

CIF

**IN THE MALKULA ISLAND COURT
HELD AT LAKATORO/ MALEKULA**

**Civil # 85/08
Judg. #**

(Civil Jurisdiction)

BETWEEN: BALENG OLEKON
(Complainant)

AND: SETH EDDY
ABEL EDDY
PIERRE MARIEMARCEL
(Defendant)

MATTER: DISPUTE OVER COCONAS PLANTATION

Coram: Jastis Kalman Hapsai
Jastis Maxwell Arhampath
Jastis Evelyn Seth

Clerk: Wendy W. Raptigh

JUDGEMENT

Brief backgraon long case:

Civil case 85 of 2008 Between Baleng Olekon olsem complainant mo Seth Eddy, Abel Eddy and Pierre Mariemarcel olsem ol defendant. Afta decision ibin kamaot long 24th August, 2009 Pierre Mariemarcel ibin appeal igo long Magistrates Court long grounds se hemi no bin present long taem blong Island Court hearing ia mo askem spos kot isave mekem rehearing long Island court blong kot i harem toktok blong hem tu bifo igivim decision blong hem. Case inao go before ol niu Justices blong harem.

Issue:

Matter hemi wan dispute ova long wan coconas planation?

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

Brief history blong case:

Baleng Olekon olsem claimant represented by William Frank (grandson blong claimant) hemi stap talem long Court se hemi agree long sharing blong plantation we olfala woman Alu imekem finis istap (see map attached marked "Annexure 1"). Sharing ibin tekem ples long 1975 between Alu mo Baleng.

Defendant Seth mo Abel Eddy represented by Abel Eddy oli agree wetem sharing blong olfala woman Alu tu olsem we istap long "Annexure 1".



Defendant Pierre Mariemarcel hemi no agree wetem sharing blong plantation olsem wei stap. Reason blong hem from sharing ia we Alu imekem hem (Pierre) i no part insaed long ol coconas we Alu iplanem. Pierre iclaim hemi pikinini blong Alu thru long adoption therefore hemi believe se sharing ia ino stret.

Findings:

Alu hemi bin dividem coconas plantation ia finis olsem we istap long "Annexure 1". Ol coconas ia Alu mo Baleng oli planem stat long 1969 ikam long ol 70s. Sharing ia plot A, B, C, D mo E hemi ol coconas we Alu mo Baleng oli planem. Plot A hemi no issue bifo long Court ia. Plot B hemi blong Baleng Olekon, Plot C hemi blong Alukon, Plot D hemi blong Enny Abel mo Plot E hemi blong Eddy Abel.

Tufala defendant antap Enny mo Eddy oli agree long sharing mo stap go hed blong wok long hem kasem tedei.

Pierre hemi no stret pikinini blong Alu be hemi pikinini blong sista blong Alu. Hemi kam laef wetem Alu from papa blong hem long taem ia hemi go prison long Lamap. Plot F hemi blong Pierre Marcel. Kot ifinem se Plot F hemi ol coconas we Pierre hemi planem. Pierre hemi no gat eni witness we ikam supportem hem se yes ibin gat wan custom i prufum adoption olsem we hemi stap kleim. Namba tu witness blong Pierre – Robert Malu hemi brata blong Alu. Hemi confirmem long Kot ia se yes ol coconas long Plot F, Pierre iplanem mo ol coconas ia bae imas go bak long Pierre blong usum. Hemi no save confirmem adoption blong Pierre long custom olsem we Pierre istap kleim.

Wetem olgeta findings ia Kot istap notem se sharing blong coconas ia hemi stret gud finis. Olfala Alu hemi no forgetem Pierre long taem blong sharing. Pierre hemi no exclude long sharing, hemi gat Plot F blong wok long hem.

ORDER:

Kot istap diklerem se ol klemen ia oli gat raet long coconas plantation ia olsem :

**Baleng Olekon istap long Plot B
Alukon istap long Plot C
Enny Abel istap long Plot D
Eddy Abel istap long Plot E
Pierre Mariemarcel istap long Plot F
Lukim sketch map marked "Annexure 1".**

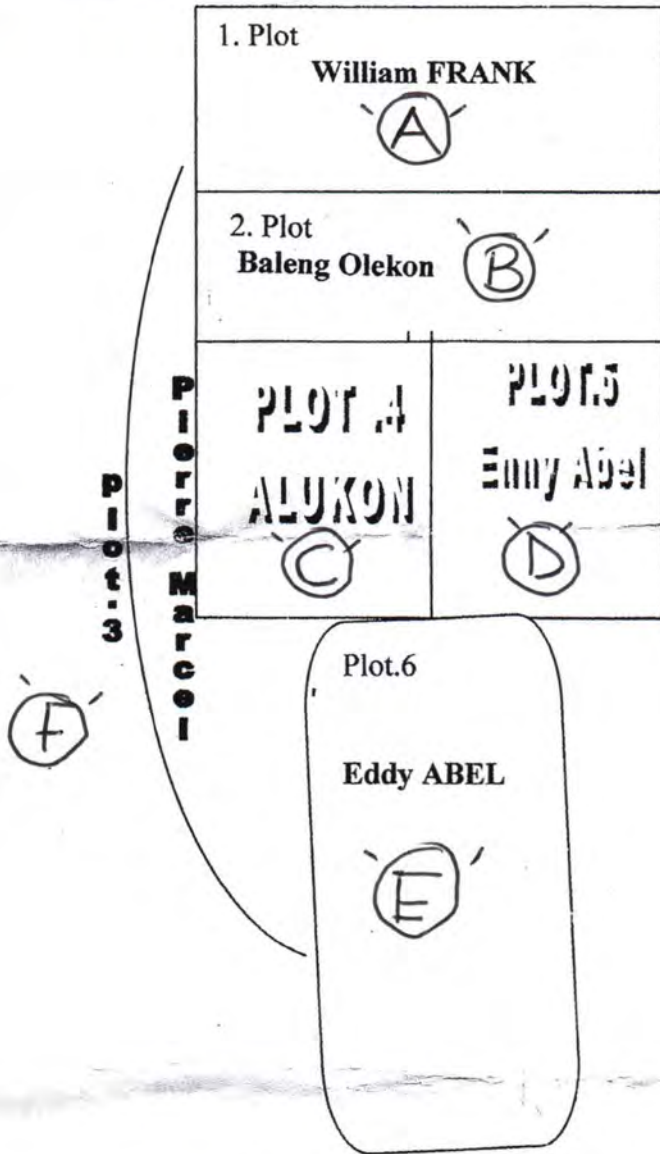
Blong gat peace imenten ol taem, wan wan claimant imas respectem Plot blong olgeta wan wan. No mas wok long area we ino blong yu.

Each claimant igat 30 deis blong mekem appeal spos ino agree long decision ia.



"Annexure 1"

MAP BLONG PLANTATION BLONG ALUKON.



Dated at Lakatoro this 30th day of April, 2010.


Before:



Jastis Kalman Hapsai



Jastis Maxwell Arhampath



Jastis Evelyn Seth

