

IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU
(Land Jurisdiction)

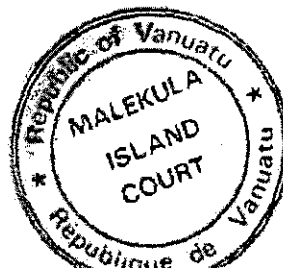
Land Case no.9 of 1993

- BETWEEN:** FAMILY AISOH (Represented by Harrison Aisoh)
Original claimant
- AND:** FAMILY NUGUNY (Represented by Sanny Malai)
Counter claimant 1
- AND:** TRIBE RANMAP (Represented by Gideon Tota)
Counter claimant 2
- AND:** FAMILY WORTUR (Represented by Robert Leni)
Counter claimant 3
- AND:** FAMILY AIUSVAHAL (Represented by Ham Apal)
Counter claimant 4
- AND:** FAMILY LIVER (Represented by Sam Joshua)
Counter claimant 5
- AND:** FAMILY AIUSMANBONGOR (Represented by Moses Tom)
Counter claimant 6
- AND:** FAMILY AIGOR (Represented by William Ailel)
Counter claimant 7
- AND:** FAMILY AMBUAS (Represented by Charley Arew)
Counter claimant 8

Coram: Magistrate Edwin A Macreveth
Island Court Justice Robert Niptik
Island Court Justice John Wesley Tawi
Island Court Justice Douglas Fatdal

Clerk: Collyne Tete

Date of hearing: 11- 20 May, 2015
Date of decision: 20th of May, 2015



JUDGMENT

The land in dispute is registered as *Weisser & Rambabap*. It is situated at the southern part of the island of Malekula between Caroline Bay on the west and Worbito River on the east at Melip. Its boundary is generally described to commence at a rock known as Vatpulum up to an oak tree (cut down) a nakatabol tree, a nandao tree and climbs up the hill where Sanny Malai's garden at the top of the mountain. From there, it turns eastwards down to a coconut plantation unto a small water source at the bottom of Rambi hill and straight up to its top where Lus Tamat coconut plantation is situated. It then descends in an eastwards direction down to Noibatir watercourse leading to a swamp covered with wild cane to Woritap river as its boundary limit till it meets Worbito river and flows down to the sea shore. Its frontier on the south is marked by the sea shoreline ending back at Vatpulum.

This matter had been originally declared by this court in favor of the original claimant pursuant to Order 6 Rule 11 of the Civil Procedure Rules. Such declaration dated 1st of November, 2006 was successfully appealed and the matter was reversed for re hearing.

Before embarking on the subject matter; a brief discussion of the relevant laws and custom processes and usages of the area in contention are outlined below.

THE LAW, CUSTOM AND HISTORY

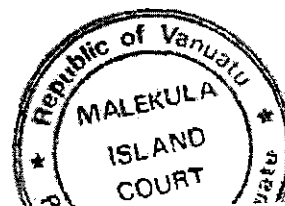
These custom practices and usages are gathered after having heard every party throughout the trial with visitation to the land site.

The Law

Briefly, Article 73 of the 1980 Constitution stipulates that all land in the Republic of Vanuatu belongs to the indigenous custom owners and their descendants. Article 74 provides that the rule of custom shall form the basis of ownership and use of land in Vanuatu. Article 75 states only indigenous citizens of the Republic of Vanuatu who have acquired their land in accordance with a recognised system of land tenure shall have perpetual ownership of their land.

Article 95(3) states that customary law shall continue to have effect as part of the law of the country.

Section 10 of the Island Court Act Cap 167 stipulates that subject to the provisions of the act, the 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 written justice, morality and good order.



The custom practices in relation to land ownership

Turning to the customary practices, generally ownership of customary land is communal or collectively owned based on common descent, residence within a nasara and participation in common activities. A group of persons belong to a family line and a territory is sometimes identified with a totem such as a plant, a stone, an animal or others. It is common knowledge that the first person and his tribe or family to explore, live, control and builds a nasara on a land territory would be designated as the custom owners.

Land is traditionally transferred or inherited patrilineally from the chief or original ancestor to the eldest son who would normally bear the responsibility for providing equal distribution of the deceased father's land to other siblings, relatives and kinships. This is a male predominated system which is twinned with the land tenure system handed down from generations to generation.

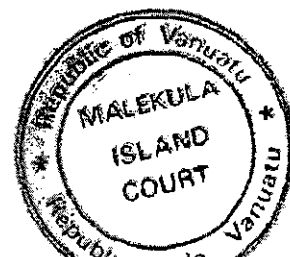
The only exceptional condition to the general principle of land ownership is that in circumstances where there are no more surviving male heirs to the land from the patrilineal line then, ownership will pass on to the matrilineal offspring. Otherwise, by custom, claimants from the matrilineal bloodline could only claim a right of land use.

The high chief depending on his rank of *Meleun*, *Neluwan* and so on, has control and authority over his land boundary. It is a political monarchy type of organization whereby the supreme chief normally exercises authority over his subordinate chiefs residing within his land territory. Any incoming tribes accepted into the area would remain under the control and authority of the principal chief. Such tribe can be allowed to take part in *namangi* ceremonies and other custom processes or social activities in the land. But, such event cannot entitle such individual chief to claim ownership.

