

**IN THE EFATE ISLAND COURT**  
**OF THE REPOUBLIC OF VANUATU**  
*[Civil jurisdiction]*

**CIVIL CASE NO. 54/2002**

**BETWEEN:** FAMILY PETER MARIPOPONGI  
*(Plaintiff)*

**AND:** KALRONGO KALTONG.  
*(Defendant)*

**JUSTICES:** MARIA CROWBY  
: ERICK MESAU  
: ANN KALO

**CLERK** . SHEMI JOEL

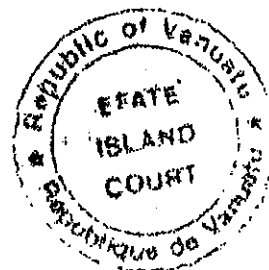
**IN THE MATTER OF SECTION 10 OF ISLAND COURT ACT CAP 167,  
AND THE CHIEFLY TITLE "MARIPOPONGI" OF PAUNGANISU VILLAGE,  
NORTH EFATE.**

This matter appeared before the above court on the 26/5/03, for the proceedings. The claim was lodge by the plaintiff to reclaim the chiefly title Maripopongi from the recent succeeding chief after his ordination in 1996 with the title Maripopongi. Whether the ordination performed by the defendant was customarily recognized, is also important matter in this case. Like the Erakor chiefly title dispute where the dispute emerge after the title was not properly handed over but another ordination was performed, is exactly the same. The main issue here is to determine who is the rightful person or family to have possession of this title. That will only be deemed by the customary laws prevailing within this jurisdiction. This court set out the following questions that it must answered to rightly find a solution to this long standing dispute.

1. is there any right in paunagisu custom to depose a current sitting chief ?
2. if so, what is the right, the circumstances and the procedures?
3. who is entitle to be a new chief and on what basis?
4. what is the procedure for choosing of a new chief?
5. what is the practice or customary procedure in respect to ordination of a new chief at Paunagisu?
6. according to paunagisu custom, were woman allowed to have possession of a chief title or become a chief ?

The answers to the following questions are set out below according to the court finding in the proceeding.

1. is there any right in paunagisu to depose a current sitting chief?



Yes, if a Chief with the Title died, or is still alive but can no longer perform the duty. In cases where the procedures are not accepted by the custom for ordaining a chief and a dispute rises as a result of uncertainty to its ordination then, there is possibility of deposing that chief.

2. If so, what is the right, the circumstances, and the procedures?

The right is directly gained from the blood stream of the family line. The circumstances are the time of handing over of the title to the rightful person. That must be done by the person having possession of the title to the next and must be done according to the custom. In cases where the person having possession of the title have no son, then the succeeding one should follow the customary procedures. The procedures means, all family must meet during a family meeting or all in the tribe/gland to discuss on who should be the next chief. That occurs on occasions where the title is vacant or temporarily occupied by some one.

3. who is entitle to be a new chief and on what basis?

The son to the chief with the title is the one who is entitle to be the next chief. In cases where the Chief have no son, then the eldest to the family in the tribe has the priority. If still there is no brother, then it is possible according to the Efate custom to be acquired by the sister's line.

4. what is the procedure of choosing a new chief?

If the man with the chief title died and have no son to succeed his title, then all family in the tribe must be consulted during a meeting to choose a new chief.

5. what is the practice or customary procedure in respect to ordination of a new chief at paunagisu?

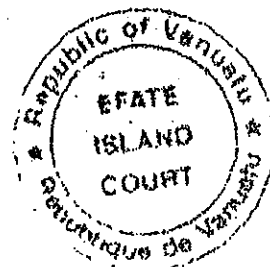
If the chief with the title does not hand over the title to the son and he dies, then The Family of the tribe including the head chiefs in the tribe must all meet and agree on a name . Then the name shall be forwarded to the responsible people for approval. If agreed the preparation shall commence for ordination.

6. according to paunagisu custom, were women allowed to have possession of a chief title or become a chief?

Yes, sure enough for temporary term awaiting the time to find a suitable candidate to occupy the title.

