

IN THE MALEKULA ISLAND COURT

OF THE REPUBLIC OF VANUATU

Civil Case 3 of 2012

BETWEEN: JOHNATHON MELTEKWER

Of Partamul vilij, North West Malekula

Claimant

AND: BELTEN WILLIE

Of Partamul vilij, North West Malekula

1 Defendant

AND: JOSEPH ISAIAH

Of Partamul vilij, North West Malekula

2 Defendant

AND: NELSON SHEM

Of Partamul vilij, North West Malekula

3 Defendant

AND: JEPHET NIAR

Of Partamul vilij, North West Malekula

4 Defendant

AND: EDWIN JONAS

Of Partamul vilij, North West Malekula

5 Defendant



COURT VENUE: ESPECALES BAY,

NORTHWEST MALEKULA

CORAM: JUSTICE DOUGLAS FADAL

JUSTICE ROBERT NIPTIK

JUSTICE KALMAN HAPSAI

CLERK: COLLYNE TETE

DATE OF HEARING: 09 JULY TO 10 JULY

DATE OF JUDGMENT: 16 JULY 2014

"PARAMON JIFLY TAETOL BLO PARTARMUL VILIJ"



JUDGMENT

Kot hemi bin sit daon long vilij blong Especales bay blong harem kes ia. Tugeta partie blong side blong kleimen mo evri defendant oli present bifo long kot. Kes we emi registered bifo long kot emi blong "Paramount Jif blong Partumul vilij". Kot emi welkamem evri parties present bifo long kot mo directem kot ia se civil kes ia emi wan niu kes blong Paramon Jif blong Patarmul we bae aelan kot i deal wetem. Long saed blong vilij kot we i bin sit daon mo harem kes ia bae kot i no base long ol decisions we i bin made by the vilij kot. Kot emi then askem sapos ol parties oli present long kot tugeta parties i respond mo talem yes. Kot i continue blong askem long tufala parties sapos tufala i gat ol witnesses. Kleimen emi reply mo talem se emi gat 1 witness mo defendant i reply mo talem se emi gat 3 witnesses. Tugeta parties i givim nem blong ol witnesses blong tufala long kot mo kot i then askem long ol witnesses blong leavem kot rum bifo tufala parties i proceed on long kes blong tufala. Kot emi continue blong askem kleimen blong summarisem kes blong em or sapos i gat any mo samting blong emi talem bae emi continue blong talem.

KLEIM BLONG KLEIMEN

Original kleimen Mr Jonathon Meltekwer i no bin present bifo long kot be son blong em Mr Brenden Dick emi present mo talem long kot se bae emi spokesperson on behalf blong papa blong em we emi original kleimen.

Kleimen emi summarise follem kleim blong em we emi bin registerem long aelan kot mo talem:

Se according lo family tri blong kleimen emi talem long kot se Wemel emi fes generation, Torgvanu emi second generation and Tolili emi namba tri generation. Tolili emi gat tri boe namely Meltekwer, Meltekbill mo Meltekru. Emi putum ol boe blong em blong lukaot wan Nasara (Spokesman emi soem long wan diagram blong yam we i divided into tri parts – refere long annex JE) Diagram ia emi identifiyem position blong nakamal we i exist long Partumul. Long fes part blong yam ia emi putum fes bon son blong em Meltekwer blong lukaotem nakamal **Patenvanu**. Long middle blong yam emi putum second bon son blong em Meltekbill blong lukaotem nakamal **Tornut** mo long las part blong yam emi putum las bon son blong em Meltek Ru blong lukaot long nakamal **Lave**. Emi continue blong talem se taem i gat any samting to do long saed blong kastom or any ceremony bae Meltwer nao emi ko fastaem mo Meltek Bil mo Meltek Ru bae tufala i behind long em from we emi hed blong



family. Follem Sworn statement blong em emi mentionem mo confemem ol customary structure we i bin mentioned long kleim blong em mo statem se responsibility blong em olsem paramount Jif we vilij council i bin declarem long miting held long namba 14 March 2014 mo tu ofis blong Malmetenvanu i bin confemem long wan registration form mo leta blong talem se emi tru paramount Jif blong Patarmul vilij. Governing authority blong kleimen emi governed over long nakamal Patenvanu, Tornut mo Lave. Kleimen emi kleimen tu se blong kam wan Paramount Jif or raet blong kam paramount Jif emi **tru long bladline or birth be i no blong killem pig or pefomem kastom blong namangy** blong kam wan paramount Jif. Emi continue blong talem se Paramount Jifly taetol ia I stap follem ol past generations blong em kasem tedei.

