

JUDGMENT

This is an appeal against the decision of Aola Local Court in Civil Case No. 1 of 1981.

The appellant, Dick Ravea lodged 16 grounds of appeal. We remind ourself that it is his duty to satisfy us that what he alleged in his appeal are true and warrants the order he seeks whereof he submitted his appeal.

We shall deal with his appeal now.

POINTS NO. 1, 4 TO 16.

The appellant said nothing in his argument about the points. There are no witnesses called by him to support any of these points. Neither did the Respondent nor the Respondent's witnesses said something on these points. There is no evidence whatsoever adduced in court to support the points (listed above) and as such, we find as a fact, points 1, 4 to 16 are mere allegations, which are not founded and therefore we reject them accordingly.

POINT NO. 2

Very little evidence is called in relation to this point. Appellant said the Local Court did not allow him to take any witnesses. He asked them to come for this appeal case but they refused. Only two were around but they might changed their story, but that before, they said the land was his.

There was no evidence received from the witnesses around nor was there any application for leave to have those witnesses who were referred to give evidence in Local Court, made to have them brought before us to testify about why they have been refused by the Local Court. No reference was made by the respondent or his witnesses on this point. It may have been for good reasons that the court below refused to hear their evidence and it is up to the appellant to tell us the whole side of his story if he thinks the Local Court was not fair in allowing his witnesses to give evidence in the Local Court. We therefore find, after we have carefully considered this point, that there is nothing that can support this point. We therefore reject point No. 2.

POINT NO. 3

Again there is very little evidence adduced in support of this point. Appellant said the president said he did not decide the case, only his two justices. We reject this point outright because of its nature in law. It is hearsay, and in view of its substance, unless the president was called as a witness to explain what was meant by what appellant had alleged the only right course for us to take in considering the point is to reject it outright as we have already done.

There is a substantive amount of evidence before us and we feel that we need to comment on these. We find as facts the following.

1. That both the appellant and the Respondent are from Thongo line but have come from different branches within the line, names which branches were not been identified as there is no evidence as to their names.
2. That the appellant is, a decendant of Mauvo worshippers and the respondent a decendant of Vigona worshippers.
3. That no Mauvo tambu places can be found either in Tatatu or in Koremu except the tambu place for Vigona used by respondents ancestors, There is no evidence to suggest that appellants has tambu places in Kokomu or Tatatu but there is strong evidence from the Respondent and his witnesses that the tambu places that can be found in Kokomu or Tatatu all belonged to the Vigona worshippers.
4. That there is no evidence to suggest that Gena and Noah who passed the story to Appellant are related to him, whereof we find it rather difficult to give it weight and for the purpose of credibility.
5. That there is no reasonable explanation as to why appellants said it was the Mauvo that arrived first before Sipolo when earlier on he said, the Mauvo was borned from Sipolo's sister and it was Sipolo who sent the eagle to Gela to bring the Mauvo.

We therefore make the following decree after careful consideration on the case before us.

DECREE:

1. That the appeal is dismissed and the Local Court decision upheld.
2. No order as to costs.

Dated at Marau on 26th September 1983.

President - Javen Babaua
Member - S. Sagaregana
" - S. Laugana
" - D. Alebua
" - Chaku
" - Joses. W. Sanga