

**IN THE MALEKULA ISLAND COURT
HELD AT ORAP CENTER/ MALEKULA**

Civil Case No. 2 of 2013

(Civil Jurisdiction)

BETWEEN: JEANNOT MALCEKAN
Original Claimant
AND: CHIEF GATIEN
Counter Claimant 1
AND: TEILEMB MELTEOUSI ALBERT MARIE
Counter Claimant 2
AND: ISMAEL MALVARU
Counter Claimant 3
AND: TETOUR KISITO TEILEMB
Counter Claimant 4
AND: CHIEF TORONBABARU
Counter Claimant 5
AND: CHIEF MALTAUS RICHARD
Counter Claimant 6
AND: WILFRED TOUENVANU
Counter Claimant 7
AND: JEMU RORY
Counter Claimant 8
AND: LILIORD GUYONG
Counter Claimant 9

**MATTER: DISPUTE OVA LONG JIFLI TAETEL BLONG TOGH-VANU
NASARA.**

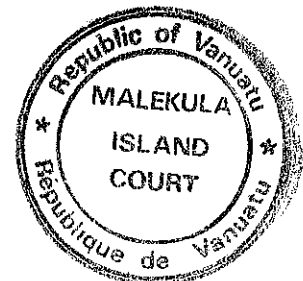
Jastices: Jastis Shema Tasvallie
Jastis Douglas Vandel
Jastis Endie Shem

Clerk: Joel Jacob

JUDGMENT

Brief backgraon blong case:

Civil Case # 2/2013 hemi wan customary matter concernem dispute ova long jifli taetel blong Togh-vanu Nasara. Nasara ia hemi stap long Vao aelan North East Malekula. Kes hemi pending bifo long kot sins long 08/04/2013 kasem tete 28th blong manis August 2013 hemi ko long trial blong faenemaot issue we hemi stap.



Issue: who nao long olketa parties ia hemi raetful pesen long kastom blong tekem jifly taetel blong Togh-Vanu nasara?

Brif bakraon blong keis:

Original Claimant – Jeannot Malcekan hemi stap klemem taetel ia folem blad laen dicenden blong Ghiagh wetem Toronbabaru we hemi kamaot long tufala. Tufala nao ol fes man we tufala onem smol aelan blong Vao. Ghiagh nao hemi head blong Betheul nasara mo Toronbabaru hemi head blong Togh-Vanu nasara olsem we istap long family tri blong hem.

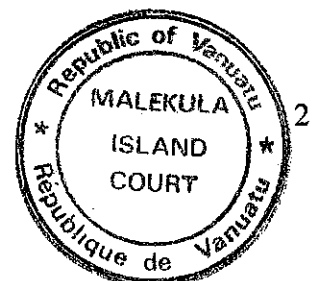
Long olketa kwistins, hemi talemaot se Belour nao hemi bik faea mo hem istanap long birth right ia. Hemi kakae head blong pig long nasara blong hem be long ol nara nasara, hemi kakae ash blong pik. First existing nakamal we istap insaet long Togh-Vanu hemi Lamatnamaki we ston blong hem istap long foret mo, Lavakvak i ibiaen long hem. Apat long tufala ia ikat 3 narafala smolsmol nakamal pakeken we oli folem tufala. Plante samting emi no save abaot namanki we Belour hemi mekem from se christinity istap finis.

Witniss blong hem Jean Batise, hemi talemaot se Belour hemi stap long Lavakvak mo hem nao hemi high jif. Hemi klemem bik faea from inomo kat man long taem ia. Ston blong bik faea istap long foret mo blong smol faea istap long end. Hemi talemaot tu se stamba jeneresen blong olketa ikamaot long rob blong namemel.

Counter Claimant 1- CC1 hemi klemem raet blong Toronbabaru we hem nao hemi stret blad laen blong hem. Toronbabaru hemi aot long Betehul Labarank mo ikam live long Togh- Vanu we inokat man ilive long hem. Tudei hemi stap klemem taetel ia we hem nao ilaef blad blong hem.

