

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

**Civil # 35/09**

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(Civil Jurisdiction)

**BETWEEN:       JOHNSEN FRASHER**  
*(Complainant)*

**AND:            JESSEL REGANVANU  
                  WILSON MALSETS  
                  MARKLIN MALBURI  
                  WILLIAM MURAMUR  
                  TERRY KENNETH  
                  JIMMY AISEN  
                  KENSYATI  
                  FAMILY MALISA  
                  SIMEON & WILSIN  
                  NUMA FRED  
                  DANRUM LONGGA  
                  JEPETH ORES  
                  FAMILY TIMOTHY  
                  BONGNMAL  
                  FAMILY VEREMAITO  
                  FAMILY MALSALE**  
*(Defendant)*

**MATTER: DISPUTE BLONG JIFLY TAETOL OVA URIPIV ISLAND**

**Coram:        Jastis Gren Obediah  
                  Jastis Maxwel Arhampath  
                  Jastis Freddy Malress**

**Clerk:         Wendy W. Raptigh**

**JUDGEMENT**

**Brief backgraon:**

Case ibin registered long Kot samtaem long 13<sup>th</sup> July, 2009. Ibin gat 17 claimant altogether long this case igat wan i withdraw mo wan, Kot isakemaot kleim blong em, mekem se ileft wetem 15 claimants. Case ibin go for trial stat long 4<sup>th</sup> kasem 22<sup>nd</sup> October, 2010. Oral decision ikamaot long 22<sup>nd</sup> October. Copy blong decision ikamaot long 3<sup>rd</sup> November, 2010. After long trial ol justices oli bin go luk ol nasara long Uripiv island blong prufum sam long ol identity blong ol claimants.



**Issue:** Whu nao emi stret blong tekem Paramount Jif taetol blong Uripiv island?

**Brief history blong wanwan claimant:**

Original Claimant- Johnsen Frasher

OC emi kleim se emi kamaot long AOP, long Amelinges nasara emia long mainland. Emi kamaot long tribe blong Jif Maltarimb we oli biliv se oli kamaot long Nangai tree we emi stamba blong Nuwiliu wota we emi hed blong Amelinges. Emi claim se Natam, pikinini blong Maltarimb hem ifes man blong go long Uripiv. Natam iputum nem ia Uripiv iminim se “yu luk wan samting nao yu sek”, emia from emi sek long aeland ia. Natam emi fes man we ilukim spring wota (Lulwi) long Uripiv afta inemem afta long ples blong papa blong em we emi Nuweliu. Long gimeliulu emi mekem preparation blong buildim Potun nasara. Natam imekem bigfala nasara ia Potun, igat 3 namangi we itekem ples long ples ia mo nasara lowi, pocklul, potnariw, gimeliulu oli stap anda long em. Nao from Potun emi big nasara mo fes man Natam emi mekem nasara ia OC iclaim se em ya nao emi stap claim se emi Paramount Jif ova long Uripiv Island follem ikam long line blong Malwijiri kam kasem em. Igat ol ston olsem ol custom identity blong em. Emi claim se long Uripiv island igat 7 nasara Emil baur, Emil Jinuwamb, Emil Ngaimngalu, Emil Beterial, Emil Periv, Emil Potun mo Emil Lowi. Emi claim se Nickleperiv iblad blong em mo ol man ikilim em from tabu faea. Emi se Nickleperiv grave blong em istap insaed long Potun nasara. Emi tekem 3 witness ikam long Kot.

1<sup>st</sup> Counter Claimant- Jessel Reganvanu

CC1 emi out long Emilbor long mainland mo imuv igo long Uripiv island. Emi claim se emi fes man blong go long Uripiv Island mo putum nem ia Uradram mining “ples blong yam” from taem emi go iluk fulap yam olsem se igat man istap finis. CC1 isettle long Lelpur afta istatem nasara Emil Beterial. Emi then kam wan company nasara (ol man kam oli kam kilim pig long ples ia). Afta Beterial oli go mekem Emil Periv. Long Uripiv emi klem se igat 9 nasara Emil Lowi, Emil Potun, Emil Peterial, Emil Gaimngalu, Emil Jinuwamb, Emil Portnambe, Emil Taon mo Emil Lelpur.

CC1 iclaim se Nickleperiv ibladlaen blong em. Ol man Unua oli kilim em from tabu faea. Oli sperem em long wan tapu spear. Emi some ol ston mo nasara blong em. CC1 emi no tekem eni witness blong em long taem blong Kot.

2<sup>nd</sup> Counter Claimant- Wilson Malsets

CC2 emi no stap kleim Paramount Jif blong Uripiv island.