Emi continue blong talem kleim agensem fes defendant Mr Belten Willie se:

- Emi memba blong smol nakamal Lermev mo adopted i kam long smol nakamal lave.

Kleim agensem second defendant Mr Joseph Isaiah emi se:

- Emi jif blong Tornut wok blong em i blong nakamal blong em nomo long middle blong yam ia so emi no save kam Paramount Jif

Kleim agensem namba tri defendant Mr Nelson Shem emi:

- Em tu emi blong nakamal Tornut mo emi olsem spokesman blong Jif blong Tornut so emi no save kam paramount Jif

Kleim agensem namba four defendant Mr Japhet Niare emi:

- Emi blong las nakamal Lave so emi no save kam paramount Jif

Kleim agensem namba five defendant Mr Edwin Hopas emi:

- Emi blong las nakamal Lave so emi no save kam paramount Jif

During ol questioning long emi confemem long kot se MELTEKWER emi adoptem original kleimen Mr Jonathon Meltekwer we stret papa blong Jonathon emi LATEN we emi no bin talem long Kleim blong em. Kleimen emi confemem tu long kot se sapos yu wan MACHO bae yu save kam wan Paramount Jif tru long kastom adoption. Emi confemem tu long kot se long ol past generations blong em long ol pupu blong em oli killem pig mo pefomem namangy kasem em follem religion status blong em mekem emi no killem pig .

Follem stetmen blong witness blong kleimen Mr Jimmy Dick emi kam blong talem long kot ol meaning blong ol kastom nem blong pruvum long kot se Jonathon Meltekwer nao emi paramount jif blong Patarmul.



Meaning blong kastom nem ia:

WEMEL: Mama blong ples

TORVANU: stap fes wan

TOLILI: putum evriwan long raet position

MELTEKWER: Jif blong command

MELTEKBILL: Stap klosap

MELTEKRU: gat 2 Jifs

During long ol question long kot emi talem se Brendon Dick (spokesman) son blong kleimen emi blong Patenvanu nakamal, Nelson Shem emi blong Tornut Nakamal mo Jepeth Niar emi blong Lave Nakamal. Furthermore emi talem tu se I gat wan nakamal DEMISECOLCOL insaed long Patenvanu we emi blong mekem peace we representative blong nakamal ia emi Kender. Mo lastly emi talem tu se long yia 1978 I bin gat cutting blong markem 100 head narara we Sam Ulvenal nao I bin tekem lid long taem ia. Emi confemem long kot se nasara blong Paramount Jif blong Partamul emi TANOMELIP. Emi stetem tu se i no gat stone long Nasara blong Partamul be continue blong talem se Jifly taetol emi pas tru bladline. Mo tu emi talem se kastom nem Meltekwer emi pas tru long bladline I no tru long pig killing or pefomem namangi emi further talem se Meltekbill emi killem pig or pefomem namangy mo talem refer long hierarchal system blong Patarmul vilij emi representem wan bondari nomo be divided into tri (3) parts. Emi confemem tu long kot se taem baby boe blong wan Paramon Jif i bon taem term blong Paramon i finis bae emi mekem or pefomem long Nasara blong gem nem long son blong em we bae emi announcem publicly, killem pig mo mekem kaikai long handover taetol i ko long son blong em, emi further confemem long kot se trifala brata ia Meltekwer, Meltekbill mo Meltekru oli killem pig blong karem nem blong olgeta mo further talem se long taem blong olgeta oli nomo killem pig from we oli ko long SDA jej mo no allow blong killem pig mo lastly talem long kot se long Northeast blong Malekula i gat tu (2) system blong mekem namangy killem pig mo tru long bladline.

RESPONSE BLONG OL DEFENDANTS LONG KLEIM BLONG KLEIMEN

Spokesman on behaf long evri defendant we emi namba tri defendant Mr Nelson Shem i talem long kot se ol defendants bae ol join tugeta nomo blong filem wan response nomo agensem kleimen.

