

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

Civil  
Case No. 16/3770 IC/CIVL

**BETWEEN: JIF ELSIEM HARRY MASANGFUR**  
Represented by Joseph Johnny  
Claimant

**AND: JIF OBED JOEL**  
**JIF SAKARY NAVONG**  
**JIF MASSING NAIM**  
**JIF KENCY SURSUP**  
**JIF STEVEN ASANG**  
**JIF BONGBEL ATONG**  
**JIF MANAI JOHN**  
**JIF LUAN BATICK**  
**JIF MAKA KELEP**  
Represented by Luan Batick  
Defendants

**Date of Hearing:** 23 May 2018

**Venue:** Lakatoro Court House

**Before:** Justice Douglas Fadal, Justice Kalangis Mele, Justice Esmon Makaomir

**In attendance:** Mr. Elsiem Harry Represented by Joseph Johnny, Mr Niar Batick represented by George Batick and Fred Marakon

**Nonattendance:** Massing Naim (Too old to travel), Steven Asang(Deceased)

**Clerk:** Collyne Tete Maki

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### JUDGMENT

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Kes ia emi bin registered long Aelan Kot follem *Island Courts ACT CAP 167 section 10*.  
We I talem "*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 and also;*

*Guided by the Island Courts (Civil Procedure) No 28 of 2005 Rule 1 subsection 1 to 7 stated" Starting of a civil claim"*



Bifo kot I harem applikesen kot I mekem roll call we everi parties oli present long kot except Mr Massing Naim we emi olfala tumas blong travel I kam long Lakatoro, Mo late Jif Asang we emi passed away las yia 2017 we kot I Mekem 1min silent blong respectem late Jif ia.

Applikesen we emi filed long namba 15 dei blong manis November 2016 by Mr Elsiem Harry blong Unua 3 vilij, Southeast Malekula. Emi filem agensem Southeast eria counsel of Jifs we jeaman emi jif Joel Obed blong Bananabay vilij wetem ol memba blong em I gat jif Sakary Navong blong Bankir vilij, Massing Naim blong Farak Vanbaur vilij, Kency Susrup blong Tisman vilij, Steven Asang blong Aulua vilij, Bongbel Atong blong Aulua vilij, Manai John blong Aulua vilij, Luan Batick blong Tisman vilij mo Maka Kelep blong Tisman vilij se south east eria counsel I no runnem kot blong olgeta follem stret procedure mo process mo decision I no stret.

Spokesman blong kleima Mr Joseph Johnny emi statem long kleim blong em long kot se Southeast eria counsel I runnem procedure or process blong kot I no stret from we emi pem wan fee blong VT 25,000 blong apil kot be kot I neva sit daon blong harem kes blong em mo later jeaman blong counsel I talem blong oli pem VT 18,000 bakegen blong second sitting. Kleiman emi bin refuse blong pem VT 18,000 we I Mekem jeaman emi talem se sapos oli no pem bae oli no pat blong apil kot.

Emi further statem tu se emi Mekem wan leta I ko long counsel blong Mekem objection long Jif Kency Sursup mo Jif Steven Asang mo jif Luan Batick be jeaman follem pawa blong em emi Mekem blong Jif Kency mo late jif Steven blong still pat blong kot we term blong tufala I finis. Emi talem tu se emi no receivem summon blong kot blong talem maot deit blong kot blong emi preparem ol witness blong em, ol historical sites blong em mo tu counsel I no bin ko wokbaot blong luk, emi further talem tu se jeaman blong kot emi talem se oli jajem jifly taetol kes I no follem wan act mo lastly minute blong kot I no karem evri toktok blong tufala parties long kot be ol toktok blong Niar Batick nomo.

Follem decision blong Southeast eria counsel emi statem se late jif Steven Asang emi gem maot decision we emi wan jaj be I no clerk. Taem emi readim maot jajmen emi mentionem jifly taetol I no graon be taem decesion I kam maot oli mentionem graon tu. Emi further talem se taem oli receivem decesion I no gat signature long jajmen mo later on next dei kleima blong kes Mr Niar Batick emi kam mo collectem blong tekem I ko ol jif oli signem and later on gem bak long ol parties next dei. Everi jif oli sign except clark Jif Sakary Navong emi no saen.