A man earns his chiefly title or name by way of performing a *namangi* (magi) or pig killing ceremony at a nasara. One of the common chiefly title is known as *Meleun* which would procedurally be received by a man at an ordination during a magi feast. There are different stages of status in hierarchy for a chief to acquire. A nasara is usually identified by man-made features like erected stone altars, natural plants such as namele palms and other identical phenomena.

Boundaries of land in the past and present are normally indicated by natural environment, such as trees, rivers, mountains, man-made features and other geographical features.

Given the basic understanding of the traditional processes and the law, the court now presents the relevant information as submitted.



Original claimant

Harrison Aisoh in his history said that there existed two nasaras, Weisser and Rambabap on the land in dispute. Rambabap is a subordinate nasara to Weisser being the original nasara set up by his ancestral chiefs. His myth provides that there once lived two twins who had transformed from a coconut crab. The two brothers got married and populated the land since time immemorial. However, according to his history teller, due to unknown reasons, the population of the land was wiped away.

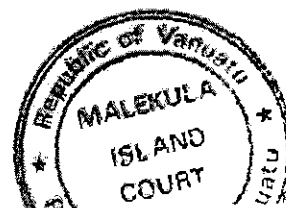
His family is now claiming through two surviving descendants of Weisser nasara whom have married out to Vanha at Toman Island and Rahulem at south west bay. One of the women called Lirry espoused Meleun Ambong Barap. He is claiming as a descendant of Lirry. A copy of his family tree is made available to the court tracing his early grandparents to the present generation. He also provided a list of natural and customary identities in support of his claim also considered in this judgment.

On cross examination, he continued to maintain and defended his claim despite disagreement over his claimed boundaries by the majority of the counter claimants. Also noted that during trial he had reduced his claim land leaving out some part of Evun Umo and Ranmap land territories.

Willie Aisoh says that Lentalam nasara form part of the land of Weisser. He claims that since 1970, family Aisoh has secured four decisions granted by the Lebinwen village court, Nahai Land court, the Island Court and the Supreme Court. He argues that family Aiusmanbogor has never faced the original claimant in any court and have no right over the nakamal of Lentalam because CC6 came from south west bay. He made assurance that his family will prove to the court customary identities such as stones, nasaras and other items thereon the land to support his case.

Johhny Ailel told the court that he is related to family Ailel, CC7. His family was the long time opposing party to the principal claimant of this case. He believes the rightful owner of the land is family Aisoh and not family Aigor. During cross examination by the court over his intention to cross claim in support of OC, he honestly admitted that he has sidelined himself with the original claimant due to internal differences with his family. Such confession had disqualified his whole statement from being admitted.

Talon Ambie says that he has no knowledge of the histories currently presented by other claimants over the disputed land. He has witnessed Fred Ambie who once told chief Kenneth that family Nuguny is from Rahulem. He confirms that the original claimant is claiming the land through the matrilineal lineage of the two surviving descendants of the nasara of Weisser. He concludes that the land in dispute belongs to Hurtes land territory.



Pastor Timothy Bule says he heard from his father that the nasara of Rambabap is a transit nasara used by people in the past when migrating to Toman Island. Family Aiusvahal have migrated from the nasara of Lohortibetep. Their ancestors have escaped tribal war and found refuge at Rambabap where he later married Lulusvirabus of Melip and bore Liman Togor and other later descendants to date. While living at Toman Island this family later named their nasara as Lohordeodeo after their original nasara of Lohor.

Jack Aisoh states that Evun umo and Ranmap are independent land boundaries which are still in dispute. In 1965, natives of Wortur including other areas of South West Bay moved to Caroline Bay following the Nagriamel movement. He argues that these immigrants who are also claiming the land in dispute are not the rightful customary owners of the land.

Counter claimant 1

Sanny Malai is claiming the land of *Weisser* sketched between Rambabap land and Ranvat land territories. He told the court that Batinovor of Evunture at Nemep had 12 sons. His history says that long ago, during a yam festivity the 12 boys had a fight resulting with the death of their youngest brother. In fear of revenge from their father, 9 of them decided to migrate out. Out of them 4 settled at Meun while the others five settled at Hurtes. Nuguny was one of the five who moved to Hurtes. He settled at *Weisser* and later created the nasara of Bulbar at *Weisser* having its own land territory. Nuguny espoused a lady from Vuniar and begat a daughter Lipendere and three other sons. After the death of her wife, he re married another woman from the nasara of Umaas and bore a son and a daughter.

Due famine at Toman island, a man by the name of Manhur from Sarvi at Toman island sought refuge at his nasara at *Weisser*. Manhur had two daughters. Nuguni received the customary pride price for her two daughters. One of the girls got married at Litelis and begat Niguly while the other espoused a man from Vanha who bore Aiserbong who is the grand father of the original claimant. Relatives of Manhur were accepted to live on the land of *Weisser* at the nakamal of Vuraitavat created by ancestors of CC7.

Nuguny lived the land until the land Hylambelane was sold to Marie Anderson in the 1890s. Nuguny was later was shot by an unidentified tribeman from Melip at a place called Batbalueo. His death resulted in a tribal war and a cast of spell sent towards Melip tribesman causing a major part of the population going into extinction. Peace was restored later through Aisobahai. He went on to say that descendants of Nuguly were later vacated from the land to Toman island where they lived to date.

