

**IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU
HELD AT LAKATORO/ MALEKULA**

**Civil # 03/08
Judg. # 8108**

(Civil Jurisdiction)

**BETWEEN: MELTELILI URBANO & FAMILY
(Complainant)**

**AND: MAURY MELTEROR
(Defendant)**

**MATTER: DISPUTE OVER CUSTOM PROPERTY-COCONAS
PLANTATION**

**Coram: Jastis Douglas Fatdal
Jastis Lorna Bongvivi
Jastis Robert Niptick**

Clerk: Wendy W. Raptigh

JUDGEMENT

Brief backgraon long case:

Civil case 03 of 2008 Between Meltlili Urbano and Maury Melteroro. Court ibin harem trial long 28th March, 2008 hemia long Lakatoro.

Tugeta claimant iblong Vao nomo hemia long North East part blong Malekula.

Long 2nd April, 2008 Court ibin go visitim disputed site ia long Vao.

Issue:

Matter hemi wan dispute ova long wan plantation coconas long Moul, wan area insaed long disputed land blong Saralivo mo wire blong buluk mo barik cacao we complainant long case istap claim se hemi ol property blong hem but defendant ibin stap usum tudei.

Court ia bae hemi blong finemaot se anda long custom mo law blong Republic of Vanuatu, whu ia nao igat raet ova long ol properties ia.

History blong case:

Case blong Complainant, Mr. Meltlili Urbano

Defendant sam taem long 1997 hemi hollem taet barik kokonas blong mi mo family Meltlili long disputed graon blong Saralivo.

Defendant i olem taet ol barik kokonas blong mi long Moul plasem ol garen crops blong mi mo family mo waea blong buluk blong mi.

Defendant iholem taet ol cacao blong boy blong mi Ignace Meltlili long Maoul kasem Louhe.



Sam team long 2007 hemi bonem daon samwe long thirty (30) stampa cocoa blong boy blong mi ia yet blong mekem garen blong hem.
Mi gat tu (2) witness.

Witness 1: Allan Atpatun blong Vao

Mi witness se family Melteror oli tekem ol property blong Meltelili wetem ol pikinini blong hem long Moul kasem long Lemel.

Case blong Defendant, Maury Melteror:

Coconas: Christian ipem graon long mifala mo ibrushem bush mo planem coconas. Hem mo wife blong hem Adeline. Mi mi luk taem we oli plan ia – sam taem 1982 (ol brata tu oli luk).

Cacao: Urbano idamagem garen blong mifala mo Ignias iplanem cocoa long hem afta mi pulpulmaot cocoa mo mi replacem 2,000 stampa cocoa istap kasem nao.
Cacao we mi bonem, mi no minim blong bonem be cacao iblong mifala. Mi bonem wud blong planem yam mo fire igo long cacao.

Wire: Mi go insaed plantation long 2006 ia, mi no luk wire raon long plantation blong Christian. Mifala iluk wire long stret plantation blong Urbano mo buluk iwokbaot insaed.

Witness 1: Nasere Tevanu blong Vao.

Mi witnessim Uncle Maury se stret papa blong mi nao ipem graon ia long Meltefesal. Christian nao ipapa blong mi. Mi skul yet, mo taem mi smol mi bin wok, selaot mo roron long plantation ia.

Long 2006 mifala ibin mekem wan agriment blong Maury bae ilukaotem property fes taem from mifala evri wan iwok (3 brata). Maury wetem Urbano tufala isave dispute be mi save talem se Chrition (papa blong mi) nao iplanem coconas. Ol sista oli no save wok ia from ol taem igt raorao mo ol sista ino strong. Pis land ia mifala iowem smol vatu (VT40,000) long Maury olgeta istap yet, tas we oli wok long hem fes taem.

Mi no lukim wire long ples we yumi stap toktok from. Mifala iseftem buluk nomo long rope be long fanis blong hem stret yes, igtat wire mo ol buluk ifri blong wokbaot, igtat mak istap long tufala pis graon ia. Blong mifala papa ipem mo planem coconas.

Witness 2: Jean Tikta blong Vao.

Mi witness se brata blong mi Christian Tevanu hem nao ipem graon mo planem coconas – owner blong graon hemi Meltefesal. Christian wetem wife tufala iplanem coconas. Graon ia igtat mak blong hem. Mi wetem olfala Malkutee mifala iwok raon ya mo mifala isave gud tufala pis land ia we Meltefesal igivim long Christian wetem Urbano.

