

**IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU
HELD AT LAKATORO/MALEKULA
(Civil Jurisdiction)**

Civil Case No 20/06
Judg. No 19/06

**IN THE MATTER OF:
DISPUTE OVER JIFLY TITLE**

BETWEEN

FAMILY MELTERONG
(Complainant)

AND

BERSI TIMOTHY
(Defendant)

Coram: Justice Endy Shem
Justice Shema Tasvaillie
Justice Robert Niptik

Clerk: Wendy W. Raptigh

JUDGMENT

Brief bakgraon long case:

Issue before long this Court hemi blong finemaot se whu ia nao hemi stret custom Jif blong nasara ia Hulkot. Wan nasara isituated long Litzlitz area hemia long Central part blong Malekula.

Complainant long case hemi Hensly Melterong, hem nao we i representem ol family Melterong. Hensly hemi blong Litzlitz. Hem istap kleim se hem nao istret laef blood wei laef yet thru long woman blong claimem title blong Jif, from we laef blood long saed blong man oli finis/ded evri wan. Bersi timothy hemi blong Litzlitz, mo hemi stap kleim se laef blood blong man ino finis, hem nao ilaef blad we istap yet.

Trial itek ples long 13th November, 2006.

Case blong Plaintiff:

History blong family Malderong

Bifo long long taem ikam ol ansistore blong mifala oli mov aot long Nasara Langanaut from we ikat tumas man ilife long Nasara Langanaut mekem wan tribe imuv aot long wan direction blong solwota mo kam buildim nasara Ulkot. Pupu blong Malemb nao hemi kam big Chief taem oli buildim Nasara Ulkot. Taem ided papa blong Malemb hemi kam Jif long Nasara Ulkot. Kasem taem ided Malemb hemi kam Jif mo ikam stanapem nasara Bangasisil we istap kolosap nomo long nasara Ulkot. Taem Malemb ided hemi kat tufala boy blong hem tufala istap, we hemi Lolonmal

mo Malderong.

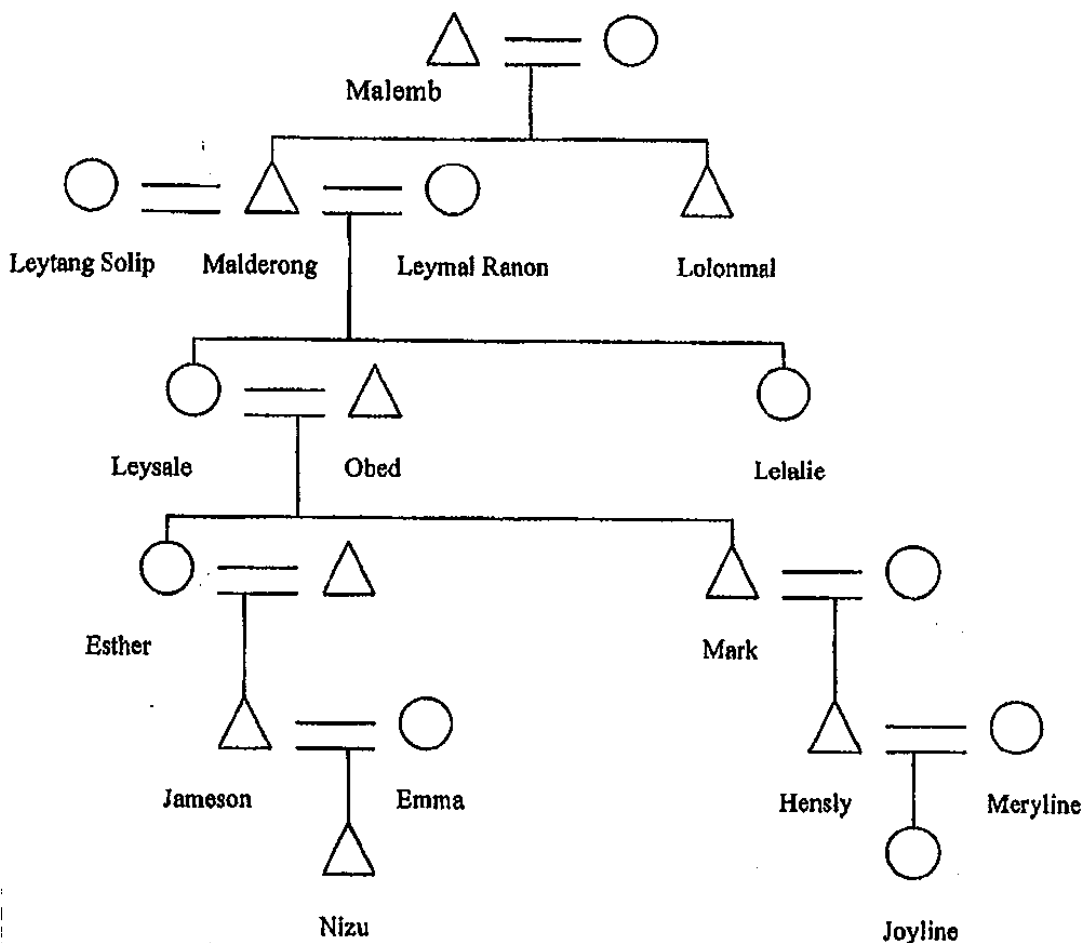
Long Bangasisil nao oli kasem Gospel mo fes mission stesen oli mekem narasaed long Nasara Bangasisil. Lolonmal hemi no gat wan pikinini blong hem ilaef tedei. Malderong hemi maretem tu woman, 1st woman hemi woman Langanaut mo tufala ino gat pikinini, 2nd woman blong hemi woman Emel Beres long Uri Island mo tufala kat 2 gel. 1st gel hemi Lelalie, 2nd girl hemi Lesale. Lelalie hemi maretem Sairos be tufala ino gat pikinini. Lesalie hemi maretem Obed mo tufala igat 1 girl we hemi Esther mo 1 boy we hemi Mark. Esther hemi maretem wan man Tongoa Is (Shepherds Island) mo tufala igat 2 girl mo 1 boy. Tufala girl ia hemi Janet mo Caroline mo 1 boy hem Jameson. Mark hemi maretem Susan, woman Vinmavis mo tufala ikat 5 boys, 1st Hensly, 2nd Bryne, 3rd Rex, 4th Jeff mo 5th Niel.