He also explains that the primary claimant's disputed territory has lapsed into other traditional land boundaries controlled and government by their respective chiefs. He



argues that family Aisoh are descendants of Manhur from Vanha nakamal, Toman island. He submits to the court that the present claim of OC is a fabricated history and every claimant will confirm it.

Among other information not mentioned here but taken in consideration, this party has provided a family tree and other evidence of customary identities for illustration to his claim.

During questioning, he explained that Hurtes territories covers villages from Melip after the river of Melip. The land in dispute belongs to the Seniang (Sinesip) land territory. He re iterated that he land of Weisser is traditionally owned by his family and family Ailel. Family Aisoh should remain under the authority of CC7 for reasons that they have a common ancestor who has existing survivors from the father's line. The majority of claimants with the exception of family Aisoh entirely support his claim.

Sam Malai and Maily Malai, descendant of Nuguny believe that the history presented by family Nuguny is true and correct because Aisoh and Sugran have also related to their parents that the land of Weisser was originally occupied by Nuguny. Other old people from Caroline Bay such as Aimbel and Lensi Tota have also made confirmation of such history.

Counter claimant 2

Gideon Tota is disputing the whole land as advertised claiming it as land traditionally owned by four tribes of Ranmap which he represents. He says that the land traditionally has two nasaras. Ranmap being the original nasara housing the high chief and Evun Umo governed by his assistant chief. Due to unknown reasons the entire population of the land had passed away. They are now claiming as the surviving descendants of Ranmap through four women who had married out from Ranmap before the extinction of the inhabitants.

He added that the first woman called Vinsibie also known as Viranmap had espoused a man from Uraa nasara and begat Limbel whose descendant is Gideon Tota. After the death of her first husband she later re married Ailimbone of Tivulemb nasara whose descendants are Mackensy Aising and Avet. He points out that following such extinction Vinsibie was considered as a descendant of Ranmap nasara besides other chiefs to sell the land of Hylambelane in 1890.

In support of his history, he referred the court to texts authored by missionary Arthur Bernard Deacon published in or around 1926-1928. According to this book there are no surviving issues of the nasaras of Evu Umo and Ranmap.

The second woman was married to Atamap native of Uraa ancestor of James Massing. Another women espoused Ambongnemen of Ndawu nasara bearing direct



relatives descending to Johniel Atew. The last woman found a husband at the nasara of Umaas whose surviving bloodline is Samson Willie.

In the course of cross examination, he maintained that the land traditionally belonged to the natives of Ranmap and Evun Umo. He argues that other nasaras found on the land were created later by migrating tribes from other territories. An example, Weisser and Rambabap were used as transit place for people moving away from disasters, reach of Christianity and other events to the coastal areas and Toman island. He has also submitted that he respects boundaries claimed by the respective colleagues.

Johniel Atew states that they are claiming the land via their ancestor Lelembal. Ranmap land covers the land from Weimal river at Caroline Bay to worbito river at Melip. He says that according to Deacon's book entitled "*Malekula, A vanishing people in the New Hebrides*", there are no surviving descendants of the land of Weisser and Rambabap as well as other land claimed by other contestants. He explains that according to the land policy approved by the South West Malekula Council of Chiefs, the land in dispute belongs to the Hurtes area.

Samson Willie is reconfirming the same history told by the claimant concerning the four women whom they are claiming as their descendants originating from Ranmap nasara.

Counter claimant 3

Robert Leni led evidence that the land of Wortur cover the nasaras of Loorlagut being the original nasara. After their population grew in multitude other relatives were allowed to re locate to other parts of the land and founded other nasaras such as Eiumbilang, Evun Umo, Woiranhip, Halmal, Loorop (Lembilamb) Emangdada and Evun Nailala. He says that the claimed land boundaries have been identified by senior member of his tribe in 1979.

He traces his fore fathers dating back to Agatloni, Vinsip and Laburbusse (Laburnabus) claiming them as indigenous native of Wortur nasara. Vinsip's parents are Massingbangon and Lihinsar. His family chart links on to the present surviving relatives called Tialy. Laburnabus had two daughters, Ligiati and Vinhurmap. Present generation to this family relation are Simeon and Alick Mamara.

He explains that the land of Hylambelane was sold by Vinsip, Lambungnabus and Masingbangon all appearing as indigenous chiefs of Wortur among other members. The land was sold to Marie Anderson on the 4th of December, 1890.

Solomon Aidip reconfirms that the land of Hylambelane was sold besides other vendors by Vinsip, Lambungnabus and Masingbangon. He further says that the land marks dividing Weisser, Rambabap and Wortur is located at the oak tree at



Wordemeng, connecting to a banana planted by Amas and to a nakatabol tree. He then listed a number of people who took part in survey party to the boundaries in 1979 which he had described.

Tialy Hillary states he is a surviving bloodline of Vinsip. He believes the land of Wortur extends to the boundary sold by his ancestors in 1890. He agrees that the land of Weisser only extend to Wordemeng and not as claimed by Harrison Aisoh.

Counter claimant 4

Apal Ham is claiming the land of Rambabap as land traditionally owned by his ancestor Vinbibewe (Lisepsep) who created the nasara of Lohorbatavi. Vinbibewe begat a son Aiusvaghah and later descendants traced to the present.