Long stetmen blong response blong olgeta ol defendants oli no disputem Paramon Jif from we lo ol past history oli save se Paramon Jifly taetol emi blong namba tu () defendant we



emi Mr Joseph Isaiah. Oli statem tu se oli no agri long hierarchal structure blong kleimen mo talem se Tornut nao emi bigfala nakamal Follem wetem Patenvanu mo Lave nao smol nakamal. Lo saed long Geneology structure oli talem se fes wan emi Betar Follem wetem Meltek Tomtarhen, Meltek Babaru, Meltek Isaiah, Joseph Isaiah, Jack Isaiah mo Kalres Isaiah. Ol talem tu se Patarmul i gat tu Nasara Tanomelip mo Lave. Spokesman emi summarisem mo tokbaot se blong karem wan Jifly nem mas killem pig mo mekem kaikai mo long kastom histri practices long taem blong pig killing ceremony, Kava drinking mo circumcision bae hae Jif nao bae i part tek fes taem bifo ol nara Jifs. Oli statem tu se dispute we i stap bifo long kot emi Insaed long wan boundary nomo mo i Neva gat dispute since ol past generations kasem tedei. Long conclusion long evri toktok spokesman emi continue blong talem se oli still no disputem Paramon Jif mo ol disputes we i stap happen emi long nakamal nomo be neva long hae Jif or Paramon Jif.

During questioning long kot emi continue blong talem long kot se Patarmul emi nem blong wan tribe we i gat tufala Nasara blong em namely Tanomelip mo Lave mo i gat own pipol mo hae Jif blong em. Emi confemem tu se i gat ol stone long tufala Nasara ia. Emi talem tu se fes Jif long Patarmul hemi Meltek Tomtarhen we i killem pig. Follem vilij kot decision blong yia 2002 long Malwa Bay we kleimen i attachem long kleim blong em emi wan kot blong dispute long wan Jif taetol long wan Nasara i no blong Paramon Jif. Mo further talem se taem yu blong wan smol nakamal yu no save kam Jif blong wan hae nakamal. Furthermore emi statem se emi wandem kes i ko bak long vilij level blong sortem maot isu blong Hae Jif or Paramon Jif.

Fes witness blong ol response emi Mr Japhet Joe we emi namba 4 defendant lo stetmen blong em emi talem se ol man blong nakamal Patenvanu, Tornut mo Lave oli kollem "Lelei" long Joseph Isaiah we i minim hae Jif. Emi statem tu se em nao emi raet man blong nakamal Bahor long Patenvanu we emi owner or stret man long saed blong circumcision.

Long taem blong questioning long kot Mr Japheth Joe emi confemem long kot se emi blong Nakamal Bahor we i stap anda long nakamal Patenvanu. Emi talem tu se nakamal blong em emi ples we ol kastom circumcision i stap tek ples long em we Follem kastom bae boe blong Hae Jif nao i fes wan blong ko long circumcision bifo ol nara boe blong ol nara Jif. Emi confemem tu long kot se vilij kot miting long Malway Bay long yia 2002 emi blong nakamal blong Patenvanu be i no blong Paramon Jif. Emi confemem tu long kot se emi singaot Lelei long Sam Dick from we Sam Dick i adopted i ko long Batravesis nakamal be further talem se Joseph Isaiah blong Tornut nakamal nao emi hae Jif.

Namba tu witness blong ol defendants' emi namba tu defendant Mr Joseph Isaiah. Follem stetmen blong em emi talem se evri nakamal long Patarmul tribe emia Tornut, Patenvanu mo Lave oli singaot Lelei long em meanim se emi bigfala brata blong olgeta. Emi talem tu se long ol ceremony olsem kaikai niu yam mo kava ceremony emi tekem lid blong kaikai yam mo drink kava fastaem bifo ol nara Jif. Mo tu emi talem se long taem blong circumcision em



nao emi lidim ol tribe blong ko tru long circumcision. Lastly emi talem se emi pefomem pig killing ceremony wetem Paramon Jif Hygambat blong Tenamet.

Long taem blong questioning long kot emi confemem long kot se emi bladline blong Jif anda long Tornut nakamal. Emi talem tu long kot se papa mo ol pupu blong em oli killem pig be emi no killem pig from we religion blong olgeta i no allowem. Emi confemem tu long kot se long ol pig killing ceremony mo kava ceremony em nao i stap ko fastaem afta ol nara Jif oli follem em. Emi further talem se emi Jif blong Patarmul blo Patenvanu emi Kender mo blong Lave emi Japheth. Emi talem tu se miting long yia 2002 we kleimen i attachem long kleim blong em emi miting blong Patenvanu Jifly taetol dispute i no blong Paramon Jifly taetol sapos emi blong Paramon Jifly taetol bae em tu bae i part long vilij kot ia.

Nambatri witness blong defendant Mr Albert Horambat follem stetmen blong em emi talem se apu blong em Jif Hygambat blong Tenamet emi pefomem pig killing ceremony wetem Jif Isaiah blong Patarmul .