Witness 3: Liliord Joel blong Vao.

Mi witnessem wire we oli talem mo cacao blong Maury.

Wire: Wire hemi pulum raon long plantation blong hem be blong Christian oli no pulum wire raon.



Cacao: Long wan team Urbano olgeta wetem sam grup oli bin go insaed damagem ol crops afta oli planem cacao.

Maury, mi luk long eye blong mi we hemi go karem caocao long Lambubu mo kam planem.

Ol findings blong Court:

Kot ibin harem tugeta claimant wetem ol witnesses mo wokbaot blong lukluk ol property blong tugeta saed. Kot ifinemaot se pis land we tugeta parti idisputem ol property long em family Christian ibin pem. Kot ifinem out tu se long pis land ia Meltelili Urbano ibin planem sam stampa coconas mo cacao insaed mo famili Christian tu ibin planem sam coconas. Christian nao igivim raet long Maury blong usum ol coconas be coconas ino blong Maury olsem we Urbano istap talem.

Kot iharem long statement blong Urbano se igat sam damage long sam yang coconas blong em wetem cocoa blong boy blong em Inias. Ol wokabaot long area Kot iluk se igat pruf se sam samting mo sam long ol toktok we istap long tugeta statement oli tru. For instant itru se ibin gat damages long ol property blong Urbano especially ol coconas blong hem ibin damage mo nao ia wan stampa coconas nomo istap. Inias itru tu se ol cacao blong hem ibin damage taem Maury ibin bonem mo mekem garen blong hem.

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 hemi mas applaem kastom

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

Apply Law igo long fact:

Section blong Law we Court ia istap applyem tudei hemia antap – CAP 167 (s.10).

Hemi common sense nomo se whua iplanem coconas, hem nao property ia iblong hem. Hemi common sense tu se wan man ino save kam stap plant long wan area we ino blong hem, hemi save plant nomo sapos hemi askem raet blong use long owner blong graon. Olgeta points ya nao oli ol gudfala orda we hemi ol custom practice blong long taem finis ikam.

Court ia ino lukluk long issue blong dispute blong graon we istap but hemi stap lukluk nomo long issue blong disputed property ia. Issue blong Land bae Land Tribunal ijies determinem yet.



Last toktok:

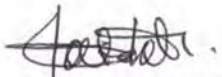
Dispute ia hemi causem plante division between olgeta Clemens, Court iwantem se bae peace imas stap ol taem. Eni wan insaed long family we bae itraem blong brekem order ia hemi save pass long Court from contempt blong Court Order mo fine or go long kalabus.

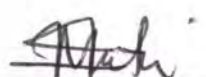
KOT DECISION


Wetem ol toktok we kot ibin harem bitwin Complenen mo Defenden wetem ol witnesses blong tufala saed, mo ol wokabaot we ol jastis oli mekem blong lukluk mak mo property, Kot itekem decision se stat tedei 29th April, 2008;

1. Coconas we family Maury istap wok long hem, we hemi claim se iblong Christian, Court istap dividem long haf. Urbano bae itekem haf we ijoen wetem coconas we hemi stap usum nao ia. Christian bae itekem nara haf blong plantation. Line we bae idividem plantation hemi ol cacao we Urbano iplanem long medel blong plantation.
2. Family Maury Melteror oli no kat raet blong enter long coconas we Court italem se Urbano igat raet long hem.
3. Family Meltelili Urbano oli no kat raet blong enter long coconas wei Court iallowem blong famili Maury Melteror oli wok long hem.
4. Famili Urbano yu mas mekem wan separate claim wetem help blong tu Jif mo Agriculture field assistant blong finemout cost blong damage mo tekem ikam long Court agensem olgeta we oli damagem ol property blong yu blong oli pem olsem we law italem.
5. Inias imas mekem wan separate claim wetem help blong tu Jif mo Agriculture field assistant blong finemaot cost blong damage mo tekem ikam long Kot blong famili Maury Melteror oli pem olsem we Law italem.
6. Sapos eni wan long tugeta saed ino agri long decision ya yu gat 14 deis blong mekem appeal igo long Magistrates Kot.

Dated long Lakatoro this 29th dei blong April, 2008.


Jastis Douglas Fatdal


Jastis Lorna Bongvivi


Jastis Robert Niptick