Kleim we i agensem Maka Kelep I statem se emi stap talem long Jif John Mark Tom, Amsin Tom mo Roma Batick se em nao I main man behind long ol decision ia. Kleim I ko agensem jif Sakary Navong tu se emi talem long jif Joseph Johnny long phone se decision I should stap long Marsangavur be I no save se hao nao oli jajem I ko long Niar Batick.



Fes witness blong em Elsiem Harry we emi claimer emi witness blong talem long kot se procedure or process blong kot I no stret long side blong ol payment blong kot fee we oli pem VT 25,000 finis afta VT 18,000 we I no gat any breakdaon we kot I Mekem blong some long ol parties, mo tu objection longtu (2) jajs blong vilij kot counsel we counsel I bin disregardem mo continue blong usem tufala jif we oli bin Mekem objection long tufala we emi jif Kency mo jif Steven.

Secon witness Lalasa Susrup blong Tisman vilij emi witness blong talem se em tu I witness from kot fee we claimer emi pem VT 25,000 mo VT 18,000, long tingting blong em emi luk se VT 25,000 I save runnem complitim kot nomo even afta long objection process, mo objection process we kleima emi bin Mekem long tu jif tufala no should jaj from term blong tufala I finis.

Spokesman on behalf blong evri defendants Mr Luan Batick blong Tisman vilij emi talem long kot se em mo ol defendants oli oli no agri long kleim we I kam long kot from kot hearing we I bin tekem ples long vilij emi custom kot we we I no gat procedure, evri process emi done follem kastom. Emi talem tu se long saed blong mani or cost blong kot sitting southeast eria emi wan big eria we ol travelling emi costem mani blong ol jif blong kam harem kes, I no kes nomo be kaikai blong ol jif mo allowance blong olgeta we ol cost ia emi calculated by ol jif nomo I no gat wan procedure in place blong follem oli calculate mo totem ap nomo follem cost blong truck blong ol parties I pem ol jif oli travel I kam harem kes blong Batamar jifly taetol. Emi further talem tu se ol accusations about em we se em tu I pat long decision I no tru from we emi ko blong gem payment blong ol jif from we oli stap redi blong gem maot decision blong complitim kes and oli mas tekem allowance blong olgeta. Emi further talem tu se I no gat any appointed jif blong Taremb mo Tembimbi from oli decline or no wandem blong no pat long kes.

Fes witness blong ol defendants Jif Obed Joel we emi blong Fanbaur vilij mo semtaem jeaman blong southeast eria counsel emi kam blong witnessem se em nao emi jeaman blong jifly taetol kes blong Batamar nasara. Emi further talem se counsel blong em I jajem kes follem custom nomo I no gat wan policy in ples blong oli wok follem and emia I no long kes ia nomo be long ol past yia finis long ol nara kes tu I semak.

Emi further talem tu se risen why counsel blong em oli no Mekem filed trip I ko long ol historical sites emi from kes emi blong jifly taetol mo I no blong graon blong oli ko wokbaot mo tu from ol parties oli no requestem blong counsel blong ko lukluk ol stone, mo tu emi talem se I bin gat objection we kot I ko hed finis long tu jif blong em afta long bribery kes be em I deceide follem pawa blong em olsem jeaman blong continue usem tufala follem knowledge (we emi refere long kot olsem hair blong tufala I waet) blong kastom we tufala I gat mo tu from blong Mekem arrangemen blong tu nara jif blong tekem ples blong tufala bae I tekem long time bakegen.



Emi continue blong talem se risen why I no gat signature long decision we clark I bin handem maot from emi hariap blong handem maot long ol parties nao Mekem counsel oli no bin sign emi talem tu se emi gem raet long clark blong kollem family Batick blong collectem ol decision I kam bak long clark blong emi passem long counsel blong signem.

Emi talem tu se total amount blong VT 129,000 we ol parties oli pem ko long counsel I no blong allowance blong olgeta emi ko long ol expenses blong accommodation, kaikai mo transport blong evri jif.

