot every aksen/kastom aktiviti blong hem tu long rein blong olketa generesen ia. Hemi listemaot olketa kasem 25 everywan. Lastly hemi diskraepem aksen blong Jif Tobie se hemi sentem toktok iko long Frans war sip mo ol nara vilij oli kam witnisim hem long taem ia. Hemi kliarem long kot ia tu mo talemaot ples ia we hemi stap mekem sakrivaes iko long god blong hem mo talemaot se taem blong kilim namanki hemi mas stat long en kasem long en. Taem blong lafet nomo, bik jif iko staon long midel blong nasara. OC hemi soemaot every ston mo ol kastom aktiviti we oli stap insaet long nasara Lowo.

Ol nara patis oli askem fulap kwistin long hem mo hemi ansarem olsemia:

Hemi se ol aktiviti blong Jif Tobie ia hemi no blong kaonsel be hemi blong nasara from se hemi save toktok long Frens. Hemi talemaot tu se taem we hemi muf iko long nasara Lowo, ikat nakamal Aim finis istap longwe. Nasara ia hemi divaeted long 3 pats. Hemi talemaot tu se fes existing nakamal hemi Lowo nasara we insaet, hemi kat 4 traeb. Also insaet long nasara ia, ikat 4 namanki ikil we oli pefomem stret long medel blong nasara. Hemi talemaot tu se CC3 hemi kamaot long Lalep mo hemi karem taetel blong spika. Also hemi witnisim se CC3 hemi wan bikfala jiv we hemi kam long mein lan. Fes man we I ricivim hem long smol aelan hemi Dien Karu we hemi blong Melnator. Man ia hemi no kivim eni samting long OC long priperesen blong namanki killing, be hem wan nomo hemi mekem ol samting ia.

Long wan riexaminesen, OC hemi talemaot se hemi kat 7 jeneresen we oli ko long smol aelan mo 2 oli stap long mein lan.

**Counter Claimant 1.** CC1 hemi se bifo, Wala smol aelan inokat man iliv long hem. Ol traeb blong Penticos mo mein lan nao oli jes mekemap ol nakamal ia insaet long nasara Lowo we hemi kat 3 pats. Taem we wan ae jiv hemi ded, hemi mas silip insaet long respectiv nakamal blong hem. CC1 hemi kat 8 jeneresen evriwan stat long Niabe kasem Rene. Niabe hemi maretem woman Rarav mo tufala kat 2 boe. Fes bon boe blong hem hemi krosem solwota iko long smol aelan long bambu stret long pasis ia oli kolem Lores Pasis we oli stap long hem tete. Afta we ol traeb blong penticos oli setemap tufala ston insaet long Aim nakamal, Desmaitis hemi nemem nasara ia "Amel Lowo" we iminim mi stap fastaem. Hemi talemaot ol kastom originality blong hem tu we bik jiv Mrewla hemi save se hemi Faonda mo hemi stanap strong lo olketa kasem tete.



CC1 hemi explenem kud birth, maret, kastom ceremony mo ded blong tufala bik jiv ia Mrewla mo Bohormal how nao oli apen.

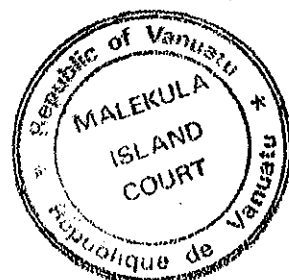
Oli askem fulap kwistin long hem be hemi talemaot nomo se, hemi kam long South Malekula. Hemi no kam wetem taetel blong jiv be hemi kam tru long olfala ia Meltekwor we hemi stap long Lowo finis. Tufala fes existing nakamal ia nao Pongsine mo Aim we oli stap long Lowo nasara. Hemi talemaot tu se ol ston we istap long nasara ia hemi ol ston blong penticos we today ol man penticos oli laef yet long nakamal ia Aim. Hemi talemaot tu se long Lowo nasara, hem nao hemi kilim fes namanki. Ikat 4 namanki ikil be hemi no save nems blong ol olfala ia we ikilim ol 4 namanki ia. Lastly, hemi konvinim long kot ia se tru long ol killing blong ol namanki ia we hemi mekem, hemi kat ful raet blong klemem taetel ia olsem wan bik jiv.