His ancestors have in the past traded with the land boundary of Weisser under the control of family Ailel and Nuguny. Vinbibewe upon his death was buried at Meten nahal at Luumo after having stolen a pig owned by Avongtanabeo and Avongrumarum. He added that there are identical features at the land that symbolizes and illustrates his history as listed in his claim. He assured the court to identify them during the visit to the land he claims.

John Massing says it is true that there are surviving generations of the nasara of Lohorbatavi. The land of Rambabap begins at wormedeng up to Balbal, Lorlanbank up the mountain and down to Wehal river. From there it crosses unto Welulum to the hill and to Lambunsartarfo. It follows the creek to woritap river to a blue water tree, down to the river mouth of Worbito.

Arong Allongbie led evidence that his father and Aisingbuas did related him information that the claimant's place of origin is the nasara of Rambabap.

Few questions were asked to this claimant and his witnesses by the original claimant. Others do not dispute his claim.

Counter claimant 5

Samuel Joshua is vying for the land of Evun Umo disputing it as land where his female ancestor Liver had originated. He claims that his clan has evolved or transformed from an insect term in their dialect as *Nivim umo* as their totem. His family belongs to the clan known as Sum Tartar Lavi (a special Tamtam rhythm) for describing a woman's role to wave mats.

Boundaries claimed cover the nasaras of Evun Umo, Vinieu, Eiumbilang and Lohorburambu. He stresses that the boundary claimed by the principal claimant has exceeded its traditional boundary overlapping into other separate land territories. He explains that according to Deacon's book at page 66, the whole residents of the



land of Evun Umo was wiped away leaving the only surviving descendant, Liver who is related to Johniley. Liver espoused Anut from the nasara of Umaas, and they begat Leiratamat and other family members down to the current generation.

He does not dispute other areas of land claimed by other parties such as CC4, CC1 & CC7 in relation to land claims of Rambabap and Weisser. He strongly objected to the family tree produced by the original claimant labeling it as fabricated. He explains that according to history family Aisoh is directly related to family Ailel from the matrilineal line and should therefore remain under the authority of CC7.

On cross examination, there is no dispute over his claimed nasaras. He admitted that the boundary claimed have been identified or related to his father by one Ambong mael of the nasara of Looru.

Witness, Ronald Fred in his evidence stated that in 1976 his father chief Fred had told him that Liver is the only surviving person of Evun Umo nasara. Aitiplus Amap of the nasara of Nibury described that the boundary claimed is as follows. It commences at a nabangura by the sea shore at wemal, connecting webibeu creek up to a banyan tree at Loorburabur, down to Woritap river and crosses to Vunteiteiver. It then follows creek Worlilum to worhal river up the hill and down to Wordemeng by the sea. His father and other elders have visited the boundaries in 1978 according to instructions received from Abongmael of Looru.

Counter claimant 6

Tom Moses is claiming the nasara of Lentalam and its surrounding land areas. His history suggests that the original ancestors of the land have died out. Through inter marriages a woman was married at Vanha nasara situated at Toman island. It is believed that she has origins of the nasara of Lentatlam. This female ancestor had a son Aiusmanbogor who has present living grand children.

Aiusmanbongor's son Akaraining first settled at Wordemeng (by the lake). Due to mosquito related infectious disease, they decided to re locate up the hill at Lentalam. Stones used for their nasaras at Wordemeng were also removed for re location at Lentalam. Akaraining had performed his chiefly rank of Neluwan at the nasara of Lentalam. While living there his ancestor had trading and domestic relationship with the nasara of Ranvat which is claimed by CC8.

He explained upon questioning that he could no longer recall any information relating to their totem and the female parental status due to time distant. It is noted that this claimant has been acting in the past as a witness to the original claimant's claim. But has now distant himself by appearing as a new party to the land dispute.

On interrogation over his gesture, he explained that his intention to sideline himself was due to the fact that he could not agree with the claimed boundary of family



Aisoh and could not agree with the misleading evidence relating to OC's family tree. To him family Aisoh should remain under the command of CC7, family Ailel. The two female ancestor claimed by the OC are daughters of Manhur brother of Aigor.

Aitan Moli of Voron Toman island re confirms that Aiusmanbongor's son Akaraining first settled at Wordemeng. Due to mosquito related infectious disease, such family re settled up the hill at Lentalam. Erected stones at the nasara of Wordemeng were also removed for re location at Lentalam. He asserts that for CC6's proof of ownership, Akaraining had allocated his ancestor Abuastokor land for use at Loorlenbang, since utilised down to the present.

Daniel Tom, testifies that the claim forwarded by CC6 is true and correct. He explains that members of the public at Toman island and other parties to the case know of the facts as told and they will confirm it in court as well.

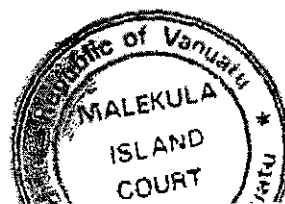
Counter claimant 7.

William Ailel is claiming the land of Weisser beside CC1. His submission specifically targets the nasara of Vuraitavat claiming it to have originally been founded by his great grand parents Aigor and Manhur.

