

IN THE EFATE ISLAND COURT  
HELD AT PORT VILA  
(Civil Jurisdiction)

Civil Case No. 08 of 2010

BETWEEN: WILLIAM KIERRY AMEARA  
Claimant

AND: KALO OBED, MARVATU BILLY KALTALUA,  
CHIEF VANI NOUPAT, GILBERT MARIATU,  
CHIEF JOHN MASAMA, CHIEF SAKI VALEAWIA,  
CHIEF ALBERT TARMA & DON GEORGE  
Defendants

Coram: Justice Tomson Andrew [Chairman]  
Justice Francis Aru  
Justice Johnny Iawia

Clerk: Jona Mesao  
Date of Hearing: 31st August 2010  
Date of Judgment: 10th September 2010

JUDGMENT

Whereas on 6th August 2010, Claimant Mr William Kierry Ameara filed an application for Contempt before this Court and sought the following reliefs:

1. An Order pursuant to Section 19 of the Island Court Act and Order 21 of the Island Court [Civil Procedure] Rules, 1984 that the Defendants has failed to comply with Efate Island Court Judgment dated 1st October 2007 and is liable to a fine not exceeding VT24.000 or imprisonment not exceeding 6 months or to both.

Upon the grounds that:

1. The Claimant and his descendants are the rightful owners of the paramount chiefly Ameara, North East Efate following the Island Court Judgment dated 1st October 2007.
2. The appeal of Malon Ali and Kalos Obed was struck out by the Magistrate Court on 16th October 2009 because they had no standing to bring an appeal.
3. After the appeal was struck out by the Magistrate Court on 16th October 2009, no other Court proceedings were issued by Defendants.
4. On 16th April 2010 at 12.30pm the persons named Defendant proceed to ordain Marvatu Billy Kaltalua as Chief Ameara of Takara contrary to the Island Court Judgment dated 1st October 2007.



5. The persons named Defendant were not parties in the original chiefly title matter but continue to disregard the Judgment of the Efate Island Court. They have used the chiefly title Ameara in land tribunal proceedings which is now in appeal stages in the North Efate Area Land Tribunal.
6. The persons named Defendant are in breach of the Efate Island Court declarations as follows:
  - a) "Mr William Kerry Ameara mo ol descendants blong em olgeta nao oli tru bloodline blong Chiefly Title ia Ameara we emi Paramount Chief blong Takara.
  - b) Ol descendant's blong Ameara nomo oli kat raet blong tekem Chiefly Title ia mo lukaotem ol kastom properties blong Chief Ameara long Takara."

In addition, Claimant refer to a letter dated 13th October 2009, made by Chief Albert Tarma and Chief Kaltalua Marvat Billy Ameara-Liu directed to the Honorable Magistrate to withdraw their interest and custom rights in Civil Appeal Case No. 1 of 2007, on the basis that they do not dispute Chiefly Title Ameara that has been granted to Mr William Kerry of Nguna by the ruling of the Island Court on 1st October 2009. Furthermore, Mr Kerry mention on his statement before this Court another letter dated 12th April 2010, prepared by Mr Andrew Bal from the Public Solicitors office directed to Family Ral of Takara area informing them not to disturbed the ordination of the Paramount Chief of Takara area in which will be occurred on 16th of April 2010.

In response to the application made by Claimant, Defendants admitted that there was an ordination made on 16th April 2010. On behalf of the Defendants, Chief Vani Noupat informed the Court that, the planning of the ordination ceremony on 16<sup>th</sup> April 2010, was a collective decision which was made by all Paramount Chiefs of North Efate and offshore Islands. Chief Vani Noupat explained that, we do not dispute the Chiefly title that has been granted to Mr William Kerry of Nguna Island by the Efate Island Court decision. Mr William Kerry does not dispute our Chiefly Title which is "Chief Amearaliu". He is claiming his own chiefly title which is "Ameara". In Efate custom, procedures relating to Chiefly Titles and the rights to acquire the Chiefly titles are the same.

Therefore, in Efate custom as far as the chiefly title Ameara is concern, there are several ranks of Ameara. Ameara – Ameara-Liu – Ameara – ra – Mari-Ameara which are all different ranks of the Efate "Ameara" chiefly title. For clarification Mr William Kerry of Nguna Island claimed of a different Ameara and therefore his claim does not affect or dispute our chiefly title of Ameara-Liu. We are the rightful bloodline of chief Ameara-Liu and there is no dispute to the same. Further more, Chief Joel Malele [Defendant in Civil Case No. 30 of 2006] who filed this appeal has no custom rights in relation to Chiefly title of Ameara-Liu and his actions in this case has caused confusion to the whole process how this Appeal case was contacted.