Secon witness blong defendant jif Sakary Navong blong Tisman vilij emi kam blong witnessem se vilij counsel I bin sit daon follem stret procedure or process. Emi talem se emi no bin ko blong ridim maot decision from we emi pat long session miting blong jej Mekem jeaman I gem raet long late jif Steven Asang blong ridim decesion, mo emi talem se wan risen we counsel I bin askem VT 18,000 emi blong pem travelling expenses blong ol jif mo from we I bin gat wan bribery kes bifo oli ko long kot blong jifly taetol mo tu emi talem se emi no bin sign long decision from we emi ting se ol clark oli no gat right blong sign long ol decision.

Emi talem tu se risen why decision I no bin gat signature from we emi karem I kam long Lakatoro blong oli typem and later tekem I ko bak be emi hariap nao i forget blong passem long counsel blong signem and emi passem wantaim long ol parties. Emi further talem se jeaman nao I gem raet blong family Batick blong collectem decision gem bak long counsel blong oli signem. Emi talem tu ol accusation agensem em se emi stap kollem family Harry emi no tru emi talem se spokesman blong family Harry nao i stap kollem em blong talem long em se decision I mas ko long olgeta afta bae oli pem em.

Afta we kot I harem toktok long olgeta parties emi faenem maot se:

#### KOT FINDINGS

1. Kleiman I talem long kot se southeast eria counsel I no gat wan written policy - *we spokesman mo jeaman blong defendant tu I confemem long kot;*
2. Kleiman mo ol witness I talem se I no gat wan gud ripot blong spending blong court fee - *Defendant Navong Sakary olsem clark long counsel sitting I confemem se I no Mekem any expenses ripot blong gem long ol parties from we emi no ting se bae I kasem kot;*
3. Kleiman mo ol witness oli talem long kot se jeaman jif Joel Obed I talem long kot se term blong em I finis em I no save usem pawa blong em blong Mekem decision - *Jif Joel Obed emi talem long kot se term blong em I finis mo emi talem se term blong wan jif long counsel emi blong 2 yia nomo we emi tekem appointment blong em long yia 2014;*



4. Kleiman emi talem se counsel I no bin wokbaot blong lukim ol historical sites blong em - *Defendant jif Obed Joel emi confemem long kot se yes oli no wokbaot from we kes emi blong jifly taetol I no graon;*
5. Kleiman emi talem se wan jif nomo we emi late Steven Asang I kam blong ridim maot decision we I no wan compose kot - *Defendant jif Obed Joel emi confemem se majority long olgeta oli no kam blong gem maot decision from oli liv long we emi authorisem wan nomo blo kam ridim maot decesion;*
6. Kleiman emi talem tu se long decision we jif emi ridim maot emi base long jifly taetol I no graon be long typed decision oli statem graon tu long em - *Defendant jif Obed Joel emi confemem emia se emi wan mistake;*
7. Kleiman emi talem se after long objection blong jif Luan Batick emi kam bak joenem olgeta long decision making - *Defendant Jif Luan Batick emi confemem se emi bin kam lukim ol jif bifo oli gem maot decision blong sortem maot ol payments blong olgeta;*
8. Kleiman emi talem se clark jif Sakary Navong emi no bin signem decision we em tu I bin pat long decision making - *Defendant jif Sakary Navong emi confemem long kot from we emi ting se clark I no gat pawa blong sign long decesion;*
9. Kleiman emi talem se coussel emi sit daon blong harem kes blong gjifly taetol I no graon - *Defendant jif Obed Joel emi confemem long kot se kes emi blong jifly taetol I no graon*

After we kot I harem mo I faenem maot ol tingting ia kot I Mekem oda se:

KOT ODA

1. Procedure or process mo decesion blong South east eria counsel we I runnem kot blong jifly taetol blong Batamar nasara long namba 10 Oktoba 2016 emi no stret follem normal fasin or practise blong runnem wan kot long vilij level;
2. Bae aelan kot emi proceed on blong harem jifly taetol kes blong Batamar nasara blong Unua vilij south east Malekula'
3. Long Island Court ACT CAP 167 section 22 I talem" *Sapos any man I no agri long decision blong island court emi gat 30 dei blong em i apil I ko long Magistrate court.*



Dated at Lakatoro this 23<sup>rd</sup> day of May 2018

BY THE COURT



Justice Douglas Fadal



Justice Kalangis Mele



Justice Esmon Makaomir

