

IN THE MALEKULA ISLAND COURT
HELD AT LAKATORO/ MALEKULA

(Civil Jurisdiction)

Civil Case No. 1 of 2012

BETWEEN : TUPTIK NIPTIK
(Original Claimant)

AND: AVIHAMBATH HORAMBATH (MARCELLA SHMRN)
(Counter Claimant)

MATTER: DISPUTE OVER JIFLY TAETOL BLONG MAHAWEI TRIBE

Coram: Jastis Johnsen Selwyn
Jastis Endie Shem
Jastis Douglas Vandel

Clerk: Joel Jacob

JUDGMENT

Brief backgraon blong case:

Civil Case # 01/2012 hemi wan customary matter concernem dispute long Jifly taetol blong Mahawei Tribe, hemia long North West "A", Malekula. Court hemi bin arem case ia mo tekem daon every points blong tufala parties blong jastifaem issue we istap.

Issue: Whu nao long tufala claimant ia istret man blong karem taetol blong Paramount Jif blong Mahawei Tribe?

Smol Histri blong case:

Original Claimant – Tuptik Niptik hemi stap talem long histri blong hem se, bifo we ikam papa blong hem nao i wan paramount chief blong Amokawei. Taem hemi muf iko long solwota, hemi nomo kilim namangi from hemi jensem laef blong hem folem fundamentol biliv blong SDA church. Taem oli sentem toktok from hem blong kampak kilim Namangi long Amok, hemi tekem brata blong hem (Japeth) mo tufala ko be hemi no drink kava mo oli no talem anything lo hem nomo taem oli sta lo nakamal. Taem tufala sta kopak lo solwota, olfala Lakon wetem Shmrn oli biae nem tufala kasem lo Tenamet, olfala Lakon isingaotem papa blong OC afta hemi katem stampa blong Namambe. Hemi talem long hem se bae hemi mas kampak long kastom blong kivim pak kaon blo chief blo Amok. Be papa blo Tuptik Niptik i talem lo brata blo hem (Shmrn) se bae hemi akt lo biaf blo



hem blo kivim pak kaon ia. Afta long hemia hemi talem lo Shmrn se spos wan pikinini or any generesen afta long hem, bae hemi nomas kilim any namanki from hemi acting nomo. Original Claimant hemi konkludum mo talem se, "kam kasem tete boe blong Marcella istill kilim namanki be hemi no tingbaot ol toktok we papa blong hem ibing talem long olketa". Risen ia nao mekem se OC hemi klem taetel ia we ilaef istap lo papa blong hem yet.

Counter Claimant(1) – Ravutik Song Pierre hemi stap klemem blad laen we chief hemi wok folem. Hemi se Avihambath Horambath nao hemi laef blad blong Mahawei kam kasem tudei we hemi kat 12 Generesen. Hemi stap talem tu se Vinsei we hemi mama blo Elaeja, hemi kat bel finis taem we hemi ronwe lo Tenmaru mo kam stap wetem chief Avihambath namba 4 waef blong hem. Hemi konteniu blong talem se mama blong Niptik (Vinsei) hemi kam stap nomo be chief Avihambath hemi no pem hem tu. Today hemi klemem chiefly taetel blong Mahawei from, hem nao, istret pikinini blong chief Arnhambath we istret laef blad blong Mahawei be, ino papa blong Tuptik Niptik.

Family Tree:

Long family tree blong tufala patis, tufala I steitem ol sem man nomo we oli rein kam kasem tufala tete we ikat disbiut long taetol ia.

Ol findings blong Court:

Wetem ol toktok ya court i notem ol points ia;

1. Kot I faenemaot se youtufala, chief Tuptik Niptik wetem Marcella Horambath, youtufala I brata nomo olsem we famli tri blong youtufala I soem mo ol witness tu oli prufum long kot ia.
2. Kot I faenemaot tu se dispiut blong yotufala brata, Jif Tuptik Niptik mo Jif Marcella Horambath hemi from two(2) difren raets;
 - a) Jif Tuptik Niptik yu klem toktok we Jif Alaeja Niptik I talem long Shmrn se bae I acting long bief blong hem olsem paramount Jiv blong Mahawei blong kivim bak ol kaon blong Jif blong Amok
 - b) You Jif Marcella Horambath you klem raet ia we you talem se Jif Alaija Niptik I angem tawel long Jif Hranambath mo talemaot pablikli long nakamal se raet ia we you karem hemi blong you we Jif Alaija Niptik I kivim bak long you.
3. Kot I harem se Jif Marcella Horambath wetem sam long ol witness blong hem oli talem long kot ia se, Alaija Niptik hemi no blad laen blong Avihambath.
4. Kot I arem long counter claimant wetem ol witness blong hem se Alaija Niptik hemi paramount Jif blong Mahawei.
5. Kot I harem long witness bong original claimant (Japeth) se hem ia nao hemi eye witness mo hemi witness ol toktok we Jif Alaija Niptik hemi talem long Lakon mo brata blong hem Shmrn.
6. Kot I harem ol witness blong tuketa saet se jif Alaija Niptik nao hemi fes bon long family.



7. Kot I arem long witness 2 blong counter claimant se Alaija Niptik hem I paramount Jif blong Mahawei from hemi bon insaet long aos blong Jif Virhambath.
8. Kot I harem long witness 2 blong counter claimant se kastom Nal Nal hemi wot long kastom blong save tekemaot raet ia iko long wan nara memba blong family be ino tawel mo mani we istap long statement.
9. Kot hemi harem se from we Alaija Niptik hemi fes bon long family mekem se Jif Avihambath I putum hem olsem paramount Jif blong Mahawei.
10. Kot I harem se pupu blong Jif Tuptik Niptik hemi kilim 500 pigs.
11. Kot I harem se Jif Aranhambath I kilim namanki 6 taem long Mahawei wetem sam tambu kastom ceremony we Jif I mekem olketa olsem big Jif blong Mahawei.

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:

Court emi tekem decision follem customary system blong titlelism long each eria customary way.

Long this fala case Court ifinem se area in dispute blong Jifly taetol emi base long customary bladline system, meaning se taetol blong Jif emi inherited tru long laef blad.

Afta we kot I arem Original Claimant wetem Counter Claimant (1) mo ol witness blong tufala, kot I wantem talem long Jif Marcella se ol witness we oli kam blong witnessim blad laen ia, ino kat wan long ol witness ia ikam long Tanmaru (ples blong mama blong Alaeja Niptik) blong talem long kot ia se, hem nao, hemi laef blad laen blong Jif Alaeja Niptik we I laef yet tete long vilij blong Tanmaru.



Decision:

1. Wetem ol toktok ia, kot hemi kam blong Dikliarem tudei 9th dei blong Novemba 2012 se Original Claimant, Tuptik Niptik nao, hemi Paramount Jif blong Mahawei Tribe.

Anyone long tufala patis ino akri long dicisen ia, hemi kat 30 deis blong Apil stat from tudei 09/11/2012.

Dated at Lakatoro this 9th day of November 2012.

BY THE COURT

.....
Justice Jonhsen Selwyn

.....**Endy Shem**
Justice Endie Shem

.....
Justice Douglas Vandel