Jameson hemi maretem woman Tanna Island mo tufala ikat 2 boys mo 2 girls. Tufala boys ia Nizu mo Kalo. Tufala girl Anolla mo Anson, Hensly hemi maretem woman Lingarak tufala ikat 1 girl we hemi Joelyn mo 1 boy we hemi Josiah.

Wetem history ia nao mifala istret life blood blong big Jif blong Nasara Ulkot.

Hensly Mark
(Signed)

Family Tree blong Family Malderong



Case blong Defdant:

Bersi Timothy nao hemi toktok long behalf blong olgeta Defendant. Statement blong ol iread:

**IN THE ISLAND COURT OF VANUATU
CIVIL JURISDICTION**

Civil Case No. 20 of 2006

Between

JAMESON ABEL OF TONGOA
(Claimant)

And

BERSI TIMOTHY & KALRAN TIMOTHY
(Defendant)

DEFENCE

1. Right owner blong graon we Lilgot mo Bangsisil iet stap long hem Island Court blong Malekula ie givim judgment blong hem finis long 26th November 1993. Long namba 26 long manis ia bai imekem 13 years stret. (Time bad). Taem ia let blong lukluk back from ie no bin gat eni appeal akensem judgement ia kasem 30 deis ie pas.

2. Malekula Island Court long namba 12 May 2006 isakem out request blong Jameson Abel blong putum Bersi mo Kalran long prison from hemi se tufala ie no comply wetem decision blong Malekula Island Court long Lakatoro dated 23rd September, 2005. Magistrate long Lakatoro ie faenem out se Bersi mo Kalran ie comply mo tufala ie proceed finis blong go long Supreme Court.

3. Order we Magistrate ie mekem folem point 2 antap, hemi up holem decision blong Island Court long Malekula long 26th November, 1993. Magistrate hemi further agree wetem submission blong Bersi mo Kalran ie ko long Supreme Court mo hemi grandem evri request blong tufala. (Copy attached) please readim gud judgement ia we hemi made long namba 12th day of May, 2006.