He explained that he was the prime rival party to the OC's dispute from the village courts up to the declaration issued by the island court in November, 2006. The two female ancestor claimed by the OC are daughters of Manhur brother of Aigor. Aigor is the eldest while Manhur is the second born son. Manhur had no son but two daughters one by the name of Lirry whom espoused Meleun Barap and bore Aiserbong and other descendants as listed down to living generation of family Aisoh.

He stresses with very much emphasis that the OC cannot claim ownership of Weisser land because such a claim from the matrilineal bloodline would not be allowed in custom. OC could only claim a right of use through the surviving patrilineal bloodline which he now claims. Further to that, he entirely objected to the claimed boundary calling it to have traversed into other traditional and separate land boundaries owned by other tribes and their chiefs.

Nobal Longdal is an expert in custom given his past positions of having occupied the chairmanship of a chief's council in his area and well as a field worker to the Vanuatu Cultural Centre. He testified that the area of land of Weisser claimed by family Ailel is the rightful boundary. He says other reliable and trusted people knowledgeable in custom and history such as chief Alongbie has also told the same story. He says that the land of Weisser begins at Wenerie creek at the coastal sea area, up the hill of Wetoh, Lambungsantarfor, down to Wililum. It then crosses wehal to Loorlanbang to Bulbar nasara and down to the sea coast again. He went on



to add that such land was visited in 1993 after a land council reached its decision over it. He was part of the visitation and inspection of the boundaries.

It was noted that no much question is asked to this claimant and his witness by the original claimant. Most of their statements have remained undiscredited given wider support received from the rest of the parties.

Counter claimant 8.

Charley Arew told the court that his clan originated from a bird known as Nipmar. He has a total of 10 traced generations. One of his forebear Atuivere espoused Letavu and bore Agnot who founded the nasara of Vanha at Toman island. His ancestors have been in control and use of the land he claims since time immemorial.

It was very hardworking to paddle by canoe across to the mainland to fetch firewood and food items from the garden. Given such situation, his family had decided to move to the land where they renamed the land area claimed as Ranvat under the leadership of chief Agnot. Agnot founded the nasara of Ranvat. He had 6 sons who in turn also built nasaras. Among other brothers Ataunmanweian created the nasara of Lentalam. Avaranaianglew created the nasara of Vuropom.

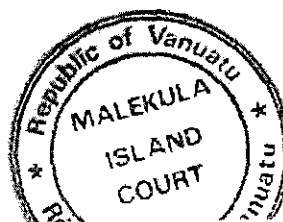
Benson Ben made confirmation of the four nasaras mentioned by the claimant. While, Tomela Ben also witnessed that the family tree presented by CC8 is correct.

Similar to other undisputed claimants mentioned earlier, this family had very few question to answer as the majority of parties are in favour of his claim.

ANALYSIS OF MATERIAL & FINDINGS

Parties to the claim are reminded of the basic rules of evidence that the primary disputant in principle has the burden of proof to substantiate his claim with relevant and clear evidence. That is to establish available information that his ancestor has descended from the land in dispute, had been in control and use and owns every nasara therein. On the other hand, every party who asserts a fact must prove it by way of evidence.

From the evidence placed before us, we note that the majority of claimants are claiming through the matrilineal lineage of their ancestors whom have married away from their original or birth place nasaras to some other nasaras. History provides that due to unknown reason ever recorded or known a vast population of the region went into extinction according to Deacon's book entitled "*Malekula, A vanishing people in the New Hebrides*". This book provides for example, that there are no survivors of the nasaras of Evu umo, Ranmap and others.



As part of the proceeding, the tribunal visited nasaras, nakamals other identical features with inspection of the full land boundaries claimed by family Aisoh. Such walk party lasted two days.

Having made these observations and in consideration of the facts, we now present the findings below in the usual order of the parties appearances in Court.

Original Claimant

The findings from the original claimant's case are as follows.

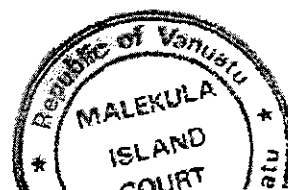
Firstly, this claimant has publicized a boundary with no clear specification of limits. That is noted from the advertisement notice dated 12 September, 2014. Upon direction from the court for clarification of his claimed land he then reduced it to the present land limits described above visited by the court. Such, action on his part among other findings proved to the court that he has no certainty over the land in dispute.

Secondly, it is obvious that the claimed land covers a number of separate or independent customary land territories. That is witnessed by the vastness of the area of land which covers a significant land mass containing hundreds of hectares of land thereon.

Equally, there other nasaras such as, Lentalam, Ranvat, Vuropom, Bulbar and others identified on the land which, in his assertion are simply settlements or villages used for transit purposes . The court's examination of those sites clearly indicate that they are nasaras as well built on the sites visited.

Another fact displayed against his case, was the fact that his described land boundary, had passed or cut across other traditional land. A particular example, was seen at Lengbogananbir hill where the nasara of Eiumbilang and Evun Umo are identified to be located at some 50 to 100 metres away from the claimed mark. History provides that land boundaries are not erected close to nasaras due to tribal wars and other social conquest for land territories. Other parties have also raised the same concern.

Further, this claimant is not reliable and competent witness to his own case. Most of questions raised by other opposing parties could not be answered in a reasonable or logical manner. An example of his lack of understanding of customary processes among others could be drawn from the visitation of Bulbar nasara. To him it is not a nasara but a dancing place of women. Our verification and assessment of such site proved to his contrary that the site is indeed a nasara witnessed by stone altars there remaining.