Hemi talemaot long olketa kros examinesen kwistin se hemi blong Lamatnamaki bikfala nakamal blong Togh-Vanu. Ston blong hem istap long foret blong nasara mo hem nao hemi sta kakae head blong pig. Hemi mensesem pakeken se Toronbabaru nao hemi faonda blong Lambarang mo iko long Lambetra mo set ap long Togh-Vanu nasara. Hemi konfemem tu se ino hem wan nomo we ikamaot long Toronbabaru, ikat ol nara klema tu oli kamaot long man ia, Toronbabaru. Ino save nao, from wanem I olsemia we oli kat ol divdivren family tri be oli kamaot lo wan man nomo (Toronbabaru). Oli gravem ol pupu blong hem insaet long Lamatnamaki mo sam insaet long Lavakvak. Taem ikam tru long smol aelan, ikat man finis, Navaqarukalat nao hemi jif blong Betheul from se hemi fes bon. Hemi mensesem se nsaet long nasara Togh-Vanu, ikat 3 smol faea mo 3 bik faea.

Counter Claimant 2: Teilemb Melteousi Albert Marie hemi stap klemem togh-Vanu nasara tru long administresen blong tufala man ia, Toronbabaru wetem Narerlumtur. Tufala man ia ikam long tufala brata baondri long mein lan, Tondor wetem Tonmalvar. oli ronwe long Tondor ikam long Tonmalvar wetem Togh-Vanu from ikat ol bikbikfala



faet mekem se oli mas aot. Oli kam stap anda long kavening system blong tufala man ia (Toronbabaru wetem Narerlumtur).

Taem oli kwistinim hem, hemi se iklemem Latombitne mo bik jif blong Togh-Vanu. Hemi kam long Tondor mo isetap long camp blong ol man Tondor. Toronbabaru nao hemi man Tondor. Hemi kam laef wetem man ia we hem nao hemi kakae head blong pik mo Hollovon nao hemi kivim kastom raet ia long hem. Hemi talemaot se ol traeb blong Lamatnamaki mo Lavakvak oli jes kam biaen nomo be hem ikam fastaem long olketa.

Witniss blong hem Teilemb Melteousi Loanard hemi witnisim se hemi fes man mo hem nao oli adoptem hem. Hemi konfemem pakeken se olketa oli kam long Tondor mo fes bon blong olketa oli adoptem iko long nara nasara. Hemi laef istap naia wetem wan adopted jif mo from kudfala rilesensip ia nao mekem se adopsen itekem ples be ino wetem blad laen ia we jif istap long hem.

Seken witnis. Meltek Robert hemi witnisim tu se olketa nao oli kam long Tondor. Hemi se bae isave happen nomo blong wan strenja isave kam bik jif blong wan nasara spos hemi folem blad laen. Hemi talemaot pakeken se taem we oli kam long Latombitne, ol man we oli stap ia oli laef yet, mekem se oli laef wetem olketa.

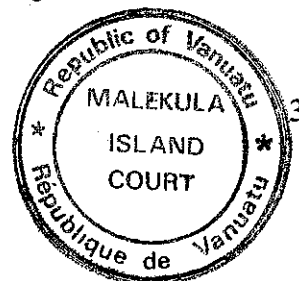
Counter Claimant 3: Long history blong Ismael Malvaru, hemi tokbaot Memel frut ia we hemi kivim laef long Valihe mo Lei. Tufala ikat 4 boe mo 2 kel mo ikam kasem long Navagharukalat, Toronbabaru mo folem ikam long Valeh we hemi faonda blong Togh-Vanu we tudei hemi laen blong hem.

Hemi klemem Latombitne. Hemi kakae head blong pik long bikfala nakamal we istap long hem mo tu, hemi kavenem 3 narafala nakamal pakeken. Malvatumauri nao hemi witnisim hem olsem wan bik jif. Toronbabaru we ol nara klema oli klemem hemi no wan bik jif. Faonda nao hemi Valeh. Lastly hemi konfemem se ikat wan adopsen ia long family blong hem, Malvaru, be tudei, istap klemem Malvaru ia nao we oli adoptem hem ikam long Togh-Vanu nasara.

Witnis. Barthelemy Gregory hemi witnisim bikfala nakamal blong olketa Latombitne. Valeh nao hemi faonda blong Togh-Vanu be ino Toronbabaru olsem we ol nara parties oli klemem. Hemi konfemem adopsen ia pakeken se hemi tru, Malvaru nao hemi adopted ikam long Togh-Vanu.

Counter Claimant 4: Teteour Kisito Teilemb hemi klemem se hemi stap long Tondor mo hemi bladlaen blong Tonmalvar. Ol generesen blong hem oli muf iko long Laleb long smol aelan. Ol family blong Togh-Vanu nao (Latombitne) oli adoptem hem blong kam stap wetem olketa mo oli kivim raet ia long hem blong onem ol lan mo property we istap.