Emi claim se emi aot long lolon massing emia long Potintir mo go long Uripiv, afta we emi stap lukim smoke blong faea. Taem emi go ifinem se man Ambrym istap finis mo ol man But tu oli stap finis. Nao em wetem olgeta long Emil But , tufala imekem nasara ia Emil beterial. Beterial emi servem plante man we oli ronwe from faet long main land mo kam stap long em. Afta long Beterial emi mekem Emil Periv. Emi claim se Bangra long family tree blong em iadoptem Malwijri we OC istap klemem se emi blad blong em. CC2 italem se igat 7 nasara long Uripiv; Emil Potun, Emil Periv, Emil Louwi, Emil Potnambe, Emil Peterial, Emil Jinuwamb mo Emil Taun. Emi gat sam identity long nasara. CC2 emi no tekem eni witness blong em.

3<sup>rd</sup> Counter Claimant- Marklin Malburi



Fomation blong em man ikamaot long “iabo” (stinkwood) mo woman ikamaot long yam. CC3 ikleim se emi (Botoir) out long Amelinges long mainland mo mov igo long Uripiv. Emi fes man long Uripiv mo emi statem nasara Potun. Emi kleim se Maltete ikilim namanki long nasara Potun. Emi claim se olgeta oli kaekae long tapu fire mo kasem highest Jif rank we oli stap kolem Nimjibong. Emi gat ol identity istap long nasara olsem ol ston mo ol nara samting. Emi kleim Nickleperiv tu se emi blad laen blong em mo oli kilim Nickleperiv from tapu faea. From ol reason ia nao emi kleim se emi Paramount Jif blong Uripiv Island. CC3 emi no tekem in eni witness.

4<sup>th</sup> Counter Claimant- William Muramur

CC4 emi kleim big Jif blong nasara blong em be emi no kleim Paramount blong Uripiv island. Emi aot long Towolemb long Lingarak ikam long Potintir mo go long Uri. Nickleperiv ikam tekem em long Uri igo long Uripiv nao igivim graon we emi mekem nasara blong em long em, nasara Emilperiv. Afta ol nara tribes oli jes stap kam. Emi some ol ston mo nasara blong em. CC4 emi no tekem eni witness long taem blong Kot.

5<sup>th</sup> Counter Claimant- Terry Kenneth

CC5 emi stap kleim Paramount Jif blong Uripiv island. Nasara blong em emi Vemari long mainland Tenmiel. Emi kleim se emi putum nem ia Uripiv long island. Long Uripiv emi go stap long Lelbur mo gat generation then iseraot igo long Lowi nasara mo Beterial nasara. Emi kleim se emi kaekae long tabu faea. Oli kilim Nickleperiv we emi stap kleimem ibladlaen blong em from tabu faea. Emi kleim se papa blong emi kilim pig long Lowi nasara. Igat 3 namangi long Lowi. Emi kleim long Uripiv igat 7 nasara. Emi some ol ston mo nasara blong em. CC5 emi no kolem wan witness.

6<sup>th</sup> Counter Claimant- Jimmy Aisen

CC6 emi stap kleim se emi kam long Lemerek long mainland. Emi go long Uripiv from emi lukim smoke faea. Taem emi go emi lukim man Ambrym. Fes communication blong tufala nao em ya oli nemem Uripiv se “Uribne” mining se “where ples ia”. CC6 oli stap long Botnarav, taem generation igru ikam antap two brata imuv, wan istap long Emil But mo Botunwelele mo nara wan istap long Emil Jenuamb mo Botnambe. CC6 emi se igat 7 nasara long Uripiv. Emi some ol ston mo nasara blong em. Emi no kolem eni witness long Kot.

7<sup>th</sup> Counter Claimant- Kensi Ati

Emi mekem application long Kot blong withdrawem claim blong em long tingting se em bae iwitness blong wan claimant nomo. Kot iacceptem application blong em.

8<sup>th</sup> Counter Claimant- Family Malisa

Emi no kleim Jifly taetol blong Uirpiv island be emi stap kleim paramount jif blong Potnambe nasara. Emi kleim se emi kam long Unua. Emi mov igo long Uripiv mo mekem nasara Davonatnariv afta emi supportem nasara taon. Emi later buildim nasara Meltapol mo afta emi wok wetem ol nara man blong oli mekem nasara Potnambe, we emi kleim se emi company nasara. Long Potnambe nasara emi kilim namangi mo karem nem ia Hatchinmal. Emi kleim se igat 7 nasara long Uripiv island mo each wan igat paramount jif blong em. Emi some ol ston mo nasara blong em. Emi no kolem eni witness blong em.



9<sup>th</sup> Counter Claimant- Family Simeon & Wilsin

CC9 emi kleim se emi kam long Norokos area long nasara Kamilfetu emia long mainland. Emi mov igo long Uripiv emi buildim nasara we oli kolem Virvir. CC9 emi stap kleim paramount jif blong Potnambe nasara we emi biliv se emia nao igivim paoa long em blong kam olsem Paramount jif blong Uripiv island. Emi some ston mo nasara blong em. CC9 emi no kolem eni witness long Kot.

