

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU  
HELD AT PORT VILA**

**(Matrimonial Jurisdiction)**

	<b>MATRIMONIAL CASE NO. 4 OF 2000</b>
	<b>IN THE MATTER of an application for custody of an infant child.</b>
<b>BETWEEN:</b>	<b>TABISA BULEKULI</b>
	Applicant
<b>AND:</b>	<b>LINO BULEKULI DIT SAKSAK</b>
	Respondent

**Mr. Edward Nalial for the Applicant.  
Mr. Lino Bulekuli DIT Saksak in person.**

**JUDGMENT**

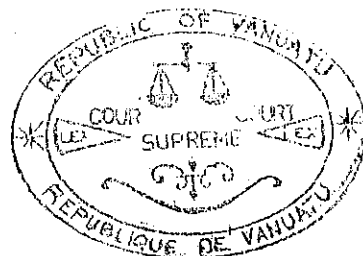
This is an application for custody and maintenance of an infant male child namely, Paul Bulekuli. The application is issued by the Applicant/Mother against the Respondent/Father. The applicant filed an affidavit in support of her application.

The substance of the complaint before this court is that the Respondent/Father fails on several occasions to meet the terms for joint access and custody of the child of the marriage as agreed and arranged between the parties.

The applicant, then, seeks an order for legal custody of the child, Paul Bulekuli. She also seeks for maintenance of the said child, to be paid into her bank account by the Respondent/Father.

It is established and not disputed between the parties that:-

The Applicant and the Respondent were married in Port Vila on 14<sup>th</sup> May 1993. They (Applicant/Respondent) are the natural parents of the child PAUL BULEKULI born 13<sup>th</sup> May 1990 (hereinafter called the child).



They separated in October 1995 due to irreconcilable differences. They had established a system for joint access and custody of the child of the marriage by agreement between the parties dated 14<sup>th</sup> March 1997.

The Applicant/Mother is unemployed. She lives with her boy friend/partner. The infant male child who is now 10 years of age lives with his mother. She says she could maintain the child but the Respondent pays the child's school fees. The Respondent/Father is a civil servant. He has two different loan agreements (a loan to build a 3-bedroom house at Fresh Water and a personal loan for renovation of another house expenses). The status of the Respondent's financial situation shows that with a monthly salary of 140,000 vatu, he was left with 10,000 vatu at the end of each month. However, he has a rented house of 55,000 vatu per month. Although, there is no regular tenant and rents were not paid properly as the Respondent said, the rented house constituted a source of income for the purpose of maintaining the child. The Child, Paul Bulekuli attends Peter Pan International School at No.2 Area, Port Vila, Vanuatu. A term school fee is 24,000 vatu. The three terms school fees for the whole year are in vatu 72,000. The Respondent paid only 10,000 vatu for the child's school fees in 1999. The Applicant's partner paid the school fees of the child for the past 3 years.

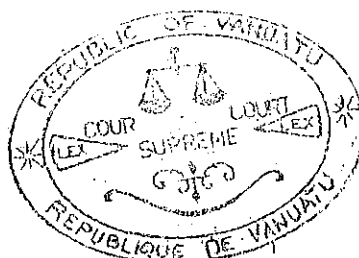
I have had opportunity to read affidavit in support of the application, consider the oral evidence of the Applicant/Mother, and the Respondent/Father. I have had also the opportunity to hear the infant child, Paul Bulekuli in chambers in the presence of the applicant's counsel and two (2) members of the court registry staff. The infant male child said he wanted to stay with his mother and father. He is of 10 years of age. He understands what he says and that is what he wants. The interest and welfare of the child must be of paramount consideration by the court. I therefore, come to the conclusion that the custody of the infant child, Paul Bulekuli be jointly granted to the Applicant/Mother and the respondent/Father. Equally, both parents will be responsible for the maintenance and education of the infant male child, Paul Bulekuli. The final orders is set out below:

### **ORDER**

Upon hearing Mr. Edward Nalial on behalf of the Applicant/Mother and Mr. Lino Bulekuli DIT Sacsac in person,

**IT IS HEREBY ORDERED as follows:**

1. That the custody of the infant child, Paul Bulekuli is jointly granted to the Applicant/Mother and the Respondent/Father until the child reaches the age of 18 years of age or until further order of the court.



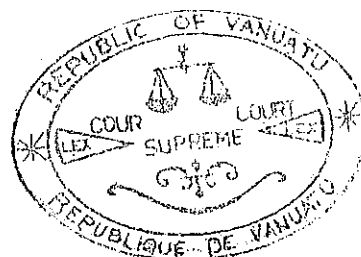
2. That the infant child, Paul Bulekuli, will be in the care and control of the Applicant/Mother during the weekdays from Monday to Friday (school days).
3. That the infant child, Paul Bulekuli, will be in the care and control of the Respondent/Father during the weekends, school holidays and during the period, the Applicant/Mother is out of the jurisdiction.
4. That no person may cause the child to be known by a new surname without either the written consent of the Applicant and the Respondent or the leave of the court.
5. That no person may remove the child from Vanuatu without the written consent of the Applicant and Respondent or the leave of the court. (The restriction does not apply to prevent the removal of the child for a period of less than one month by either the Applicant/Mother or the Respondent/Father).
6. That both Applicant and Respondent agree that the infant child's religion is catholic.
7. That both parents are responsible for the maintenance and education of the child, Paul Bulekuli and that they will both contribute to his upbringing in this way:

**A. General Maintenance of the child, Paul Bulekuli:**

The Applicant/Mother and the Respondent/Father shall each maintain the child fully whilst he is in their care and control.

**B. Education of the infant child, Paul Bulekuli:**

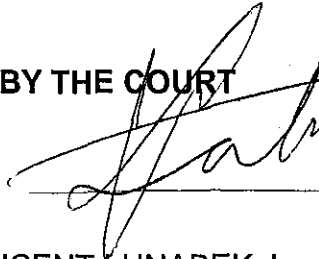
- (i) The Applicant/Mother and the Respondent/Father agree that the child attends Peter Pan International School, at No.2 Area, Port Vila, Vanuatu;
- (ii) The choice of the future school institutions (primary and secondary) and universities of the child, Paul Bulekuli, be made by written consent of the parties or with the leave of the court;
- (iii) The Respondent/Father pays the school fees of the child, Paul Bulekuli at Peter Pan International School of vatu 24,000 vatu per term which is totalling an amount of 72,000 vatu per year;
- (iv) Sub-paragraph (iii) of paragraph (B) of point 7 of the Order is subject to review and will be reviewed in this way:



- The Applicant/Mother will contribute to the payment of the school fees of the child, Paul Bulekuli, if she has a job. Both parties can agree on their respective portions of contribution or an equal parts of contribution or with the leave of the court.
8. The payment of the school fees of the infant child, Paul Bulekuli and any other payments each party wishes to pay for the benefit of the child, will be paid into a Trust Fund Account. The Applicant and the Respondent will both be signatories to the Trust Account and the Applicant/Mother will administer/manage the account on behalf of the child, Paul Bulekuli.

**DATED** at Port Vila this 6 day of November, 2000

BY THE COURT



VINCENT LUNABEK J,  
Acting Chief Justice