Counter Claimant 2. Long history blong CC2, hemi storian abaot Riani mo Botolgen se tufala I blong Partawo long Bananbay antap long bus long main lan. Tufala ifolem olfala ia jiv Worenmal iko long smol aelan from ikat bikfala faet long stret ples blong tufala. Oli ko so long pasis Petiw mo jiv itekem tufala mo stap wetem tufala long Vare nakamal. Taem Riani imaretem wan woman Vare, tufala ibonem Riri mo jiv itekem olketa mo putum olketa long wan pis kraon blong oli laef long hem. Afta long hemia, Botolgen imaretem woman Rano mo oli biuldim nakamal ia Naou. Riani nao hemi kam olsem bik jiv afta tufala istat blong ricivim ol traeb olbaot. Taem jeneresen blong tufala ikam kasem Noronmal mo Maltohaim, oli stat blong klinim nasara ia, Lowo. Bifo jiv ikilim namanki, hemi sentem toktok iko antap long bus (main lan) blong oli katem tamtam Liary. Afta long hemia, jiv hemi stanemap tamtam blong hem then ceremony blong namanki ijes ko.

ol ansas we CC2 ikivim tru long ol kros examinesen kwisten iolsemia; mi bik jiv mo inokat man irisivim mi. Mi nao mi mekem fes nakamal (Aim) insaet long Lowo nasara we today ikat ol man penticos nomo oli stap long hem. Mi kilim 3 namanki be mi no save nems blo ol namanki ia mo amas pik ikil long trifala namanki ia. Fes namanki hemi kill bifo mi stanemap tamtam. Mi stap long en blong nasara ples we ston blong bik jiv istap long hem mo mi kilim namanki long raet iko long lef. mi mo brata blong mi ikam long mein lan tru long kenu. Taem mi araef long smol aelan nasara Lowo istap finis. Mi kam stap long namba 3 pat blong nasara we hemi Nawu. Ikat wan jiv istap finis mo mi kam olsem sapoting jiv blong man ia we today youmi sta faet from. Mifala ikat 8 jeneresen everyone we today seken bon hemi still olemtaet taetel ia olsem wan jiv. Ston we CC5 hemi stap stanap long hem hemi wan foret ston blong Aim we istap long raet saet.

Taem we hemi riexaminetem spoksmen blong hem, hemi talemaot se nakamal blong hem ikat ston, singsing blong ren, sun mo tanda.

Counter Claimant 3. CC3 hemi talemaot se Wala aelan hemi wan aelan we inokat man iliv long hem. Fes traeb we ikam lan long smol aelan hemi ol traeb blong Lohwor long mein lan. Lowo hemi kam bik nasara mo Pwelut hemi kam smol nasara we oli kam anda long Lohwor nasara. Senaliv hemi las nasara we hemi establish long smol aelan ia. Hemi talem tu se insaet long nasara Lowo, ikat 6 nakamal everyone we oli adoptem



fulap traebis we oli kam lo ol nara pleses mo oli kam pat mo memba blong Wala komuniti today. Hemi poentem aot se Rourgoung hemi maot spika blong jiv insaet long Lowo nasara we niufala nem blong hem ikam Botobreng. Hemi mekem klem blong hem bifo long kot ia blong divendem 50 piks blong Nvasgavul A Lohwor, copi raet blong kalja we hemi kamaot long mein lan, jivly taetel blong nasara spika long Lowo, mo kastom aetentiti we itekem ples long nasara ia.

