

**IN THE EFATE ISLAND COURT OF
THE REPUBLIC OF VANUATU
HELD AT PORT VILA**

CIVIL CASE NO.04/1988

**EFATE ISLAND KOT SITTING WE I STAP LONG VILA LONG
20-24 FEBRUARY, 1989 BEFORE LONG TRIFALA JUSTICES IA:-**

BETWEEN

J. KALOTITI KALOTRIP
(Plaintiff)

AND

FAMILY TARUS
(Defendant)

JUSTICES: F. KALMARIE (Chairman)
M. KALSONG
R. KALSES

CLERK: K. NICHOLAS

CLAIM: Plaintiff I claimem piece ground we oli collem se EFARPAU we hemi cavrem ap area stat long NAWIELEP long West kasem ORFALE NAULOA long East long Pango Point long Efate.

JUDGMENT

Efate Island Kot ibin sitdaon long namba 20-24 February, 1989, blong harem land dispute we oli collem EFARPAU we i stap long Pango Point long South Efate. Dispute blong ground ia hemi stap between Famli Jack Kalotiti Kalotrip we hemi Plaintiff mo Family Tarus Kalpoi, hemi Defendant.

Afta we Efate Island Kot i harem toktok blong tufala parties wetem witness blong olgeta i wantem makem olgeta points ia.

Point 1. FAMILI TRI

(a) Folem famili tri we tufala parties i submitem long Kot. Efate Island Kot isave se Famili J. Kalotiti mo Famili Tarus Kalpoi i kamaot long sem woman we nem blong em Leiri. Plaintiff (Jack K. Kalotrip) Exhibit No. 1, paragraph 2 mo Defendant witness, Bill Kalsarap statement page 9, Efate Island Kot minutes.

(b) Woman we tufala famili ia (Jack Kalotrip mo Tarus Kalpoi) i kamaot long hem we nem blong hem Leiri i gat wan sista we nem blong hem Toumet.

(c) Efate Island Kot ino finem any prove blong talem se who long tufala sista (Toumet mo Leiri), i fas bon, be kot i save nomore se tufala sista, follem statemen we i kamaot long tufala parti. Defendant Tarus i talem se Epauleiri we i minem yard blong Leiri hemia ino givem prove se Leiri i fas born.

(d) Efate Island Kot i save se Toumet i nogat pikinini be sista blong hem Leiri igat sam pikinini nem blong olgeta; Kalpoi, Tongai, Leimal, Toulep mo Kalotrip. So i min se Kalpoi mo Kalotrip i kamaot long sem blood mo Kaltrip i mas gat kastom right long ground.

(e) Efate Island Kot i save se Toumet mo Kaltabang (man blong Toumet) i mekem custom adoption long Kalotrip i kam pikinini blong tufala. Plaintiff Jack Kalotrip, Exhibit No.1, page 1, paragraph 1 mo Defendant witness Kalorus Charlie, Exhibit No.8, page 2, paragraph 4. Olsem kastom blong Efate sipos wan woman or man ino gat pikinini mo hemi mekem custom adoption long wan pikinini, pikinini ia nao i tekem over will or propeti blong woman o man ia. I no save gat kastom adoption long nating.

(f) Efate Island Kot i save se tufala sista ia Toumet mo Leiri i mas gat wan wan right long side blong graon folem relationship we tufala i gat olsem sista. Folem wan wan right ia kot i save se oli bin dividem land between tufala (Toumet mo Leiri). Refer Plaintiff (J. Kalotrip) Exhibit No.1, page 1, paragraph 1 and witness Kalmasei we hemi pikinini blong Kalpoi long fes married blong hem; statement i givim long Native Kot long 1970, page 2, last paragraph. Follem map blong Defendant Tarus i bin gat nasara we oli collem Epauleiri we i minem yard blong Leiri we i stap outside long boundary we Famili Jack Kalotiti Kalotrip i claimem (see map attached).

(g) Efate Island Kot i save se Defendant Tarus i claimem Efarparu follem naflack from sipos oli folem blood ino save putumaot right blong Kalotrip we hemi brother blong Kalpoi mo Efate Island Kot i save too se follem tru system blong naflack, Defendant Tarus ino stap long naflack nawita from mama blong em we i blong Ambae ino gat custom ceremony blong emi kam naflack nawita.