Upon having read the sworn statement of Claimant and upon having heard the facts presented by the parties before this Court, It is satisfied that the burden of proof falls on all the defendants and is liable to contempt on Efate Island Court decision of 1st October 2007. All the Defendants admitted that Second Defendant; Marvatu Billy Kaltalua has been ordained "Ameara-Liu" on 16th April 2010. The named "Ameara-Liu is found and mention all along in the Judgment of Chiefly Title Case No. 30 of 2006 [William Kerry Ameara vs Joel Kaltang]. The mention named "Ameara-Liu" appears also in Claimant's family tri in [CTC No. 30 of 2007]. It reads:

***"FAMILY TREE***

*Long family tri blong Claimant, spokesperson hemi talem long Kot se, Leisuaraua Ameara-liu hemi mared long Tapau Pati mo tufala ibornem only daughter Leisale. Leisale imared long Marikimantua mo bornem Leisongi Eratanarel. Leisongi Eratanarel imared long Mantap'tea mo bornem Tatalele. Tatalele imared long Leitue mo bornem Taripu Peletia. Taripu Peletia imared long Leisasuaserei mo bornem Louis mo ol narafala bratas mo sistas blong hem. Louis hemi mared long Winnie mo bornem William Kierry mo ol narafala relative's blong em.*

It was also found in some part of the Declaration made by Efate Island Court on 1st October 2007. It reads:

**"DECLARATION**

*.....long case blong Claimant Kot ifanem se bloodline blong woman ia Leiameara-liu emi folem bloodline mo Clan ikam kasem Leisale pass on long Leisongi Eratanarei and then iko long Talalele mo afta iko long Taripu Peletia mo lead on iko kasem Claimant mo ol descendants blong em.*

Therefore **Kot imekem DECLARATION** olsem se:

- 1) *Mr William Kerry Ameara mo ol Descendants blong em olgeta nao oli tru bloodline blong Chiefly Title ia Ameara we hemi Paramount Chief blong Takara.....*

Defendants are fully aware of Chiefly Title Case No. 30 of 2007 [William Kierry Ameara vs Joel Kaltang]. First Defendant Mr Kalos Obed and Mr Malon Ali represented by Mr James Tari [legal practitioner] pursue an appeal against the decision of the Magistrate Court to the Supreme Court on 18th March 2008. On the face of the records of the Supreme Court file, a Notice of Appeal was file in the Magistrate's Court by the Appellants [Malon Ali & Kalos Obed vs William Kierry Ameara] against the decision of the Efate Island Court dated 1st October 2007. On 1st October 2007 the Efate Island Court made a decision relating to Chiefly Title Ameara of Takara Village, North East Efate, in accordance with custom.

The Decision was in favour of the Respondent [William Kierry Ameara]. Notice of Appeal against this declaration was filed on 10th October 2007 before the Magistrate's



Court sitting in Port Vila. On 12th February 2008, the Magistrate's Court struck out the Notice of Appeal for want of prosecution. On 18th March 2008, a Notice of Appeal was filed before the Supreme Court. On 21st August 2008, the Supreme Court remitted the matter before the Magistrate's Court to hear the appeal as soon as possible.

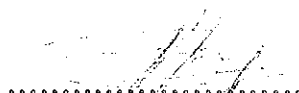
On the face of the records of this Court, there have not been any Orders to stay the Efate Island Court decision dated 1st October 2007, **THEREFORE**, pursuant to Section 19 of the Island Courts Act [CAP.167] all the Defendants were liable to Contempt of the Efate Island Court Order. The appropriate punishment to be given to all the Defendants is conferred under Section 15 (b) of the Island Courts Act [CAP.167].

**ORDER**

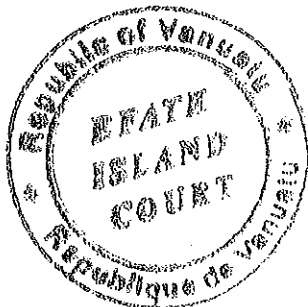
1. All the Defendants are ordered to be imprisonment and serve 10 weeks each, accordingly.
2. Each of the Defendants are ordered to pay fine of VT10.000 forthwith.
3. Order (1) shall not be carried out thus if or unless order (2) is complied with.
4. Such sentences shall not be carried out until it is confirmed by the Magistrate having supervisory Jurisdiction over this Court.
5. All the Defendants are given 14days from the date of this Judgment to settle the payment of the said fine.
6. The Ordination performed by Paramount Chiefs of North Efate on the said Chiefly Title "Ameara-Liu" bestowed upon Chief Marvatu Billy Kaltalua on 16th April 2010 is accordingly pronounced null and void and have no effect.
7. Parties have liberty to appeal within 14 days.



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**Justice Tomson Andrew [Chairman]**



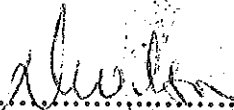
.....  
**Justice Francis Aru**

  
.....  
**Justice Johnny Iawia**

**Dated at Port Vila, this, 10th Day of September 2010.**

Having read the judgment of the Island Court dated 10<sup>th</sup> September 2010 I Senior Magistrate Nesbeth Wilson, Supervising Magistrate for Efate Island Court, having the supervisory jurisdiction hereby confirm the said decision.

**Dated at Port Vila this 13<sup>th</sup> day of September 2010.**

  
.....  
**Senior Magistrate Nesbeth Wilson**  
**Supervising Magistrate for Efate Island Court**

