

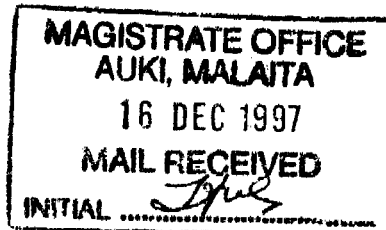
APPELLATE JURISDICTION

BETWEEN:	LEONARD NANAIMAE	<u>First Appellant</u>
AND:	JOSEPH ROBUSH	<u>Second Appellant</u>
AND:	THOMAS NGWASIMAELE	<u>First Respondent</u>
AND:	OKALE RAMOLELEA	<u>Second Respondent</u>

APPEAL

TAKE NOTICE that on the 8th of September, 1997 the Malaita Local Court heard the land matter referenced No. 4 of 1997 and the Appellants, in this appeal were the Plaintiffs and the Respondents in this Appeal were named as the First and Second Defendants, and **TAKE FURTHER NOTICE** that the Appellant being aggrieved with the decision of the Malaita Local Court hereby appeal against ALL of that decision of the Malaita Local Court delivered on the 17th of September 1997, on the following grounds:

1. The Local Court erred in procedure when it allowed Okale Ramolelea as the Second Defendant in the matter before the Local Court when infact Mr Okale Ramolelea was not named as a party to the case when this matter was heard before the chieves.
2. The Local Court erred in procedure when it allowed Okale Ramolelea to be a second defendant before it when infact Mr Okale Ramolelea's claim or right of ownership was never determined by the Chieves Court, in as far as it relates to the matter between Joseph Kobusu and Bartholomeu Melo as Defendants and Thomas Ngwasimaele Abuotea as Plaintiffs.



3. ✓ The Local Court erred in its reasoning and in custom when it held that the Appellants Witnesses failed to disprove that Ratani Land was given to Maeau in exchange of a reward, when in actual fact there was evidence by Davidson Tua and J.D. Buarafi that the ransom gift reward (fooa) took place in Aebusu Land between Niubo and the Respondents devil (Maeau). Such evidence was before the Local Court but it was not taken into account by the Local Court. (see paragraphs one (1) and two (2) of page two of the judgement).
4. ✓ The Local Court did not take into consideration the Appellants customary evidence that the devil Guliniu was not the devil of Faubako Land and thereby mislead itself when it reasoned that the Appellants denial of the Respondents right of ownership was without proper foundation.
5. ✓ The Local Court erred in its reasoning when it held that 'Ratani' land, situated in Faubako Land, was given as a reward to Maeau, the alleged gift having taken place at Aebusu Land. Such a gift would be inconsistent with the Appellants prevailing custom as the gift took place outside of Faubako Land, and for no reason at all.
6. The Local Court despite having included Mr Okale Ramolelea as a Second Respondent failed to declare the Appellants rights as against the Second Respondent's rights. As the decision now stands this will in the future be subject to further litigation, and it is arguable that the Second Respondent, Mr Okale cannot rely on the Local Courts decision to claim, as against the Appellants, any right of ownership over Ratani Land as no such findings were made by the Court. The effect of such a mess is that despite the Appellant and the Second Respondent being made parties to the matter in the Local Court, no decision have been made as regards their rights.

7. That on the morning of 9th September 1997 at 8.30 a.m. the Vice President of the Local Court Mr John Steel Meke was seen walking and talking with Mr Aruru, who was later found out by the Appellants to be a witness for the Respondents. This has raised suspicion by the Appellant on the impartiality of the Court as the Vice President also sat on the Court that morning and must have unduely influenced the courts decision.

8. The Reward (Fo'oa) took place on Aebusu Land as stated in the evidence of David Tua, the Appellants witness in the Local Court. This was supported by the evidence of Mr Leonard Kaliwane, the fourth witness for the Respondent. The Local Court heard customary evidence that it was Niubo who gave reward to the Respondents devil for the killing of the giants on Aebusu Land. There was no reason in custom for the Faubako Tribe to give land to the Respondents devil. On the evidence before the Local Court, the Court could not have found in custom that the Faubako Tribe gave part of its land to the Respondents devil Maeau.

9. Guliniu who allegedly gave land to the Respondents devil was unknown to the Appellants Genealogy. That evidence was adduced in the Chieves hearing. The Local Court did not take into account the Appellants evidence to that effect when it was presented in the Chieves Hearing.

10. The Respondent did not produce customary evidence in the Local Court, such as Tambu sites, worship sites, which in custom, is central to prove Land ownership.

Wherefore the Appellant prays that it may be ordered by the Malaita Customary Land Appeal Court that:

- (a) The decision of the Malaita Local Court be quashed and set aside.

(b) That the matter be remitted back to a differently constituted Malaita Local Court to properly determine the ownership of Faubako and or 'Ratani Land', and that proper parties to be named.

Dated the 16th day of December 1997.

Appellants.

[Handwritten Signature]
16/12/97

MAGISTRATE OFFICE
AUKI, MALAITA
16 DEC 1997
MAIL RECEIVED
INITIAL *[Handwritten Initials]*