**Plaintiff case.**

The spokesman of the applicant MR Kennedy, stated that when late Chief Peter Maripongi died, the title was the possession of late Peter's wife who is MRS Pileau Peter. Until 1996 when the defendant was ordained with the same name, the applicants stress that there were no negotiation, agreement or whatsoever with the late Chiefs wife to hand over the title to the defendant before the ordination. Their claim is mainly based on this family tree and relevant document presented to this court.



They claim that this case was already dealt with by the malvatumauri which rules in peters favor. (see annex A ) . The applicant has 6 witnesses.

First witness.

The first witness is MR Johnson Kalfau with a chiefly title Atavirua who is the key witness to the plaintiff case. He claimed to be ordained in 1968 with his chiefly title. He testified that the dispute title originally belongs to the Tanimiala tribe. He claim Kalfau, Dick, Henry and Kennedy were his adopted brothers that were together adopted to late Peters home. All these people and their children have attempted on most occasions to protect their chiefly title which is Maripongi as their custom asset.

He supported the family tree and claim that late peter maripongi is the fourth chief of Tanimiala. His only adopted son MR Harry Simon should succeed his father's title. According to the family tree he continued that chief Masoemano had two daughters and a deceased son. The only surviving daughter who is Manamaire got married to LakeleoWota a chief son. Their only son is maremata who got married to Leibu at tanimiala, and have four children. The three sons died and only surviving daughter Marelangi got married to Matamarimau and was again ordained maripongi. They have 3 children, 2 of them died and left only the surviving Talemaire. Talemaire got married to Simeon Mantaura who is a chief son from Suasu and their only son is late Peter Simon who was ordained together with the witness in 1968. Mantauras father is Tapagatamate. Peter was ordained with Maripongi. His only adopted children were Harry and Lucy.

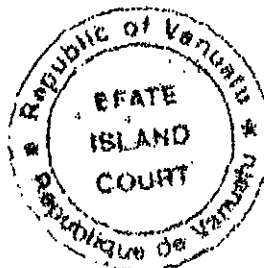
Cross examination.

He confirm that late Peter was ordained with Maripongi in 1968. There were several examination on the years where the chief Maripongi moved to Kakula Island and when he returned. This honorable court believes that the exact time or date would not be accurate for someone to remember. It was reveal that peters mother is from Tanmiala. The witness again maintain that peters Father Mantaura was the one who handed over the name to Peter.

Second witness.

This witness is Edward Kaloris who mention that original maripongi died in Kakula and the title remain Vacant until 1941 when peter was dedicated together with his father at the opening of the Emua Church to be the next to have possession of this title. He mentions that the official ordination was done in 1968.

During the cross examination the witness revealed that Mantaura is not from Maripongi blood line but he got married to Talimare who is Maripongi bloodline. This witness refuses to answer most of the question asked. He reveals that Mantaura is the head chief of Paunagisu and he is the one that did the Ordination in 1968. He stated he was there during the ordination. He mentions that this dispute has been long standing since 1987, and as far as two courts have been responsible to settle the matter, ending up parties never respected their decisions.



Third witness.

This witness is the Paramount Chief of Emua village and he is Chief Raymond Morris. He was there during the ordination of Peter Maripongi in 1968. He mention that he, the Paramount chief of Emua, together with Tarikpoamata of Siviri and Mantaura perform the Ordination of Solomon Manlaewia, Peter Maripongi, and Kalfau Johnson Atavirua in 1968. During the cross examination, this witness was saying that he was at the meeting to discuss the candidate to be ordained Maripongi and Kalrongo kaltong name was passed. He was not there during the chief Ordination in 1996. He said peter was ordained Tapagatamate in 1968.

Fourth witness

He is MR Dick kalmer.

He confirm having ordained together with peter in 1968, where peter was ordained with Maripongi. He was adopted to Peters Family where he is Peters brother. He mention during cross examination that Tukura means when a chief died, then her wife have possession of the chief Title. He again confirms that Maantaura who is peters father and some other chiefs ordained Peter maripongi in 1968.