(h) Efate Island Kot i save too se Chief Roimata we hemi wan big chief long Efate. Hem nao i introdusem naflack from tufala purpose. Blong makem pis mo makem friendship, be ino blong takem ownership blong graon.

Point 2: BOUNTRY.

(a) Efate Island Kot i acceptem bountry mo ol marks we tufala parti i submitem mo showem long kot.

(b) Efate Island Kot i save se area we Plaintiff Jack Kalotiti i claim long em istap inside long claim we Defendant Tarus i makem (see map submitted by both parties attached) mo sam part blong claim blong Defendant Tarus oli divided lands.

Point No 3: EVIDENCE WE I STAP LONG NATIVE KOT LONG 26 MARCH 1970

(a) From Native Kot i stanap long law mo hemi bodi we i responsible long ol kastom dispute long side blong ground mo ol narafala samting during long taem blong Colonial, i makem se Efate Island Kot i acceptem olgeta toktok we i stap long kot olsem prove.

(b) Efate Island Kot i save se sam long olgeta toktok we Defendant Tarus i givim long Native Kot long 1970 ino stret wetem hemia i givem long Efate Island Kot long namba 20 February, 1989.

Long statement blong hem long 1989 long Defendant Tarus, Exhibit No. 5, page 2, paragraph 25. "Taem mi kat 12 yia (1932), nao Papa blong mi i talem long mi blong mi save se gud ground blong EFARE NE NPAU i graon blong Kalpoi" be statement blong hem long 1970, long Native Kot (P1. Exhibit No. 3, page 3) hemi talem olsem. "No, I only heard it today. My father was of the Octopus clan. Hemi answerem question we i stap long English. "Did you ever heard whether the land belonged to Kalotrip or the octopus clan?"

(c) Efate Island Kot i save se long 1970, Native Kot i sit daon blong lukluk long land dispute long Pango point be ino long side blong coral. Refer to Native Kot 1970, Exhibit No. 3, page 1, Kot i save too se Defendant long taem ia hemi Kalulu mo hemi takem Tarus blong witness long case ia.

(d) Efate Island Kot i save tu se taem ia long 26 March, 1970, we Tarus i witness blong Defendant Kalulu hemi gat 49½ yia finis mo believe blong kot se Tarus i shud save true history blong graon ia finis mo talemaot long Native Kot.

JUDGMENT

Follem olgeta points we i stap antap, Efate Island Kot i acceptem claim blong Plaintiff Jack Kalotiti Kalotrip mo givim oda se,

Graon ia EFARPAU we i stat long NAWIELEP long west long pango point raonem Pango Point go kasem ORFALE NAU LOA long East mo go westward joinem NAWIELEP long west hemi blong Family K. Kalotrip wetem future generation blong em - folem customary adoption we Toumet i mekem long grandpapa blong hem Kalotrip.

REKOMENDESEN BLONG KOT

1. From we Kot i luk se Efarpau Land Dispute i afektem family rileisensip we Leiri mo Toumet istampa long em. Kot i tingting blong putum forward few rekomendesen blong each parti i tingting long hem espesiali afta we tufala i admitem se Kalpoi mo Kalotrip i kamaot long sem woman, Leiri.

2. Kot i wantem makem i klia long tufala parti se long saed long loa wan i win mo wan i lus, bei sipos hemia we i win i luk save se hemi stil famli wetem hemia we i lusum case, hemi mas stat blong follem kastom ia we i stret.blong fixim area we i damage.

3. Tufala parti i mas traem blong luk save step we tufala i stanap long em long kastom mo traem blong respectem tufala long em.

4. Kot i ting se hemi gud sipos wanem samting olsem kaikai o mane we famali Jack Kalotiti Kalotrip i risivim long graon ia Efarparu hemi no forgetem family Tarus (Defendant).

Kot i givim 30 days blong appeal sipos wan parti ino agri long Jasmen ia. Thirty (30) days i stat long 6 March 1989 kasem 6 April 1989. Appeal igo long Supreme Kot mo kos hemi VT50,000.

Olgeta kos we each parti i mitim long saet blong taem, transport, etc, bambai each parti nomo i responsible long em.

Dated at Port Vila, this 3rd day of March 1989.

Signed by Justice:

F. KALMAIRE (CHAIRMAN)

R. KALSES

M. KALSONG

K. NICHOLAS

Clerk blong Kot