10<sup>th</sup> Counter Claimant- Numa Fred

Kot ibin sakemaot claim blong em from emi no submittim ol statement blong em ikam long Kot long taem olsem we Kot iaskem. Emi then mekem wan application blong postpone hearing blong Kot ia due long sam personal reasons blong em be emi no turn up long taem we Kot bae iharem application blong em. Kot irule se Numa Fred ino wan claimant long case ia.

11<sup>th</sup> Counter Claimant- Danrum Longga

CC10 ikleim se emi paramount jif blong Emil Jinuamb long taem ikam. Emi out long Louni long mainland (Atputan nasara) mo kam long Uripiv. Fes nasara emi buildim emi Ngaimgnalu, hemi kaekae long tabu faea afta emi jes go buildim nasara Emil jinuamb. Emi talem se emi save nomo se each nasara long Uripiv island igat ol paramount blong olgeta wanwan be blong ovarral long Uripiv island emi no save from emi no harem ol olfala italem. CC10 emi kolem 1 witness long Kot mo emi se igat ol identity blong em istap long nasara blong em we emi soem.

12<sup>th</sup> Counter Claimant- Jepeth Ores

CC12 emi kam long Potondar wan nasara long mainland. Emi high Jif blong Potondar. Emi mov igo long Uripiv fes taem ino lukim eni man. Long second taem emi go from emi lukim wan smoke faea. Emi go long Potun mo long Ngalu Taun emi lukim man Ambrym wetem family blong em. CC12 ikleim se emi wetem man Ambrym tufala istatem nasara Taun. Nem ia Uripiv iminim se “yu tekem gel ia” emia taem man Ambrym igivim gel blong em long Numbetasi. Afta sam taem igat smol raorao between olgeta nao CC12 imuv aot long Taun mo mekem nasara Potun. Oli liv long Lulei. Emi kleim se Lekum emi gru ap long Potun mo thru long tufala boy blong em, emi stap klemem Paramount Jif blong Uripiv island. Natunmal emi kilim pig long potnambe mo karem nem ia we iminim se “pikinini blong jif”. CC12 ino kolem eni witness long Kot be emi gat ol identity istap long nasara blong em we emi soem.

13<sup>th</sup> Counter Claimant- Family Timothy

CC13 emi kam long Namaltoktok nasara emia long mainland afta imuv igo long Uripiv. CC13 emi kleim se emi big jif blong Potnambe nasara. Emi kilim wan namangi mo karem nem ia Malseure. Emi kasem high rank blong Jif “dalifaru”. Emi kleim se ineva kat wan paramount jif blong Uripiv island bifo be igat nomo wan wan paramount jif blong wanwan nasara long Uripiv. Emi se igat 7 nasara long Uripiv.

14<sup>th</sup> Counter Claimant- Bongnmal

CC14 emi stap klem se taem wanwan tribes oli mov ikam long Uripiv oli kam wetem wan wan jif blong olgeta. Ol jif ia oli kam hed blong ol nasara blong olgeta long Uripiv. Be ineva gat wan Paramount jif blong Uripiv island. CC14 emi blong Ngaimgnalu nasara long Uripiv island. Emi stap klem Paramount jif blong nasara blong em nom be ino kleim blong Uripiv island. Emi mov



long mainland ikam mo kleim se Danrum (CC1) nao igivim graon long em mo emi pem. Emi no kolem eni witness long Kot.

**15<sup>th</sup> Counter Claimant- Family Veremaito**

CC15 emi kleim se emi kamaot long Tenemel kolosap long Lowosinwo emia long mainland afta emi mov igo long Uripiv. Long Uripiv emi stap long Lelpur. Ol man Unua oli jes kam behaen. Blad we emi stap klemem ifolem Meltekrimaki. Emi kleim se Nickleperiv iblad laen blong em mo oli kilim em from tabu faea. CC15 ikleim se emi paramount jif blong Emil Peterial we emi se igat ston mo oli kilim 10 pig evriwan. CC15 ikleim se igat 7 nasara long Uripiv. CC15 iklemem tu se ino gat wan paramount Jif blong Uripiv island be igat wan wan paramount jif blong wan wan nasara long Uripiv nomo long bifo ikam. CC15 isoem ol ston mo nasara blong em. CC15 emi no kolem eni witness long Kot.