Hemi konfemem pakeken se olketa lo Latombitne nao oli adoptem hem (olfala Meltecos). Hemi kam blong klemem jifly taetel ia from hem tu I blad laen blong Toronbabaru. Hemi kam safe long Laleb tru long administresen blong Toronbabaru.



Witniss blong hem tu (Teilemb Anacle) hemi rikonfemem pakeken se yes hemi folem kastom adopsen.

Counter Claimant 5: Chief Toronbabaru hemi statem history blong hem long Walih wetem Leelle we tufala I brid kasem 4 jeneresen. Hemi talem se taem Toronbabaru iaot ikam long Togh-Vanu, hemi tekem woman Betherihi long Lavahvah. Taem hemi tekem woman ia, hemi statem nasara ia mo mekem fes namaki, Nitor.

Hemi bladlaen blong jif we hemi kam long Toronbabaru. Hemi talem tu se hemi klemem kastom system blong Latamb we hemi bladlaen be ino adopsen. Hem wetem brata blong hem iklemem bikfala nakamal ia we hemi Latombitne we tufala nao isave kakae head blong pik ia. Taem kot hemi kwistinim hem pakeken abaot adopsen, hemi se yes hem tu iwan long olketa we oli adoptem hem mo hemi kam in tru long blad blong Man. Meltecos nao hemi faonda blong Togh-Vanu.

Taem kot iaskem witniss blong hem Sibrean, hemi se adopsen ia hemi tru we hem mo Kisito oli adoptem tufala. Hemi konfemem tu se raet long kastom hemi tru long Blad laen be ino long adopsen.

Counter Claimant 6: Chief Maltaus Richard hemi klemem taetel ia from hem nao hemi stret laef blad blong Togh-Vanu nasara. hemi klemem fes bon blong Toronbabaru (Ghos) we hem nao hemi mekem own Natob blong hem we oli kolem Lavaghvagh Beter. Tudei hemi stanap blong klemem raet ia.

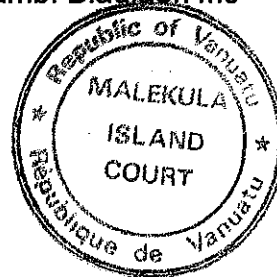
Hemi fomem Togh-Vanu we Torombabaru nao hemi faonda blong hem. Hemi talemaot tu se ol kastom shering imas ko long Lamatnamaki fastaem bifo iko long ol nara nakamal. Hemi talemaot tu se hemi nokat rank long kastom be tru long blad nao imekem se hemi mas diventem taetel ia.

Pierre Charlet tu hemi witnisim Maltaus Richard from tru long hem nao everyman ikam stap long Togh-Vanu. Richard nao oli electem hem from hemi save toktok. Witnis ia hemi konfemem se long kastom kavening we istap long eria blong olketa, blad laen nao hemi raet man be ino election olsem we CC6 istap long hem.

Counter Claimant 7: Wilfred Touenvanu hemi tokbaot Labangnametine long history blong hem we ol bubu blong hem nao oli pasem long hem we tudei hemi stanap strong blong divendem taetel ia. Hemi talemaot se origin blong hem hemi long Labangnametnie mo long Tonmalvar, mein lan. Hemi aot long Tonmalvar iko long Betheul afta hemi ko stret long Togh-Vanu we inokat man yet, iliv long hem. Olketa nao wetem ol nara klema ia (CC9,CC8,CC5,CC6,CC7) oli blad laen blong Toronbabaru we tudei olketa nomo (family) oli dispiutim man ia. Hem nao hemi blad laen blong Ghos, fes bon blong Toronbabaru.

Witnis blong hem Jules hemi konfemem tu se CC7 nao iblad laen blong Toronbabaru tru long fes bon san blong hem Ghoss.

Counter Claimant 8: Jemu Rory. Hemi tokbaot history blong hem se olketa nao oli kamaot long bubu woman ia Agnes Rory, last woman long Latamb. Bladlaen mo



koneksen blong olketa long Betherhi V' enuelamb mo Toronbabaru blong Lambetra we hem nao, fes man Betehul we ikam exist feswan long Togh-Vanu nasara.

Taem kot hemi kros examinatem hem, hemi jastifaem klia se, hemi klemem taetel ia we bubu woman blong hem Agnes Rory hemi karem. Risen why iolsemia from, blad laen inomo kat long trifala fes san blong Toronbabaru mekem se bubu Agnes imas kobak tekem taetel ia.

Axel Maleb hemi witnisim CC8 mo talem se hem nao ikivim kraon long Toronbabaru. Hemi talemaot pakeken se inokat life blad blong Toronbabaru mekem se kel blong hem (Agnes) ikampak tekem taetel ia. Hemi konfemem tu se family blong woman ia Anies, ifinis-finis.

