

**IN THE MAGISTRATES COURT  
OF THE REPUBLIC OF VANUATU**  
*(Other Jurisdiction)*

**Civil Appeal**  
**Case No. 19/837 MC/CIVA**

**BETWEEN: MCKOY MARANGO**

Appellant

Appellant's Lawyer:

Mr. Jack Kilu of Jack Kilu Lawyers  
Port Vila, Efate  
Republic of Vanuatu

**AND: WILSON BEN**

Respondent

Respondent's Lawyer:

Mr. Philip Fiuka of James Tari Lawyers  
Port Vila, Efate  
Republic of Vanuatu

***Before:***

*Senior Magistrate Moses Peter*

*Justice Joseph Willie Tinapua*

*Justice James Jeremiah*

***In Attendance:***

*Mr. Jack Kilu for the Appellant*

*Mr. Philip Fiuka for the Respondent*

***Copy:***

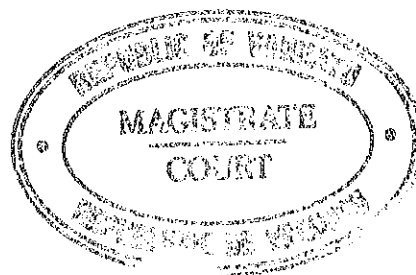
*Parties*

---

**JUDGMENT**

---

**A. Introduction**



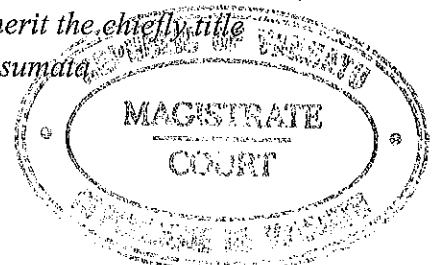
1. This is an appeal against the decision of the Tongoa Shepherds Island Court issued in favor of the Respondent with regard to chiefly title name of Malesumata.

### B. Order of the Island Court

2. The Order of the Tongoa Shepherds Island Court states as follows:
  - *Kot hemi stap declarem se yu nao Wilson Ben yu stret mo rightful holder blong nem ia "Malesu-Mata".*
  - *Mckoy Marango, yu nokat any right blong Tokbaot title ia Malesu-Mata pakeken se hemi blong yu.*
  - *Wilson Ben yu mas luk save Mckoy from hemi close bloodline blong yu long any custom occasion.*
  - *Tuketa parties imas perforem wan custom reconciliation wei every head jifs blong Rafenga oli witnisim mo bae arrangement blo reconciliation ia hemi stap long hand blong yutufala bifo namba 3 April 2019. Reconcillation ia hemi blo mekem kud face blong every families mo blong bringim unity ikam bak long Rafenga community.*
  - *Yu we yu no klad long decision ia, yuk at 30 days blong apil iko long Magistrate Kot stat today 20/03/2019 kasem 20/04/2019.*

### C. Grounds of Appeal

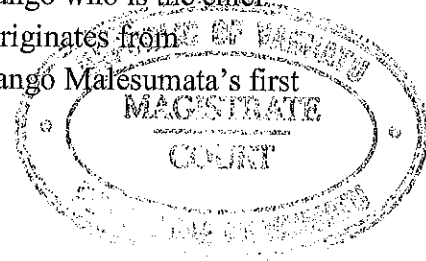
3. The grounds of appeal advanced by the Appellant are that:
  - *The Island Court erred in law and in fact in finding that Marango, who is Lokin's father, is Marango Manaroto Malesu's son, when Lokin is the son of Marango (Lokin's father) who is from a different village called Lumbukiti, on Tongoa Island, and who has no blood connections with Marango Manaroto Malesumata, the holder of the chiefly title "Malesumata". [Marango and Marango are different people].*
  - *The Island Court erred in law and in fact in finding that because Lokin is the first born son of Marango Manaroto Malesu, Lokin therefore, has the right to inherit the chiefly title Malesumata, when Lokin's father is Marango from Lumbukiti Village, not Marango Manaroto Malesumata, whose chiefly title is in dispute.*
  - *The Island Court erred in law and in fact in finding that the chiefly title Malesumata passed from Marango Manaroto Malesumata to Lokin, when Lokin is the son of Marango from Lumbukiti Village, and has no blood connection at all with Marango Manaroto Malesumata the holder of the disputed chiefly title, and has no right to inherit the chiefly title Malesumata from Marango Manaroto Malesumata.*



- *The Island Court erred in law and in fact in finding that Marango Manaroto Malesumata passed the chiefly title to Lokin who properly held the title in accordance with customs, and who then transferred the title in line with custom to Ben Alfred, who then transferred the title to Wilson Ben (the Respondent) when such transfer was void right from the start because Lokin's father is Marango from Lumbukiti Village, who has no blood connection at all with Marango Manaroto Malesumata, the chiefly title holder.*
- *The court erred in law and in fact in finding that Lokin is the first born son of Marango Manaroto Malesumata when Seule Marango is in fact the first born son of Marango Manaroto Malesumata from Malesumata's second marriage to Leipakoa Leitava.*
- *The Island Court erred in law and in fact in finding that Wilson Ben is the rightful holder of the chiefly title Malesumata, when Wilson Ben's grandfather, Lokin has no connections at all with the chiefly title holder, Marango Manaroto Malesumata (Lokin's father is from Lumbukuti Village and has no connections at all with Marango, the holder of the chiefly title).*
- *The Island Court erred in law and in fact in finding that Marango were two separate persons, when the Appellant pointed out to the Court clearly that Marango Manaroto Malesu is the holder of the chiefly title "Malesumata" while Marango is another separate person and who is the father of Lokin from Lumbukiti Village, and who has nothing to do with the chiefly title "Malesumata".*
- *The Island Court erred in law and in fact in not accepting the evidence to the fact that Marango Manaroto Malesumata has two wives. His first wife Leisande Sina only had two daughters, Leipakoa and Alice and no son, while his second wife, Leipakoa had two daughters, Norah and Leimala and only one son, Seule Marango, who is the Appellant's father.*
- *The court in law and in fact in finding that Ben Wilson is the rightful holder of the chiefly title "Malesumata" when Ben Wilson's line have no blood connection at all with Marango Manaroto Malesumata, the title holder.*