Fifth witness.

This witness is MR Kalrong kalsong. He mentions that this case has already gone through two stages of Court.

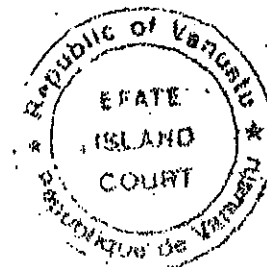
Sixth witness.

She is Peleau, later Peter's wife. She again mentions that in 1968, Peters father Maantaura ordained him to Maripongi. The ordination grouped together Dick, Kalfau, and Solomon Manlaewia. Since they have no son they adopted a son who is Harry and a Daughter and she is Lucy. Harry is the next to have possession of this title when his father died, but since he is still young, then I still have possession of it until such time accepted for Harry then he shall have it. The witness could remember the last night before the ordination, the Defendant MR Kalrongo Kaltong came with a truck getting some local foods to offer to her but she does not accepted them. During Cross examination, she mentions that there was never a negotiation or what so ever with her to discuss the title before the ordination with Kalrongo Kaltong. Before Peters body was removed to the Church, she was told by Chief Esrom Manapanga of Siviri that She has possession of this Title.

**DEFENCE.**

Defendant Case.

First witness



The defendant is Kalrongo kaltong Maripongi. He mentions having gone through Vaturisu and Malvatumauri he is still defending his custom right through his blood line. He denied coming some where else as claimed by some of the plaintiff's witness. He mentions that they are from Tanmiala and his ancestors sold many land to other people and only the Tanmiala tribe work at Tanmiala. He denied knowing of any ordination at Emua church, only learned that it was announced peter will be the next to succeed his father.

He has been ordained with that name on the 17<sup>th</sup> of April, 1996 . He mentions there were meetings and consultation with all his family mention in the family tree before any ordination. The North Efate area council approved his name and then a date was put for the Ordination. Only two chiefs attended the ceremony and thy were Chief Mormor of Mangaliliu and Maramusa of Emua.

During the cross examination he mention that Kalomele was the son of Namele who is Maripongis brother. He mentions all land called Tanmiala were occupied by their then relatives and tribes. He again stress that in North Efate Custom, all line connection should be followed priority to the Male. The defendant denied working together with Manlaewia in the village council. The defendant fail to name the two Narupa (women) of the chief that was shown in the family tree. He does not accept that his family was from Emua. They only moved out from Tanmiala to Emua. He claim that the two courts of Vaturisu and Malvatumauri have something wrong which say he have no chance to speak. This court cannot accept the date he gave for the ordination of Peter because he was not present during the time of ordination. He confirms that there was no meeting with Pielau, late Peter's wife before his Ordination. He claim to be on the sixth generation of the family tree where it contradicts what is on the Family tree. He confirm that his relationship with late Peter is brother. He confirms women have the right to gain possession of chief titles.

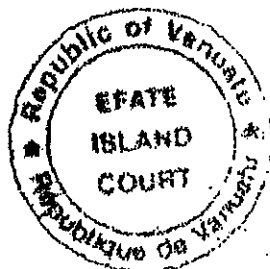
Second witness.

He is witness is jack kalontan who claim to have been coming from Ravenga and old site at the top of the hill. He denied peters ordination at Emua. This witness does not help the court at all, he does not answer most question properly.

Third witness.

This witness is Joseph kailes who claim to have been from Ambrym. He grew up at Paunangisu. He claim himself to be the police to the chief and inform the court that he involve a lot in the arrangement of the ordination of peter and others who were ordained in the 5<sup>th</sup> of August, 1968. He said peter was ordained with manuvea and not Maripongi. During the cross examination he confirm that peter was not ordained with Maripongi instead manuvea in 1968. The witness was not present during Kalrongos kaltong ordination, so his evidence cannot convince this court to believe him.

Fourth Witness.



The fourth witness is Peniel Obed with a chief title Masoemantalo. This witness confirm during cross examination during Peters death, he was with other family talking about who should be responsible of this title. This witness does not help this court with all his evidence. He seem to says " I don't know to most of the questions"

Sixth witness.