**16<sup>th</sup> Counter Claimant- Family Malsale**

CC16 emi kleim se emi kam long Unua. Emi out mo go long Uripiv, fes taem long Lelpur, Potnarev mo kam daon long Vilawi. Taem emi kam Vilawi istap finis. Emi stap kleim Beterial nasara iblong em mo igat 3 bigfala namangi ikil long nasara ia. Emi kasem Hatnuvan (highest rank) blong Jif. Emi se bifo ikam ino gat wan Paramount Jif blong Uripiv island be igat paramount jif nomo blong wan wan nasara. Emi se igat 7 nasara long Uripiv island Emi soem ol ston blong em mo nasara blong em. CC16 emi no kolem eni witness long Kot.

**Findings blong Kot:**

Afta we Kot ilisen long ol toktok blong each claimant, emi stap lukim se evri claimant long this case oli mov from mainland ikam long Uripiv island. Each claimant igat respected nasara blong em long mainland mo ol boundary graon blong em. Even sam oli kam wetem rank blong Jif finis long original ples blong ol ikam. Ino gat wan italem long this Kot se emi no gat nasara long mainland be nasara blong em long Uripiv island nomo blong Kot isave talem se yes em nao itru man Uripiv mo emi blad blong big Jif blong Uripiv. Ol claimant evri wan iwok long ol graon blong ol long mainland mo sam oli liv nomo long mainland while sam nara wan oli liv long Uripiv island be kam mekem garen long graon blong em long mainland afta go bak long Uripiv. Kot ifinem idifficult blong follem bladlaen from ol toktok blong ol claimant long Kot ino clear. Oli hidem fulap samting from nomo se majority blong ol claimant italem se igud blong oli mas finem wanwan paramount blong wanwan nasara bifo claim blong ovaral paramount blong Uripiv island ikam long Kot.

Taem Kot igo visitim wan wan nasara emi finem se each nasara ikat ol ston blong em, ol own custom identity long em mo each igat ston blong sacrifice mo ston blong big jif blong em. Ihard blong talem whu I paramount blong Uripiv unless bae yumi lukluk either long size blong nasara or whu ia ikam fes taem long Uripiv island.

Issue blong paramount jif blong Uripiv ia emi bin disputed long taem afta long case blong Metavin land. Issue ikasem Supreme Court. Upper Court oli askem blong ol man Uripiv isortemaot issue ia be ino gat until Original Claimant itekem case ikam long island Court follem direction blong Supreme Court blong help blong sortem issue blong Paramount jif blong Uripiv.

**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 applaem 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.

**Applyem law:**

Long main tingting blong applaem custom law bae yumi tekem custom long area blong Central Malekula we Uripiv Island istap insaed. Custom blong karem raet blong wan Paramount Jif emi follem nomo bladlaen mo emi strictly laen blong male (ol man) nomo.

Long issue bifo long this Kot evri claimant we oli klem oli kam/muv from mainland ikam long Uripiv island. Evri claimant taem oli muv ikam oli ol Jif finis long ol nasara blong ol long mainland oli muv either from ol tribal war or sam nara reasons. Long Uripiv oli still Jif blong ol tribes blong ol long ol wan wan nasara we oli setemap. Blong talem se wan claimant iparamount jif long Uripiv island bae emi insulting long ol nara jif we oli gat ol rank tu long ol individual nasara blong olgeta, mo blong talem se wan nasara long mainland bae iparamount blong Uripiv bae ino fair long ol man Uripiv we oli gat ol respected nasara blong ol long main land.

**Wetem olgeta findings ia Kot istap mekem direction orders ia:**

**Evri claimant imas;**

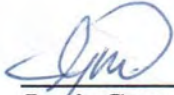
1. go bak long wan wan nasara long Uripiv island mo finem paramount jif blong em (sapos igat nid se case imas kam before island court then oli mas kam pem fee)
2. mekem arrangement blong ol paramount jif blong wanwan nasara ia oli mekem election mo appointem wan ovarall paramount jif blong Uripiv island
3. mekem sua se paramount jif blong Uripiv we oli electem bae iserve 3 years nomo afta election blong wan nara paramount bakeken, in order blong mekem ifair se wanwan nasara igat janis blong holem taetol olsem paramount jif blong Uripiv island
4. mekem sua se whu ia oli appointem em olsem paramount jif imas representem evri inhabitants blong Uripiv island long eni events or occasion long 3 year period we emi holem taetol ia
5. mekem sua se paramount Jif imas wok long interest blong ol man Uripiv be bae ino from own personnal interest blong em nomo
6. follem ol direction orders ia bifo end blong January, 2011.

Court bae ireviewem ol direction orders ia afta long end blong January 2011. Non compliance long order ia bae Court isave jenisim ol Orders blong em mo declarem wan Paramount Jif blong Uripiv Island.



DATED AT LAKATORO ON THE 22<sup>ND</sup> DAY OF OCTOBER, 2010.

BEFORE:



Jastis Gren Obediah



Jastis Maxwell Arhampath



Jastis Freddy Malress

