

IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU

Civil case 14 of 2015

BETWEEN: JENNERY ALICK

Of Uri vilij, Unmet N/W Malekula

AND: DOMAIN ALICK

Of Uri vilij, Unmet N/W Malekula

Coram: Justice Douglas Fadal
Justice Johnsen Frazer
Justice John Wesly Tawi

Clerk: Collyne Maki

Court Venue: Lakatoro, Court House

Date of Judgment: Thursday 25 February 2016

Claimant: Present
Defendant: Present

JUDGMENT

An application was filed by the claimant seeking before the court coconut plantation in the area of Lalo that his father had planted and also because his grandfather has divided the plantation and share among his children. He mentioned in court that his late father Junnier Alick is the eldest son in their family and the defendant is the last born son in the family. He stated that the defendant had been disturbing him and his family in not allowing them to collect dry coconut and even earning money from it. He further mentioned that while his father was alive the defendant has no intentions in stopping the claimant in using the coconuts but after he passed away in the year 1995 the defendant began interfering with the claimant. His witnesses Jeannette Alick and who are the wife to late Junnier and the mother to the claimant confirmed in court that she and her late husband planted the coconut trees in the area of Lalo. Also the second witness to the claimant who is his sister Ms Annirose Alick also confirmed in court stated that the planation planted in the area of Lalo was planted



by her mother and later father and herself. The third witness to the claimant Mr Kalsandi confirmed in court that he and his father were the ones who cleared or brushed the bush up the hill and were authorised by Junnier Alick to clean the bush.

The defendant responded in court and stated that the area of Lalo belonged to him because he purchased the land. His witness Mr Wilton Killet stated in court that the applicant bought the piece of Land and that the defendant and his father were the ones whom planted the coconuts.

FINDINGS

- Junnier is the first born son to Alick and Domain is the last born son to Alick
- Late Alick grandfather to claimant in accordance to sketch map provided to the court by the claimant that he planted the coconuts on the area of Lalo
- The witness to the claimant Ms Jeannette Alick wife to late Junnier confirmed in court that the coconuts plantation up the hill was planted by her and her late husband
- Ms Annirose daughter to late Junnier confirmed in court that the plantation up the hill was planted by her parents and herself.
- Both parties agreed in court that late Mr Alick has divided the plantation within his children Fred, Kalwas, Domai, Christine, Anna and Junnier.
- Defendant confirmed in court that he and his father late Alick were the ones whom planted the coconuts in which Alick gave that coconut to late Junnier
- Defendant stated in court that sharing of coconut plantation his father has not authorised or made him aware that he will be sharing the coconut plantations amongst him and his other brothers and sisters because at all material times Alick new that the defendant was the last born son to him
- The late Alick has the authority over his plantation and has the authority in sharing and dividing his plantation to his children because it was his property

UPON THE FINDINGS THE COURT DECLARES THE FOLLOWING ORDERS:

ORDERS

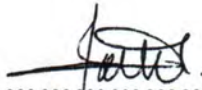


1. The coconut plantation that was given from Alick to Junnier, Junnier children are entitled to it to use the coconut and also ear money from it (copra). All Junnier property is under Jennery Alick his son,
2. The coconut plantation up the hill belongs to Jennery Alick,
3. The defendant Domain Alick is entitled to his plantation being given to him from his late father Alick.
4. The defendant to STOP using the plantation share by Alick and the one up the hill belonging to Junnier and now Jennery Alick,
5. Both payments to be made to the Malekula Island Court office by 30 March 2016 by 4:30pm,
6. If fines are not made both parties have the right to file and Enforcement case.
7. If either parties do not agree with the Judgment within 30 days upon receiving Judgment have the right to appeal to the Magistrate Court has stated in the Island Court Act CAP 167 section 22 Subsection (1) stated "*Any person aggrieved by an order or decision of an Island Court may within 30 days from the date of such order or decision appeal there from to (b) the competent Magistrates court in all other matters*".



Dated at Lakatoro this 24 February 2016

BY THE COURT



Justice Douglas Fadal



Justice John Wesly Tawi



Justice Johnsen Frazer