Long ol ansas blong CC3, hemi talemaot se hemi no klemem jivli taetel blong nasara ia from se hemi jes kam biaen long ol nara klema ia motu nasara ia hemi stap finis. Hemi talemaot olsemia from se taem we hemi kam long Aim, tufala klema istap finis long nakamal ia. Hemi talemaot tu se isave apen nomo blong hemi kam spika mo jiv semtaem mo who we bae hemi karem taetel ia, every klem blong mi bae iko long hem. Taem we oli askem kwistin abaot namanki long hem, hemi se hemi no klemem namanki mo hemi no save abaot namanki from se ol nara pati oli stap finis insaet long nasara or nakamal.

Long riexaminesen, hemi talemaot se taem we bikfala faet long Lohwor long main land, hemi mov iko long Wala aelan mo ol nara wan oli ko stap long Ajin.

Nunumbal Thade hemi witnisim CC3 long taem ia we hemi mekem toktok ia ikam antap long olketa blong oli karem 50 pik ia ikam. Hemi nemem olketa 5 everyone we oli karem ol pik ia ikam daon.

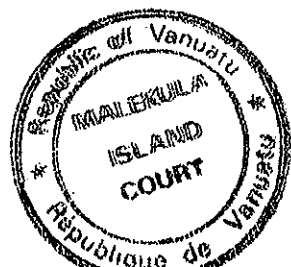
Long kros examinesen, hemi talemaot se ol pik ia hemi blong namanki killing we Rourgoung tu, hemi pat long kaon ia we CC3 i stetem long klem blong hem.

Counter Claimant 4. Family Mrenmal hemi talemaot se hemi aot long penticos ikam long Wala aelan. Nimpal nao blong Melnator I ricivim hem afta hemi setemap nakamal Put folem wetem Aim nakamal mo finisim wetem nasara ia Lowo. Hemi talemaot se hemi kat 9 jeneresen everyone stat long Verebo mo endem wetem Charley.

Hemi talemaot se taem we hemi araef long Wala aelan, ikat nasara finis be, hemi putum 1 ston nomo blong hem long Lowo from hemi wan rank we hemi kam wetem long penticos. Mo tu hemi kam wetem 2 traebis pakeken we OC hemi pat long ol traeb ia. Hemi talemaot se ikat 6 nakamal everyone insaet long Lowo nasara be Aim nao hemi oldest wan long olketa we every traebis blong penticos oli stap long hem tete. Aim mo Pongsine nao isetemap nasara ia Lowo. Maljunator nao hemi bikfala jiv long penticos mo olfala we ikam long Penticos hemi Verebo. Hemi admitim pakeken se CC3 nao hemi mein spika long Lowo from se hemi bik man. Mwerembo nao hemi god we I stap mekem sakrifaes iko long hem. Taem CC7 ikwistinim hem abaot Melnator nasara, hemi se nasara ia ino exist yet taem hemi kam long aelan. Hemi ansarem kot mo talemaot se olketa 2 oli kam long saot penticos.

Long riexaminesen, hemi talemaot se yes hemi kam long Penticos mo main spika blong nakamal Aim hemi Rurun.

Counter Claimant 5. Alberto Mutoserluo hemi talemaot se bifo ikam kasem tete, every man Wala isave se hemi bikfala jiv blong nasara ia. Nmalmitainvanu iaot long Lawor long mein lan mo ko long smol aelan be ifaenemaot se ikat wan man istap finis longwe.



Amel Dmath hemi fes nakamal we hemi statem afta jensem nem blong hem ikam long Lowo we hemi min se "Kam bak". Rukarumiteinuano nao hemi statem nakamal Aim. Fes namanki we ikil long Lowo hemi Muolaim, folem wetem Ultere, Malmetenial mo Nvasgavul A Luo we imin se 1000 pik. Hemi soemaot klia se Mutoserluo hemi bik jiv from hem nao ikilim ol 1000 pik ia. Hemi stetem jeneresen blong Mutoserluo ikam kasem long hem tete we taetel ia istap long hem we Louis Alphonse ikivim long hem.