4. Lawyer blong mitufala Bersi mo Kalran Timothy ie proceed finis ie go long Supreme Court. Long believe blong mitufala.

a. Sapos Island Court ie proceed wetem case ia bae hemi contempt of Island Court Judgement blong 26th November 1993 mo 12th May, 2006.

b. Mitufala ia askem blong Island Court ie sakemaot case ia.

c. Sapos Court ie wantem go hed wetem case folem natural justice bae mitufala ie askem Court blong givim taem blong mitufala ie consult wetem Lawyer blong mitufala we hemi stap spel nao ia.

Thank you

Bersi Timothy
(signed)

Kalran Timothy
(signed)

Ol findings blong Court:

Stat wetem claim blong family Melterong. Court inotem olgeta points ia.

- Hensly hemi bin prufum family tree blong hem long Court se yes hemi laef blad blong Malemb follem woman mo iclear long ol toktok blong hem supported wetem family tree blong hem.
- Tufala witness blong family Melterong tufala tu iconfirmem long Court se yes Hensly itru laef blad blong Malemb we ilaef tete tru long woman.
- Defendant Bersi, hem tu ibin agree tu long taem blong cross examination se yes Hensly hemi laef blad blong Malemb we hemi generation daon to Leysale. Blad ia ilaef tru long woman mo hemi laef yet tedei.

Long saed blong claim blong Defendant, Court ibin notem olgeta following points ia:

- Bersi Timothy ino bin presentem wan clear family tri blong hem long Court ia blong apruvum hem se hemi laef blad blong Malemb daon to Lolonumal mo kasem Noah.
- Bersi long this Court ia hemi toktok mo gat plante interest more long graon be Court hemi no sidaon from graon be hemi sidaon blong finem laef blad blong Chief blong Ulkot tru long generation blong Malemb.
- Ibin gat wan confusion tu bifo long this Court concernem wan toktok we Bersi italem long Court se pupu blong hemi Jif blong smol nasara Ulkot mo great grand pupu blong hem hemi bigfala Jif blong big nasara. Toktok ia hemi contradictem custom living from ino save gat sem blad long big mo small nasara.
- Witness blong Bersi ino pruvum se Bersi hemi blad line blong Malemb. Mo witness tu istap toktok plante long saed blong graon, Even sam questions we ibin raise hemi no save ansa long hem blong save helpem Court ia.

Law we Court i applaem:

CAP 167 (s.10) - Application of customary law

Subject to the provisions 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 not contrary to justice, morality and good order.

Translate:

CAP 167 (s.10) - Kot hem i mas applaem kastom

Subject long seksen blong Act ia, aelan kot hemi mas aplaem kastom we istap insaed long area blong paoa blong hem, spos oil no gat conflict wetem eni loa we oil stap raetem, mo no gat konflik tu wetem jastis, morality mo gudfala orda.

Apply Law igo long fact:

Law ia antap hemi givim paoa blong Kot ia iharem case ia mo applaem custom blong area ia. Common practice we istap, oltaem person we hemi kam Jif imas wan man. Bladline blong kam wan Jif hemi oltaem follem bladline blong man. Sapos bladline blong man ided evri wan then blad line blong woman oil save follem. Woman ino save kam Jif but fes boy long bladline blong woman ia isave kam Jif. Oltaem Jif title imas pass on tru long laef blood blong Jif nomo be ino man aotsaed long family blad line.

Las toktok:

Kot hemi wantem letem tufala pati isave se long interest blong komunity mo blong promotem pis mo unity istap oltaem:

- eni man we ikarem title blong Jif, weta paramoun or hed jif, hemi mas liv mo wok wetem pipol.
- Man ia imas gat gud cooperation wetem ol pipol long velej blong mentenem pis oltaem.
- Man ia imas gat mo soem wan gudfala example long community, olsem eni man we ikarem title hemi mas respectem title ia mo soem long pipol.

DECISION

1. Blad blong Jif Malemb we ilaef tedei hemi laef tru long woman nomo, Leysale. Therefore raet blong Jif title stat tedei igo hemi fuldaon long Hensly Mark.
2. Tufala parti imas mekem reconciliation ceremony between tufala.
3. Ino gat oda blong kost.
4. 30 days blong appeal.

Dated at Lakatoro, this 15th day of November, 2006.

**ENDY SHEM
SHEM TASVAILLE
ROBERT NIPTIK**