Counter Claimant 9: Liliord Guillaume. Long history, hemi tokbaot tufala man ia, Navarurukalat mo Toronbabaru. Tufala istap tuketa be Toronbabaru ino laekem fasin ia we Navarurokalat hemi stap mekem (kilim ol man). Risen ia nao imekem se Toronbabaru ironwe iko setel long Togh-Vanu we hemi fes man blong statem every smolsmol kastom bisnis. Risenia nao imekem se tudei, hemi stanap blong klemem taetel ia we istap wetem Toronbabaru mo ikam kasem hem we hemi stret blad laen.

Hemi ansarem kot se, hemi klemem jifly taetel blong Natomb mo hemi klemem raet ia blong Anies from hemi bladlaen. Ol adopsen we oli kam in oli no ol stret blad laen olsem we hemi stanap long hem naia. Hemi talemaot tu se bikfala nakamal nao hemi Latombitine insaet long Togh-Vanu nasara. Lastly hemi konfemem se hemi stap klemem smol nakamal ia, Latamrovo.

Afta long toktok blong every parties, kot hemi kam long olketa findings ia;

1. Ikat dispute ova long;
 - a) Olketa following nakamals ia, 'Lamatnamaki', 'Latombetine', 'Labanqnimetine', 'Lavakvak' mo 'Labetra' nakamal.
 - b) Olketa following kastom nems ia, 'Toronbabaru', 'Valihe', 'Holovon', 'Belour', 'Navaqarukolat' mo 'Ghiagh'.
 - c) Kastom identiti ston blong hae jif insaet long Togh-Vanu nasara.
 - d) Royal kreifs long Togh-Vanu nasara.
 - e) Onasip blong tamtam long Togh-Vanu nasara

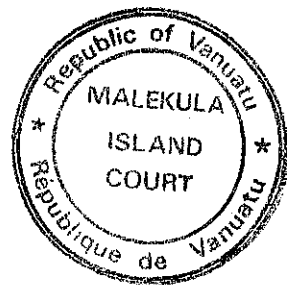
Law we Court I applaem:

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. Kot hemi faenemaot tu se most long ol parties ia oli stap disputum ol sem nems blong ol man, tamtam, nakamal mo oli no save kud ol stret ples we oli kam long hem.

Decision:

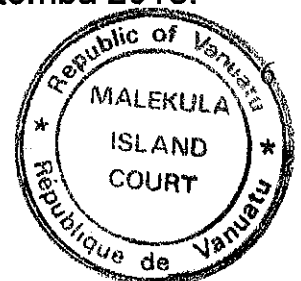
Wetem every toktok mo ol findings blong kot, kot hemi rule se;

1. Jifly taetel blong Togh-Vanu nasara bae hemi transfere iko bak long North East Eria kaonsel of Jifs blong arem mo faenemaot ol issues ia;
 - a) Who nao hemi stret onasip blong each existing nakamal insaet long Togh-Vanu nasara?
 - b) Who nao hemi stret blad laen blong olketa wanwan man ia, Toronbabaru, Valihe, Holovon, Belour, Ghiagh mo Navaqarukolat ?

Aelan Kot Daereksen Oda

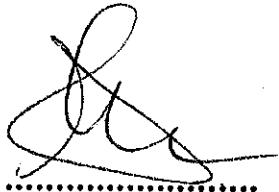
1. Bae North East Eria Kaonsel of Jifs hemi mas sitaon blong arem ol dispute ova long ol kastom nems ia long 14th of Octomba 2013.
2. Bae North East Eria Kaonsel of Jifs imas sitaon long 20th Jeniway 2014 blong faenemaot onasip blong each existing kastom nakamal insaet long Togh-Vanu nasara.
3. Aelan kot hemi odoraesem presiden blong North East Eria Kaonsel of Jifs, Mr David Sewere blong okonaesem kot hearing long olketa date ia.
4. Eni apil agensem lowa decision, matta we idispute bae hemi mas shift ikam antap long Eria kaonsel of Jifs to Malmetenvanu mo ikambak long Aelan Kot.

Anyone we ino akri long dicisen ia, hemi kat 30 deis blong Apil stat from tudei 5th dei blong September kasem long 5th dei blong Octomba 2013.



Dated at Lakatoro this 5th day of September 2013.

BY THE COURT



Justice Shema Tasvallie



Justice Douglas Vandel

E.ndy.Shem.
Justice Endie Shem