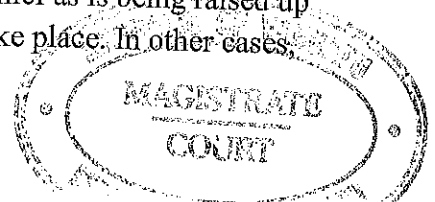
#### **D. Discussion**

4. The appellant's grounds of appeal can be simplified by saying there are basically two different persons who bore slightly similar names except that one is Marango from Ravenga who owns the chiefly title Malesumata and the other is Marango, an outsider from Lumbukuti but reside at Ravenga and has no chiefly title connections with Malesumata.
5. The Appellant traces his ancestral lineage with Marango who is the chief Malesumata from Ravenga while saying Marango originates from Lumbukuti and came to Ravenga and live with Marango Malesumata's first



wife namely Leisande Sina and she conceived a son whose name is Lokin, the grandfather of the Respondent.

6. That deposition was never put before the Island Court.
7. The Appellant explained in the Island Court that Malesu was also called Manaroto during his first marriage but the name was changed to Marango Malesu at his second marriage.
8. It transpired in the Family Tree of the Respondent, which was presented before the Island Court that both parties are directly connected to the original titleholder of Malesu.
9. However, the Respondent was given preference in custom to be bestowed the title of Malesu because his lineage is directly connected with Lokin who is the son of Chief Malesu with his first wife Leisande Sina while the Appellant is born out from Seule who is the son of Chief Malesu and his second wife Leipakoa.
10. The recognized custom protocols in transferring chiefly title in Tongoa and the shepherd Islands are as follows:
  - 1) **Chiefly title is inherited by first born male son of the chief**
11. The Family Tree of the Respondent in the Island court showed Marango Malesu is married to his first wife namely Leisande Sina and their children are Alice, Leipakoa, Lokin, Serah and Karie. Lokin became the next chief after his father Marango Malesu had died. Lokin has Four children namely Ben Malesu who became the next chief, Leipakoa Grill, Norah and Leiwia. Ben Malesu is married to Leinasei and had 5 children who are Rinnie, Wilson Malesu (the current chief and Respondent in this case), Marry, Jenny and Charlie Masoenua.
12. Chief Marango Malesu had his second wife namely; Leipakoa Leitava after his first wife Leisande Sine had died. The children born from Chief Marango Malesu's second marriage with Leipakoa Leitava are Norah, Leimala and Seule who is the father of the Respondent.
  - 2) **Ordination must take place in the presence of chiefs and or in the presence of community members.**
13. Transfer of chiefly title is effective in custom when the successor walks across from underneath the coffin of the deceased chief as is being raised up high to give sufficient height for such exercise to take place. In other cases,



the successor is required to stand on the mat where the coffin of the deceased chief is placed. Where the chief is in his sick bed, or is of old age, he would gather the chiefs together and would pronounce transfer of the title to his son followed by exchange of mats between the chief and his successor.

14. The Appellant confirm in the Island Court, the ordination of Lokin Malesu by his father Chief Marango Manakimau Malesu, and Lokin Malesu to his son Ben Alfred and then to Wilson Ben.
15. Other witnesses for the Appellant namely Willie Kalia, Pakoa Philip Varatia and Willie Reuben in the Island Court also confirm witnessing ordination of Wilson Ben as chief Malesumata when he stood on the mat beside his father's coffin.
16. The Respondent also confirmed in the Island court ordinations occurring in the presence of the 13 chiefs of Tongoa Island. Further confirmation comes from Joseph Dick Manamuri who facilitated the ordination process and organized the chiefs to witness the ordination of the Respondent.
17. The Respondent said he performed custom duties under the authority of chief Malesumata for the last 29 years until recent disputes brought where initiated by the Appellant first in the Tongoa Council of Chiefs and then in Togoia/Shepherds Island Court.
18. He did not succeed in any of these hearings and continued to pursue his appeal while presenting a very different version of family tree that was never presented in the court below.
19. I find it quite difficult to accept the submissions of the appellant on the following grounds:
  - He has produced fresh evidence to impress the court with a family tree which traces the Respondent's ancestry to Lumbukuti and not Ravenga.
  - The Appellant's Family Tree appears to be incomplete because every names that appears are all connected to a more detailed family tree presented by the Respondent in the Island Court.
  - There is no custom facts presented by the Appellant to confirm that Lokin was only a caretaker of the chiefly title of Malesu except for the depositions by the appellant that Lokin intended at one time to return the chiefly title to Seule Marango who is the appellant's father.