Remarkably noted also was the overwhelming support shown by every opposing parties to the claim. According to our record everyone has explained in good faith that the original claimant has no right in custom to claim the land in question because the basis of his claim is founded on the matrilineal line of Lirry daughter of Manhur. Manhur's older brother Aigor still have surviving male descendants. One of them is William Ailel, CC7. By custom the original claimant should remain under the authority of the family Ailel. The court is in accord with such custom principle after consideration of the rules of custom forming the basis of land ownership in the area.

Besides such information, there was also disagreement over his presented family tree. Every claimant including some of their witnesses have told the court that they have never heard of one of his ancestor by the name of Aimansoh and then drawing conclusions that the claimant has fabricated a false family diagram. Jack Aisoh and his brother Harrison Aisoh could not provide any other explanation by way of rebuttal to the argument.

In addition there are gaps or missing generation from his genealogy tree. For example., He claims to have evolved from a coconut crab and two male twins and later two female with unknown parents. These figures are missing from his family tree with no reasons. On the other hand, these information seemed to have no sense of flow or connection from one generation to the next.

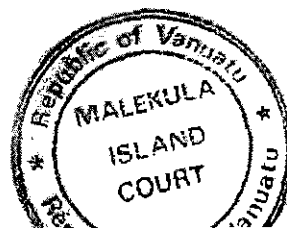
Most of all, he and his witnesses wholly lack evidence to support his claim. For example, he could not justify as to why there are other nasaras which he had no mention of during trial when identified by other parties.

In light of the foregoing discussed facts, the court is hesitant to accept family Aisoh's claim.

Counter claimant 1

This party specifically claims the land of Weisser as described by his sketch map. From our determination, there is no much issue to dwell on in relation to this party's claim given the fact that there very little dispute over his claim coming from the original claimant. However, family Aisoh's claim could not withstand CC1's presented case. Listed are some of the back up evidence found in is favour.

1. He has proved to the court that his claimed boundary of Weisser land is a separate land boundary of its own. That fact is witnessed by reason that there are two nasaras there on the land. Nasara Vuraitavat created by ancestors of family Aigor and Bulbar nasara founded by his ancestor, Nuguny.



2. This party has provided reliable evidence with consistent information. He was competent and provided answers to questions from the opponent with reasonable answers.
3. His claim was supported by the rest of the parties all confirming that the land of Weisser is originally owned by family Nuguny and family Aigor.

Having ruled out the original claimant's claim, the Court has no reservation but to grant his claim as sought.

Counter claimant 2

This tribe is claiming the whole land in dispute with the belief that the land forms part of Ranmap land territory. It is apparent from the presentation that his claim is solely placed upon the sale of land to Marie Anderson in 1890 referred to above. In particular, that one of his ancestor by the name of Vinsibie (Vinsip) as vendor was the customary owner of the land. The second fact forming the basis of his claim was based on the text book noting that there are no survivors of the land in question.

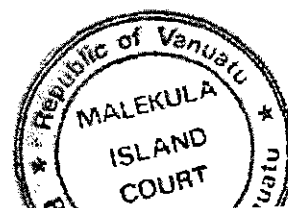
The findings to his claim are as follows.

First, the court found his claim to have covered other traditional boundaries as discussed under the findings to the original claimant's case. For instance, he does not claim ownership of the nasaras of Ranvat, Vuropom, Lentalam, Bulbar and Vuraitavat identified during the course of the land visit. Such motive on his part is therefore questionable.

Secondly, the rest of the parties have objected to his claim and labeled it as false with no profound foundation. When questioned by the court over his claim he made it clear that he has submitted his claim only in defence to the claim of the principal claimant. Besides, he does not dispute claims of his colleagues.

Thirdly, the court cannot draw any conclusion solely on the text book aforementioned on a number of reasons. One question we ask is who provided such account to suggest that there are no survivors to the land. There could be missing people unaccounted living on the land.

On the other hand, he cannot completely rely on the instrument of sale alone on a conclusive basis for prove of ownership. The reason for such point raised is the fact that there are some other names listed as vendors to the land of Hylambelane alongside Vinsibie. Such material evidence can only be accepted on a complete basis unless corroborated by some other evidence. In his case, we found no evidence in support to that effect.



However, we noted that there is land sitting at the boundary limits at the far north east extending to the central areas which have not been disputed by any party beside family Aisoh. After having cleared the position of the plaintiff, and in consideration of the entire evidence, the court has come to the conclusion to grant such undisputed land in his hands on behalf of his represented families.

Counter claimant 3.

The fact of this case is that Robert Leni is claiming the land of Hylambelane and land areas adjacent to it. His case is founded on his belief that Vinsibie claimed to be one of his female ancestor who appeared to be one of the vendors in the instrument of sale is the customary owner of the land .

For ease of repetition the same points raised and discussed above in relation to CC2's claim will apply here. In other words, the sale of land was carried out by not only Vinsibie but some other people as well as listed. Therefore, the court cannot accept it that the land belongs to Vinsibie and the other two mentioned vendors alone.