Witness emi no bin attendem kot mo sendem brata blong em blong kam on behaf blong em be kot i no allowem em from we brata blong em i bin stap long fes dei blong hearing Insaed long kot rum.

Long closing submission blong kleimen emi statem se Jifly taetol blong wan Paramon Jif emi pass tru long bladline ino tru long pig killing ceremony. Emi further talem tu se Patenvanu emi bigfala nakamal i noTornut olsem we defendant i talem mo tu emi talem se i no bin gat adoption be swap long family blong Sam Dick wetem Meltekwer we i mekem Sam Dick i gem boe blong em Jonathon i ko long Meltekwer from boe blong em Laten i ded. That is why em i Paramon Jif blong Patarmul.

Long closing submission blong ol defendants' oli statem se evri defendant oli neva disputem Jifly taetol blong Paramon blong Patarmul vilij. Oli statem se long past 7 mo 8 generation Jifly taetol i stap long Joseph Isaiah mo ol family blong em. Mo i neva gat dispute long taetol ia kasem tedei.

Mo tu kot I base long **Civil procedure rules ORDER 19 Judgment " Delivery of Judgment"** part 1 : *The decision of the Judgment in any cause shall ordinarily be pronounced orally in open court, provided that the court may in its discretion, if the judgment is long or complex or otherwise difficult to deliver in simple language, hand down to each party a written copy thereof instead of pronouncing it verbatim,* blong handem daon Judgment follem rule ia nomo mo blong clerk I sendem I ko long ol parties afta we kot I mekem decision long kes ia.

Ol findings long kot I ko olsem follem wetem oda blong kot:

COURT FINDINGS



HISTORY

Kot i faenem maot se kleimen Jonathon Meltekwer wetem five fala defendant i gat Willie Belten, Isaiah Joseph, Shem Nelson, Niar Jephet, wetem Jonas Edwin oli wan family nomo insaed long history blong Partamul.

FAMILY TREE

Kot i faenem aot se kleimen Jonathon Meltekwer wetem defendant oli gat two separate family tree:

- ➔ Geneology blong kleimen about Chiefly title structure blong Partamul i soem se WEMEL – TORVANU – TOLILI – MELTEKWER – MELTEK BILL - MELTEKRU
- ➔ Geneology blong defendant about Chiefly Title Partamul i soem se WEMEL – TORVANU – BETAR – TOLILI – MELTEK TOMTAHEN – MELET BABARU – MELTEK ISAIAH

Wetem tufala Geneology ia kot i faenem maot se tufala family tree ya i soem se hed blong tufala emi WEMEL mo TORVANU long third generation kleimen i follem Tolili mo defendant i Follem Betar. Kot i kam blong faenem aot se i gat dispute over long tufala family tri se who long tufala ia Tolili mo Betar i fes bon son blong Torvanu.

NAKAMAL

Follem tufala chart we kleimen wetem defendant i soem long kot. Kot i faenemaot se kleimen i stap kleimem se PATENVANU nakamal nao emi big nakamal long Partamul. Mo defendant i stap kleimem se TORNUT nao i big nakamal long Partamul. Kleimen i soem long structure we i shape long yam mo defendant i soem long wan triangular shape. Wetem tufala chart ia kot i faenemaot se i gat dispute over long tufala nakamal ia Patenvanu mo Torunut se which wan long tufala nakamal ia nao i big nakamal blong Partamul.

SMOL NAKAMAL

Kot i faenemaot se long kastom blong North West Malekula taem i gat dispute over long wan smol nakamal bae two people nomo i kleim ko long wan kastom kot we emi blong harem dispute blong nakamal ia.

NASARA



Kot i faenemaot se histri blong kleimen wetem family tri em i no talemaot long kot nem blong big Nasara blong Partamul. Long stetmen blong defendant wetem chart i soem mo talem long kot se Tanomelip emi big Nasara mo Lave emi smol Nasara long Partamul.

STONE LONG NASARA

Kot i faenemaot tu se kleimen wetem witness blong em tufala i talem long kot se i no gat kastom stone long Nasara. Be defendant i talem long kot se emi gat kastom stone long Nasara Tanomelip long Partamul.

PIG KILLING NAMANKI

Long kleim blong kleimen Johnathon Meltekkwer (paragraph 7) emi talem long kot se blong kam wan Paramount Chief yu no save killim pig blong karem wan taetol blong Paramount Chief or blong wan nara taetol blong chief. Follem kleim blong kleimen ia kot i faenemaot se long kastom blong North West Malekula yu no save kam wan Paramount Chief true bladline yu mas killem pig long kastom fasin blong kam olsem wan Paramount Chief. Follem Namanki killing blong North West i no gat two system olsem witness blong Original Kleimen i talem i gat wan nomo.