Taem oli kros examinatem hem, hemi talemaot se Aim nao emi fes existing nakamal we hemi putum mo insaet long nasara ia, ikat 4 namanki we ikil from raet to left. Hemi no save ansarem from wanem nao hem mo CC4 ino save joen tuketa blong faet from taetel ia from tufala istap long wan nakamal nomo. Hemi talemaot se insaet long nakamal Aim, olketa nomo wetem ol famili we oli kam long penticos inkludum OC. Hem nao hemi tijim olketa long kastom blog hem. Hemi wan bik faea insaet long nasara Lowo we hemi apoentem Rurun blong kam spika blong hem. Hemi talemaot tu se tete ikat life blood blong Rurun. Hemi talemaot se today ol man penticos oli no kontrolem Aim nakamal, oli save kam sapoting jiv nomo insaet long nakamal Aim. Hemi se posisen mo tron blong jiv istap long medel blong nasara Lowo.

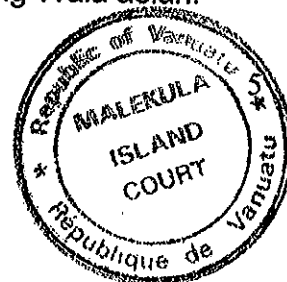
Counter Claimant 6. Malsrake Joselito hemi introdiusim history blong hem mo talem olsemia; hemi se, Lowo nasara hemi wan bikfala nasara we hemi stap stret long medel blong aelan, hemi ples blong kompaenem every nakamal raon long hem, ples we ol kastom ceremony oli stap pefom long hem mo hemi kat 24 families we oli stap/laef long hem tete.

Olfala Bouh hemi bikfala kastom jiv blong Tsersouk long mein lan. Hemi kat 2 boe (Nbel Oraor & Bourial). Tufala istap raorao from pik afta Bouh hemi seraotem tufala. Narawan iko stap long Amel Pati mo Oraor iko stap long Tonmalvar. Long Tonmalvar, Bouhor mo Sanaim tufala ibon. Bouhor hemi muf iko long Wala aelan mo stap long Pongsine nakamal we hem nao hemi faonda blong nakamal ia. Hemi konteniu mo talem se long blad laen blong Bouhor, hemi kat 8 jeneresen we hemi stat long Bouhor mo endem long Bryan. Maltawo nao hemi bik jiv, faonda blong Lowor nasara.

Long ol ansa blong hem, hemi se Pongsine nakamal hemi fes existing nakamal insaet long nasara Lowo. Ples blong wan bikfala jiv istap long midel. Ston blong hem isud stap long en blong nasara be from ol nara traeb oli stap kam putum ston blong olketa mekem se mi stap long midel. Ol kwistin ibing reis abaot namanki killing be hemi se ino save eni samting abaot namanki from ino stap insaet long stemen blong hem. Hemi se OC hemi blong Penticos. Hemi apoentem CC3 blong kam spika blong hem. Hemi se hemi kam paramaon jiv from hemi stret blad blong jiv. Ol ston we oli laen insaet long nasara hemi minim ol jea blong ol traeb we oli stap kam in long nasara. hemi talemaot tu se hemi no pefomem eni kastom ceremony from hemi stret bladlaen.

Long riexaminesen kwisten, hemi talemaot pakeken se Pongsine hemi fes existing nakamal mo emi minim nomo se 'en blong baondry'.

Counter Claimant 7. Maltelour Tito hemi talemaot se ikat wan woman nem blong hem Letang Nbor we istap long Sanaliv. Dady blong hem isentemaot hem 3 taem blong maretem wan man Lawor be hemi no wantem afta hemi ronwe iko long Wala aelan.

