

IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU

Civil case 21 of 2015

BETWEEN: KENNEDY DILVANU

Of Mahe vilij, Central Malekula

AND: BENEDICT LITE

Of Mahe vilij, Central Malekula

Coram: Justice Douglas Fadal
Justice Johnsen Frazer
Justice John Wesley 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 on the 02nd of November 2015 seeking before the court a restraining order against the defendant. He claimed that the village council of Mahe had held a court in 1984 in regards of the area which the defendant had been trespassing and working on and Judgment was made for Mathew to give the area back to Alick Dilvanu. During cross examination the claimant mentioned the meaning of Dilvanu is uniting people together. He also stated that the Land in dispute has not yet been challenged in a court it is still a disputed Land. He also stated that his father is not a chief but his father was the first person to live in Mahe. The witness to the claimant stated in court and confirmed that he was the chairperson for the village court in 1984 and stated that they walked and marked the boundary. He also confirmed that after the meeting the defendants' father late Mark Lite respected the decision and stopped working on the area till he died the defendant trespassed and works on the area.



The defendant responded and denies the claim lay upon him. He stated that his Uncle Mathew work on the piece of area and after moving out to Bethel village he left the defendants father late Luke Lithe whom is the brother in law to Mathew to continue working on that same area. He further mentioned that there has been a court towards the area and the Judgment was made to his late father Luke Lithe. He further mentioned that the Land boundary has not yet been processed to a court as to who is the winning party or the owner of the Land. The witnesses to the defendant mentioned in court that they knew late Luke Lithe as the owner of the said area in dispute.

FINDINGS

The issue before the court is to find out who owns the area where the parties are disputing:

- The court has determined that there were two marks that marked the area in dispute, firstly in 1984 the village court has made a mark relating to a red bean wood
- The defendant claims that the mark was the dry creek that separates him from the claimant
- The court finds that Mathew also has been working on the same area and moved out to live in Bethel. Both parties disputed that Dilvanu was the one who let Mathew to work on the said area and the defendant stated that his grandfather was the one who left Mathew to work on the area
- The court determines that after the village court hearing in 1984 the fathers defendant respected the orders to the village court and stopped working on the area but the defendant continues working on it after his father passed away

UPON THE FINDINGS THE COURT DECLARES THE FOLLOWING ORDERS:

ORDERS

1. Family Kennedy Dilvanu are the rightful owner to the area

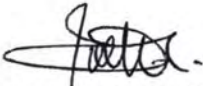


2. The village court in 1984 in regards of the marking of the area is hereby upheld by the Island Court
3. The defendant and his families will not work over the mark and not to work into the claimants area
4. If fines are not made both parties have the right to file and Enforcement case.
5. If either 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 25 February 2016

BY THE COURT



.....
Justice Douglas Fadal



.....
Justice John Wesly Tawi



.....
Justice Johnsen Frazer