Further, in the course of the visit, the court identified various nasaras within the claimed land of Hylambelane to be owned by other claimants such as CC5 and CC8 which he does not dispute. That is another proof indicating that the land is owned by some other tribe witnessed by the nasaras. Meaning the land he claims is not part of Wortur land territory.

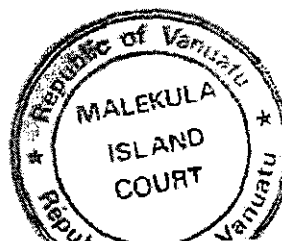
For the reasons discussed, his claim cannot be sustained but fall as found.

Counter Claimant 4

The court in its determination of this party's case found the following findings favourable to this family.

The land of Rambabap is truly a separate boundary having its own nasara. The only disputant to his claim was the original claimant but failed to substantiate any evidence to disprove to the contrary.

It is noted also, that the land territory described by this claimant is well respected and recognized by CC1, CC3,CC4,CC5,CC6, CC7 and CC8. These parties have also advanced acknowledgement and confirmation of Rambabap nasara to be owned by ancestors of CC4. The court could not accept the original's claimant version that the land site housing the nasara was only a transit site.



Having considered the position of the OC and CC2 who are also claiming the land of Rambabap, the court is satisfied and concludes that this party and his descendants are the rightful customary owners of the land areas as claimed.

Counter claimant 5

Sam Joshua's standing into this case was based on his belief that the claimed area form part of Evun Umo land territories.

From, the totality of the evidence gathered coupled with the visitation, the outcomes are as follows;

1. The land he claims stretching down to the sea shore is not part of the land of Evun Umo but land governed and long ago controlled by chiefs and their tribes as claimed by the respective successful claimants to this case.
2. The court could not find any of his claimed nasaras on the land he claims except nasaras belonging to CC6 and CC8. Such evidence would signify that the land does not belong to his clan.
3. However, the court was convinced that certain parcel of land sitting outside the claims of CC6 and CC8 are part of the land of Evun Umo. For example, land containing the existing coconut plantation of Lus Tamat at Lengbogananbir or Rambi hill.

Therefore, in light of the findings the court could only partly grant land remaining outside successful parties claim similar to CC2's concluded position.

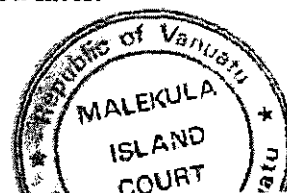
Counter claimant 6

Tom Moses is disputing land boundaries attached to Lentalam nasara as described by this sketch map. Our record shows the following undisputed facts.

First, there is no dispute that there existed a nasara of Lentalam. That fact is confirmed during the court of the visit to the land.

Secondly, every party except the OC are fully in support of family Aiusmanbongor, confirming it as truthful and correct. CC8 whose boundary covers Lentalam does not also dispute Lentalam's adjoining land areas except clarifying that it is just another nasara created under the traditional land boundary of Ranvat land once controlled by his ancestral chiefs. CC6 seemed to agree with such story.

Again, having decided other disputing parties standing in this claim, the court will accept his claim but with some reservation to be detailed later.



Counter claimant 7

William Ailel was the primary opposing party to the original claimant since late 1990's to the present proceeding. It would seem to the court that this dispute development to its current status was due to familial internal differences that arose between OC and CC7.

The court has is convinced with satisfaction to find out that OC and CC7 are originated from one common ancestor who bore Manhur and Aigor .It is clear from the evidence that CC7 is claiming by way of the patrilineal bloodline of Aigor while OC is claiming by way of the matrilineal line of Manhur's daughters namely Lirry whose present descendant is traced down to family Aisoh.

The facts of this dispute saw the OC claiming a vast area of land while CC7 's claim is confined to a relatively smaller boundary located within the entire land on publicity. It is quite apparent from the assessment that the OC's intention to contest for the claimed land was done in regard to the amount of properties he had control over on the land. In reality he should not have claim such a land boundary but walk together with CC7 according to their family history.

Such move among other issues discussed has caused the court to have more trust and belief on CC7's presented claim back by other parties positive statements. The rest of the parties have also given support with confirmation that the genealogy tree advanced by CC7 is most reliable. There is also support for the nasara of Vuraitavat at Weisser land from the parties favouring CC7.

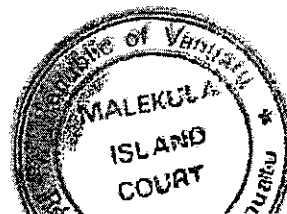
With no further investigation into the facts, the court is persuaded to pronounce that the OC and CC7 are close relative having a common ancestor. This court will not separate them for purposes of mending relationship at the same time maintain, respect, peace and order.

Counter claimant 8

Charley Arew is claiming the land of Ranvat following early settlement and control of the land by his early chiefs.

It transpired from trial that this claimant has always stood up to tell the truth. He was honest and a reliable witness to his own case. Here are the findings to his case.

He was able to identify his nasaras of Ranvat, Vuropom and Lentalam a nasara collectively created with ancestral member of CC6. Parties such as CC6, CC7 and CC4 have made confirmation that the nasaras visited are owned by ancestral native of CC8. Their early relatives have had good social and cultural relation with each other.