Kot i faenemaot tu se Defendant i confemem long kot wetem two witness blong em se bifo long kastom history blong ol pupu blong olgeta oli killem pig olsem blong mekem namanki we emi blong karem wan kastom rank or blong kam wan Paramount Chief long Partamul.

MELTEKWER

Kot i faenemaot se long kastom blong North West mo North East blong Malekula kastom nem ia MELTEKWER blong wan man i tekem kastom nem ia yu mas killem pig long wan kastom fasin.

Long kastom blong North West Malekula blong yu kam wan Chief yu mas killem pig Follem kastom. Sapos yu bladline blong Chief be yu mas killem pig blong pipol blong yu i recongnisem yu olsem wan kastom Chief.

PARAMOUNT CHIEF

Kot i faenemaot se long kastom blong smol nambas sapos yu wandem kam wan Paramount Chief yu mas peformem wan kastom activity long Nasara blong karem nem ia blong Paramount Chief.

Taem yu wandem kam olsem wan paramount Chief long station blong yu evri nakamal oli kam tugeta blong agri mo putum yu olsem wan paramount Chief blong lukaotem olgeta. Bae i no save gat wan or two man nomo i jusum wan Paramount Chief.

Kot i faenemaot se long kastom blong smol nambas i no possible nating blong yu save kam wan Paramount Chief sapos yu wan Macho.



VILIJ KOT DECESION

Kot i faenemaot se kleimen i stap kleim long statement blong em long paragraph 23 "JE" i stap talem se vilij kot i blong Paramount Chief blong Partamul. Kot i faenemaot tu se defendant wetem witness blong em oli stap talem long kot se vilij kot ya emi oli stap talem long kot se vilij kot ia dated 14 March 2002 emi kot blong Patemvanu nakamal long Partamul between kleimen Johnathon Mo Kender, kot ia emi no kot blong Pramount Chief blong Partamul.

Kot i faenemaot se decision blong vilij kot i no gat ol attached document blong pruvum long kot se yes i gat wan kleim i stap blong vilij kot i harem. Ol document olsem:

- I. Notis blong kleim
- II. Family Tri
- III. Histri
- IV. Notis blong hearing

ADOPTION

Kot i faenemaot se kleimen Johnathon Meltekwer i stap kleim Paramount Chief blong Partamul Follem wan adoption or wan exchange or swap long family blong Meltekwer mekem se em i stap kleim Paramount Chief blong Paratamul.

Kot i faenemaot se i no gat wan proof long kot se i gat wan adoption or exchange long kastom or wan certifying certificate blong soem se i tru we i bin gat adoption.

Wetem ol findings blong kot long Civil case 3 of 2012. Kot i kam blong mekem decision Follem Aelan Kot ACT CAP 167 section 10" Application to customary Law" we i statem se ***An Island Court shall administer the customary law prevailing within the 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.***



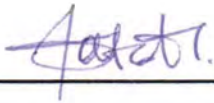
COURT ORDER

1. Kot i mekem order se kes blong Paramount Chiefly Title blong Partamul, kot i diferem i ko bak long vilij kot blong harem Follem kastom fasin mo declarem ol stret Nakamal mo stret Family tri.
2. Kot i mekem order se Chief Benbi Morean bae i mekem wok olsem wan Independent Chief blong setemap vilij kot we ol Chiefs bae i kam maot long Espekels Bay mo Malwa Bay mo **bae i no** tekem ol Chief we i involve long las decision blong vilij kot. Kot ia emi blong lukluk mo harem Paramount Chiefly Title blong PARTAMUL afta we i ol issues long Order 1 i sorted out
3. Kot i mekem order Follem Order 2 se sapos vilij kot i no save harem bae Chief Benbi Morean bae i mekem wok olsem wan Independent Chief blong setemap area kot blong lukluk mo harem Paramount Chiefly Title blong Partamul.
4. Follem Aelan kot ACT CAP 167 section 22 “Appeals” *i statem se sapos any long ol parties long kes i no agri long decision ia i gat raet blong apil i ko long Magistrate courts within 30 days long dei we oli receivem Judgment.*



DATED AT LAKATORO THE 25 OF JULY 2014

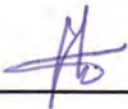
BY THE COURT:



Justice Douglas Fadal



Justice Robert Niptik



Justice Kalman Hapsai

