

## JUDGMENT

In this case both parties in the Lower Court appealed to the Customary Land Appeal Court (CLAC) for Central Islands Province against the decision of the Bellona Local Court. In brief, the Lower Court awarded the plaintiff, Thomas Taupongi the land he claimed, Tangamua, together with Gangomatangi and Baipuke lands in the Defendant's counterclaim. The Defendant, Temasuu Sauhoni was awarded only with Matagupe or Saumagei, a small piece of Land which include Ahanga beach.

Temasuu, appealed basically on grounds that Thomas arguments was not properly weighed against his, hence he did not know why he lost the case. Albeit unclear they are, those are the points submitted by a villager with a very limited knowledge of how to put on paper his grounds in a language alien to himself. This is the contention he made before the Customary Land Appeal Court.

The Customary Land Appeal Court has carefully considered this contention against the judgment recorded by the Lower Court. The Lower Court has numbered 13 points for arriving at its decision. From the face of it the points are all which discredit Temasuu's argument. The Customary Land Appeal Court finds that the Lower Court has not given proper consideration on the case before it, and have allowed the appeal.

However, for reasons foreseen by the Customary Land Appeal Court, it could not make an order for retrial, but has allowed itself to hear evidence either in support of the appeal, or as if it was a first hearing. Hence, it is not necessary for the Customary Land Appeal Court to comment on Thomas Taupongi's appeal.

Turning to case before this tribunal, the Customary Land Appeal Court finds that the land named BAIPUKE is not disputed by Temasuu Sauhoni. He admits that this land belong to Thomas Taupongi to that effect the Customary Land Appeal Court hereinafter so order.

There remains now, for Customary Land Appeal Court to consider the ownership of the Lands TANGAMUA, GANGOMATANGI and Matagupe. In so doing, Customary Land Appeal Court considered first the genealogies related to the lands and the events that happened during the course of the generations affecting land ownership.

There is no dispute that both parties originally belonged to Sa'ataupongi clan. There is no dispute that the only survivors of the raid on Sa'ataupongi clan were Sokoa and his wife Ungubai. There is no dispute on the succeeding Land owner from Sokoa to Tuataa (see p. 59 From the two canoes by Samuel H. Elbert & Torben Monberg) There is no dispute that the sons of Tuata'a had seperated, Tuutihenua continued the generation living at Matabeingei the headquarter and, Teangoagiki started of Kongoata and Tamamao started of a new settlement at Tongomainge.

There is no dispute that on the 8th generation of the generation at Matangeibe, Ngimamua had no son to continue the generation and to inherit the lands. Ngimamua however adopted Haikiu and Sauhonu who are sons of Tesaukiu who is descendant of Tamamao, who started the settlement at Tongomaingei. It is through Sauhonu that the present Sauhonu based his claim of ownership of the land.

However Thomas Taupongi based his claim of ownership of these lands through an incident out of which Tahaki give the beach to Huaitebakaeha to take care of or to look after. Tahaki was the grandson of Kaituu and Kaituu's father is Teangonagiki who started the settlement at Kongoata. Kaitu'u however started another settlement at Temanu.

During the incident Huaitebakaeha married Tahaki's wife. Tahaki tried to kill Huaitebakaeha but he escaped. Huaitebakaeha then took revenge and raid Tahaki but Tahaki escaped to the hill. Huaitebakaeha however waited for him at the base of the hill eventually Tahaki pleaded to Huaitebakaeha that if he spared his life he would look after the beach. This, Huaitebakaeha did, and it is through this transaction that Thomas made his claim which he said that the beach given by Tahaki is deem to include Matagupe Tangamua and Gangomatangi.

Thomas Taupongi accepts and states when Sauhonu and Haikiu were adopted by Ngimamua their right and their children's bithright of calling themselves descendants from Tongomainge and landownerships there through were then on ceased, and that they would only own land through Matabeingei.

Having borne in mind, Matabeingei and Tongomainge were of the same "roof" the Customary Land Appeal Court considers that ascertaining ownership of these lands cannot be made on the evidence of the usage of the lands, as it became clear from the evidence recorded that both Tongomainge and Matabeingei had at certain stages had turns in using the lands.

The Customary Land Appeal Court feels that the issue before it is "was 'beach' given to Huaitebakaeha by Tahaki deemed to include Matagupe, Tangamua and Gangomatangi lands?" If yes, why had he not specific about it? If no, why had he only referred to the beach? The Customary Land Appeal Court has carefully considered the contention on this and as there is little evidence on it the Customary Land Appeal Court believe the beach given to Huaitebakaeha is deem to include only Matagupe and Baipuke and the Customary Land Appeal Court accordingly decreed. Hence Tangamua and Gangomatangi remain the property of Matabeingei.

DECREE

The Central Islands Customary Land Appeal Court hereby decree as follows:-

- i) That the decision of Bellona Local Court in Civil Case No. 1/81 is reversed.
- ii) That Tongomainge represented by Thomas Taupongi owns Matagupe, and Baipuki by admission.
- iii) That Matabeingei, represented by Temasuu Sauhonu own Tangamua and Gangomatangi land.

Dated this 29th March 1982

CLAC PRESIDENT  
PAUL T.  
JOHN P.  
MOSES. P.  
C. SALE  
JOSES W. SANGA (Sec/Mag.)