We noted that some parties had no idea of such nasaras existence. The court upon verification of the remains found erected rocks used for pig killing and dancing places used during festivity events. The conclusion is that they are nasaras as told. However, the court is of the view that land areas sitting at Rambi hill or Lengbogananbir hill as termed by the original claimant covering Lus Tamat coconut plantation, to Vunmaru hill extending to the central areas is not part of Ranvat land given the close proximity of the nasaras of Eiumbilang and Evun Umo as confirmed during the site visit.

Parties disputing his boundaries are CC5,CC2,CC3 and OC whose position have been already cleared off from his disputed land. Having so done, he will only be granted land areas excluding that described above.

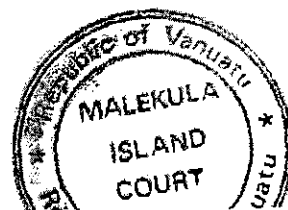
DECLARATION

In light of the totality of the evidence gathered in this proceeding and in application of the law and custom, the court declares as follows;

1. That family Nuguny and family Aigor and their descendants are the customary owners of the land of Weisser. Sharing of Weisser land between these two families will remain under their leaders and chiefs. It declared boundary in general lays between Wormedeng on the west and Wenerie creek on the east.
2. That family Aiusvahal and their descendants represented by Ham Apal are the customary owners of the land of Rambabap. Its declared territory begins at Wenerie dividing Weisser land to the west up the mountain to a nakatabol tree. It then turns eastwards reaching a coconut plantation, and bounded by Woritap river on the east to a blue water tree and down to the river mouth of Worbito at the sea shore.
3. That family Ambuas and their descendants are declared customary owners of the land of Ranvat as mapped by the court below. While, family Aiusmanbongor be given the right to use the land he claims within Ranvat land as mapped.

They will have land ownership of the following land areas beginning at Vatpulul up to a oak tree (cut down), a nakatabol tree, a nadao tree up the hill where Sanny Malai's kumala plantation is today at the top of the mountain. From there, it turns eastwards down to the coconut plantation ending at the small water source at the foot of Rambi hill. It then, cut across following the mountain range to the east , covering Lentalam land areas down to Wormedeng and bounded by the sea shoreline joining up at Vatpulul at Caroline Bay.

4. That family Liver and tribe Ranmap and their descendants are pronounced customary owners of the land remaining outside the declared boundaries to the above parties.



Family Liver will have ownership of land located at the far north western side extending eastwards to the central land areas. That includes land beginning at the small stream at the bottom of Rambi hill , cutting across following the mountain range to the east and turns north wards to where the boundary meets Woritap river. It covers Lus Tamat's coconut plantation, Noibatir watercourse down to the swamp covered with wild cane to Woritap river.

On the other side, CC2 on behalf of his tribesmen have ownership of the land areas commencing from the central areas to the far north east of the boundary bounded by Woritap river. Any disagreement over their boundary perimeters will be solve by their respective chiefs.

5. That the claim advanced by CC3 is not accepted as Wortur has its own traditional boundary.

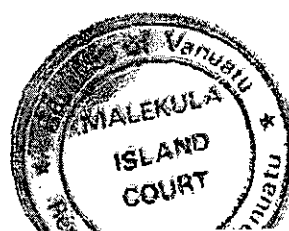
6. The claim of family Aisoh is also dismissed. However, having noted and confirmed his immediate relation with family Aigor. He will remain under the authority of CC7. Meaning, he has right to seek permission for the right to use land for any development from CC7 if he so wishes.

A sketch map of the declared land territories to the successful parties is attached to this decision.

For ease of clarity to the parties, any claimed boundary sitting outside the description of the land visited by the court will not form part of this judgment. It is reminded that this declaration does not also affect other property rights on the land, such as rights of claimants or other local occupants to harvest coconuts, garden, graze cattle and other existing development thereon the declared land. The losing parties must bear in mind that these rights may be waived or varied by the owners. The exercise of these rights is limited to existing properties prior to this declaration.


As such, it is further directed that that every person currently in use of the declared land undertake to cause appropriate arrangements with the declared owners to accommodate their continuous use of the land.

Parties are to pay their own costs necessitated by this proceeding. Claimants are duly informed of their right to appeal within 30 days period at the receipt of this written judgment.



DATED THE 21ST DAY OF MAY 2015 AT CAROLINE BAY SOUTH MALEKULA

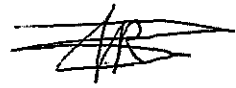
BY THE COURT



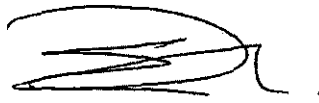
Justice John Wesly Tawi



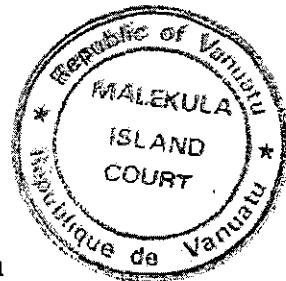
Justice Douglas Fadal



Justice Robert Niptick



Senior Magistrate Edwin Macreveth



-  Jaek ISSH (OC) ✓
-  Family Nungony ✓ (CC 1)
-  Gideon Tota 4 Ovs ✓ (CC 2)
-  Family Woortuv ✓ (CC 3)
-  Apal tam (CC 4) ✓
-  Family Livei (CC 5) ✓
-  Aiusmanbongor (CC 6) ✓
-  Family Aileke ✓
-  Ranvat Vanha^{CC 8} ✓