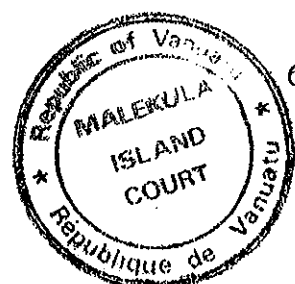


Diavu iko stap wetem hem long smol aelan long hole blong stone Lugerere. Tufala iaot mo mekem wan smol vilij (Melenbek) afta tufala nemem smol aelan ia Wala minim se "Ronwe". Tufala imuf aot long vilij ia afta ko mekem Awop. Tufala iputum nem ia from 4 pikinini blong tufala ibon long hem afta hemi ko mekem Tsiniesnawas nakamal. Pikinini blong tufala ia nao Warala mo Tiari istatem Lowo nasara. Hemi se ikat 5 namanki ikil wetem 1000 pik mo ol Registration ston nao oli ripresentem ol killing blong ol namanki ia. Hemi talemaot se kastom rilesensip blong Warala wetem Tiari, Warala wetem Nateleng mo Pongsine wetem Aim\_oli still stap kasem tete. Sanaor inokat kastom rilesensip memori from hemi ded taem hemi no kat pikinini. Lastly hemi talem se jeneresen blong Maltelour mo history blong hem istil stap kasem tete long buk blong katolik jej long Dioces, Port Vila Vanuatu.

Taem oli kwistinim hem, hemi talemaot se hemi kam long Sanaliu be sanaliu nao hemi las traeb we ikam long smol aelan mo inokat man irisivim hem long smol aelan. Jingnesnawos nao hemi fes nakamal long Lowo nasara we hemi statem. Fes jeneresen blong hem hemi Diavu blong Sanaliu. Diavu iputum ston blong hem long nakamal mo pikinini blong hem iputum ston blong hem long nasara. Ston blong hem istap long foret blong nasara mo hemi kilim 5 namanki long raet iko long lef saet. Hemi save nem blong las namanki nomo be ol nara 4 ia hemi no save. Taem hemi stap long mein lan, hemi no pefomem eni kastom aktiviti, taem hemi muf iko long smol aelan nao hemi jes pefomem ol ceremony. Paoa blong jiv istap long mein lan be hem istap long smol aelan from bladlaen blong jiv long mein lan. Hemi se wan bladlaen blong jiv isave maretem sem bladlaen ia nomo. Hemi admitim tu se hemi no save bladlaen ia we hemi sta mensesem. Also Hemi talemaot se istap mekem sakrifaes iko long god blong Awop 'Youtoran' from Warala inokat god. Lastly hemi divaenem Aim olsem wan 'vilij' mo Pongsine olsem 'en' mo tru long Pongsine nao, iricivim ol man Aim.

**Afta long toktok blong every parties, kot hemi kam long olketa findings ia folem issue we istap;**

- CC1 italemaot stret long kot ia se hemi kamaot long saot Malekula so, hemi no save kam bik jiv long north east long Lowo nasara, Wala aelan.
- CC1 hemi admitim long kot se hemi stap traem bes blong faenemaot stret ples we hemi kam long hem long saot Malekula.
- CC1 hemi kam smol jiv blong bik jiv long Lowo nasara, Wala aelan (sapoting ston).
- CC2 hemi talemaot long kot ia se hemi kam long saot east Malekula iko long Lowo nasara be hemi luk Lowo nasara iset-ap finis.
- CC2 hemi talemaot se hemi no bik jiv blong Lowo nasara, Wala aelan.
- CC2 hemi kam pat insaet long Lowo nasara olsem smol jiv nomo.
- Presentesen blong CC3 hemi very kliia bifo long kot ia.
- CC3 ise hemi no klemem jivli taetel blong Lowo nasara, Wala aelan.