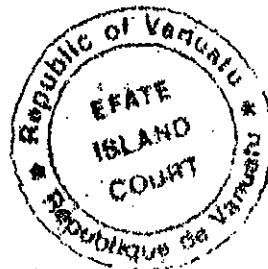
This witness is only confirming that there was a field work for the cultural centre done at Paunangisu but it was stopped after a complain to the head office, The work was for registering old sites. However, where dispute emerge as a result, then the work was ceased.

Now this Court has a responsibility to consider the evidence produced and to find a solution to this long standing dispute. For the plaintiffs case, they have proved their family tree and explain a good link to the highest chief. Their demonstration has convinced this court to believe their family tree. They have proved that this title has been passed on through to the fourth man, who is Peter and has gone through six generations. In fact they have demonstrated that they have the right to this title according to their family link which is really the female. The court found that the other Party have produced a family tree that is not complete and it is very hard for the witness to convince this court so that's why this court does not believe most of the witness. As the decision of Malvatumauri rightly points out in annex A, that the Family tree of the defendant is not complete. This court find it very hard to believe Klorongo Kaltong in the fourth generation in this family tree. It could not be possible if the same Maripongi that the Plaintiffs were talking about is the same one to Nameles brother on the Defence family tree. If there is a different one then this court will not still believe kalorongo to appear in the fourth generation. They have not convinced the court to believe that this generation can reveal the past they were talking about as far as 1800's where Maripongi Moved to kakula. Now this Court still believe these two parties are close and have a very strong ties of relationship to be from the Tanniala gland/Tribe. After the Court visited the old settlement of the Tanniala, the Court is convinced that these two parties are of the same tribe of Tanniala in the way that they both understand the areas of the old settlement, and the extend to its bountry. The Court take into Consideration that this is not an appeal case or the Defendant's case.

The laws applicable in this matter is quoted in section 10 of the Island Court act Cap 167 which is the application of the Customary Law.

*" Subject to the provision of this Act an Island Court shall administer the Customary Law prevailing within the territorial Jurisdiction of the Court so far as the same is not in conflict with any written Law and is no contrary to Justice , Morality and good Order"*

Now the six questions above are the guide lines to this Court in determining a good solution to this customary matter. On finding the solution to these question, the court find that there are customary laws governing the societies. On applying these laws to this case, this court finds that the Ordination done for Kalorongo Kaltong is not proper according to the Custom of Efate. In fact it does not follow the customary principal of good morality. He does not get that title from Late Peters Wife properly. There should be a good meting



between the two parties and a proper custom be made in exchange of the title to be passed to Kalorongo Kaltong.

This honorable Court takes into consideration the length of time where the dispute commenced and the consequences of the dispute. It is true there are certain people and family who suffers the consequences of this dispute. This Court still believe that our responsible leaders and chiefs in the village should measure their responsibility and take more consideration into cases such as this one where it stimulate separation and non cooperation. It is important that there will always be respect in the village so that issueses like this one ends quickly. We have come to be satisfied that this case has been won by the plaintiff on two separate Courts of Vatirisu and Malvatumauri respectively. We have been satisfied that with the evidence produced before this Court for the plaintiff. We are in a position to rule on this case on the Plaintiffs favor; We therefore make the following orders:

### Court Orders.

1. We over ruled the Ordination of Kalorongo Kaltong of 1996 to be invalid.
2. The Title Maripongi Shall be in the Plaintiffs Possession as of Today's date.
3. The Plaintiffs Families and Relatives to elect a person to be ordained with the name "Maripongi" no later than 31<sup>st</sup> January, 2004.
4. Both Parties to perform a custom ceremony before the ordination of the new Maripongi as a sign of peace between them.
5. No order as to costs.
6. Both parties are given 30 days to appeal to the Senior Magistrate Court.

Dated at Port Vila this 6<sup>th</sup> day of June, 2003.



Justice: Maria Crowby.



Justice: Erick Mesau



Justice: Ann Kalo