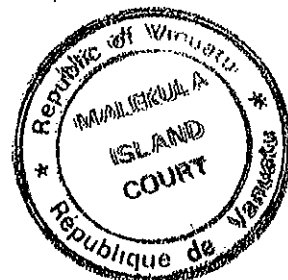


- Nomata OC hemi jusum CC3 blong kam spika blong hem long Lowo nasara, CC3 hemi stil diventem taetel blong hem olsem paramaon jiv blong Lalep baondry smol nambas.
- Taem CC3 imuv iko long Lowo nasara, ol nakamal insaet long nasara ia oli stap finis.
- CC3 hemi mekem klem blong hem bifo long kot ia blong diventem 50 piks blong hem we oli tekem long Lalep iko long Lowo nasara.
- CC4 hemi talemaot se hemi man Penticos so hemi no kwalify blong tekem taetel blong bik jiv long Lowo nasara, Wala aelan.
- Ikat wan man iricivim CC4 long Wala nasara.
- CC4 hemi pefomem ol kastom aktivitis long nakamal Put, Aim mo tekem pat long Pik killing ceremony long Lowo nasara, Wala aelan.
- Taem CC5 iko long aelan Wala, ikat wan man finis istap long we.
- Kot ifaenemaot se CC5 hemi ronwe long home nasara blong hem Lawor iko long smol aelan Wala, so you olsem man kam long smol aelan.
- Kot hemi faenemaot se CC5 hemi kam olsem wan sapoting jiv nomo mo hemi pefomem namanki long saet blong smol jiv nomo.
- CC6 hemi talemaot se hemi no klemem eni namanki insaet long Lowo nasara, Wala aelan.
- CC6 hemi no kilim eni namanki insaet long nasara Lowo blong kam bik jiv.
- CC6 hemi kam sapoting jiv blong Lowo nasara, Wala aelan.
- CC7 hemi no karem eni taetel blong jiv iko long smol aelan long Lowo nasara from hemi wan boe nating nomo we hemi ko from smok faea long smol aelan.
- Every toktok blong you CC7 long kot ia oli kiaman everyone from taem kot I askem nem blong papa blong you be you se you no save.
- Kot hemi faenemaot se OC hemi kam bik jiv from hemi kamaot long nasara Lawor mo ko long Lowo nasara, Wala aelan.
- OC hemi usum bambu iko long smol aelan wetem ol traeb blong hem.
- OC hemi luk wan man istap finis long Wala aelan.
- Fes man ia hemi stap wetem OC blong helpem hem long ol namanki blong hem.
- OC hemi ricivim CC3, CC5, CC6 mo CC7 long Lowo nasara we oli kam long mein lan.
- OC hemi talemaot se hemi ricivim CC1, CC2 mo CC4 olsem ol smol jiv insaet long Lowo nasara, Wala aelan
- Long Lowo nasara OC hemi hed ston, hemi kat jea ston mo sapoting ston kasem long en.

#### **Law we Court I applaem:**

CAP 167 (s.10) – Application of customary law

Subject to the provisions of this Act, an island court shall administer the customary law prevailing within the territorial jurisdiction of the court so far as the same is not in conflict with any written law and is not contrary to justice, morality and good order.



Translate:

CAP 167 (s.10) – Kot hemi mas applaem kastom

Subject long seksen blong Act ia, aelan kot hemi mas aplaem kastom we istap insaed long eria mo paoa blong hem, spos oli no gat conflict wetem eni loa we oli stap raetem, mo no gat konflik tu wetem jastis, morality mo gudfala orda.

**Apply Law igo long fact:**

Court emi tekem decision follem customary system blong titleism long each eria customary way.

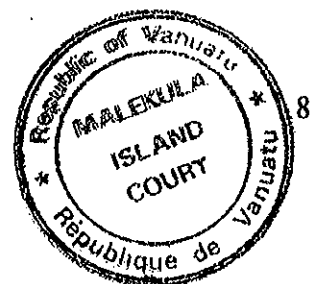
Long this fala case Court ifinem se eria in dispute blong Jifly taetol emi base long customary bladline system, hemi minim se taetol blong Jif emi inherited tru long laef blad.

### **Decision:**

**Wetem every toktok mo ol findings blong kot, kot hemi rule se;**

1. Malterong Mathew (OC) hemi kam Bik Jiv blong Lowo Nasara, Wala aelan.

Anyone we ino akri long dicisen ia, hemi kat 30 deis blong Apil stat from tudei 24<sup>th</sup> dei blong May 2013.





Dated at Lakatoro this 24<sup>th</sup> day of May 2013.

BY THE COURT

.....  
Justice Kalman Hapsai

.....  
Justice Wesley Tawi

.....  
Justice Maxwell Arnhampath

