

**IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Civil case 11 of 2015

BETWEEN: ELESTA REGANVANU

Claimant

AND: TAITUS SAM

ARNOLD KALWAJIN

WALTER GONGOI

RUBEN MARCEL

Defendant

Date of Hearing: 26 April 2021

Date of Judgment: 27 April 2021

Before Justices: Lorna BONGVIVI (Chair Person), Patisson PETER, Jose
LINGI

Clerk: Collyne Tete Maki

In Attendance: Claimant - Present

Defendants- Present

JUDGMENT



1. INTRODUCTION

Kot I welkamem olgeta parties we oli present long kot ia mo talem long kot se bae kot I proceed wetem applikesen blong joen in olsem wan party long kes blong blad laen bifo kot I harem kes blong blad laen blong Mulon Tali.

2. ISSUE BIFO LONG KOT:

- 1. Whu long olgeta parties ia Elesta Reganvanu, Taitus Sam, Arnold Kalwajin, Walter Gongoi mo Ruben Marcel oli blad laen blong Mulon Tali?*
- 2. Hao nao olgeta parties ia oli relate long man ia Mulon Tali?*
- 3. Woman ia Leleksokle emi sista blong Mulon Tali mo Glera or no?*
- 4. Adoption blong Taitus Sam emi stret follem Kastom or no?*
- 5. I stret follem kastom blong adopsen i tekem raets blong Mulon Tali or no?*

3. BACKGROUND BLONG CASE

Olgeta parties long kes ia emi Elesta Reganvanu blong Urpivi aelan, Taitus Sam blong Meribel vilij, Arnold Kalwajin blong Litzlitz vilij, Walter Gongoi blong Litzlitz vilij mo Ruben Marcel blong Unua vilij.

Kes ia emi bin filed I kam long aelan kot long namba 30 dei blong manis April 2015. Kot I bin samon olgeta parties ia kam and Arnold Kalwajin emi mekem wan oral applikesen I kam long kot blong joen in olsem wan parti long kes ia. Kot I proceed blong harem applikesen ia mo mekem oda blong allowem Arnold blong kam joen in olsem wan party long kes ia long namba 16 blong manis August 2016.

Walter Gongoi mo Ruben Marcel oli mekem applikesen I kam long kot mo askem long kot blong kam joen in olsem wan parti long kes blong blad laen we kot I harem long namba 26 dei blong manis April 2021 mo mekem oda blong tufala I kam joen in olsem ol parti long kes blong bladlaen. Kes blong blad laen kot I proceed wetem long namba 26 dei blong manis April 2021 mo givim maot decision long namba 27 dei blong manis April 2021.

KLEIM BLONG KLEIMEN

Kleimen emi raetem se Barver emi bonem Nufnuf we I bonem Leleksokle we em I fes bon, Mulon Tali mo Glera. Leleksokle I bonem Joseph we Joseph I bon Elesta emi olsem we I appear long family tri blong em. Em i kleim se em emi tru blad laen blong man ia Mulon Tali we Christian nem blong em em i Willie Mulon.

Em I statem se follem kastom taem we laef blad blong man I nomo gat then saed blong woman I save karem raet blong man ia. We emi talem se Mulon Tali emi ded mo no gat laef blad blong em I stap from risen ia nao emi I raetem se sista blong Mulon nao Leleksokle bae emi tekem olgeta raets mo Kastom properties blong em.

Emi statem tu se kes blong graon blong Mulon Tali I pass finis long wan kot be emi no wandem challengem emia bae emi challengem nomo blad laen blong Mulon Tali.

Blong sapotem applikesen blong em long kot:



- emi talem Leleksokle emi bon long hidden taem mo Mulon Tali mo Glera I bon long Christian taem
- Emi agri se Mulon Tali emi adoptem Taitus Sam be from emi follem wan krukut fasin be emi no talem maot se wanem nao emi krukut fasin ia
- Emi talem se follem krukut fasin ia nao Taitus bae emi no gat raet long ol properties blong Mulon Tali from emi adoption nomo be stret blad laen nao emi kleimen
- Emi talem tu se Leleksokle emi gat Mulon Tali olsem brata blong em mo Clera olsem yanga sista blong em
- Em,i talem tu se Ruben Marcel emi no gat raet blong kleim Mulon Tali from we emi wan nara traeb
- Mo em i talem tu se risen why emi liv long Norsup emi tru long Mulon Tali be kasem yia 2010 Taitas Sam em I no mo luk save em
- Emi talem tu se Generation blong Mulon Tali emi stat long Barver we i bonem Nufnuf we I bonem Mulon Tali
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TOKTOK BLONG KLEIMEN LONG TAEM BLONG CROSS EXAMINATION MO RI EXAMINESEN

- Emi no save ol man ia Sumulun, mo Lespelale
- Long kes blong graon blong 1974 mo 1982 emi no bin save long em mekem emi no pat long lan kes ia
- Leleksokle nasara blong em long Unua
- Emi gari tu se adoption save tekem raet sapos emi stret follem stret procedure

WITNESS BLONG KLEIMEN

Kleimen em i gat wan witness nomo we em i Mr Young Reganvanu we emi brata blong spokesman emi talem long kot se taem emi smol emi luk olfala woman ia Leleksokle.

TOKTOK BLONG WITNESS BLONG KLEIMEN LONG TAEM BLONG CROSS EXAMINASEN, RI EXAMINESEN

Emi talem long kot se:

- Emi save gud se Mulon Tali emi gat 2 sista Clera mo Leleksokle
- Emi talem tu se emi harem nomo we oli stap talem se Mulon Tali emi adoptem Taitus Sam

TOKTOK BLONG KLEIMEN LONG TAEM BLONG CROSS EXAMINATION MO RI EXAMINESEN

Emi talem se:

- Emi confemem bak toktok blong em wan se emi save se Mulon Tali I gat 2 sista



RESPONSE BLONG FES DEFENDAN

Fes defendan blong kes ia Taitus Sam emi respond mo statem se emi kleim tru long adoptsen. Em i kleim tru long Sumulon we I bonem Kurkur we I bonem Lebelales we I bonem Nandre mo Nufnuf be Nandre I ded mekem Nufnuf I bonem Mulon Tali and Mulon I adoptem em.

Mulon Tali emi adoptem em aot long papa blong em Sam mo mama Leki. Long namba 10 dei blong em afta we emi bon Mulon mo Leki tufala I mekem maot 10 dei ia mo tekem mi. Mulon Tali emi pem nambas blong em, pem waef blong em mo mekem em I stanap long graon blong em emia emi soem se Mulon I mekem ol kastom pefomens blong adoptem em blong emi son blong em.

Emi statem tu se Mulon Tali emi no mekem any kastom samting long Elesta or even ko long any pikinnini blong sista blong em Glera, be emi mekem I kam long em nomo. Em i statem tu se em i kleim from graon blong Mulon Tali long yia 1974 mo 1982 mo em I winim we I minim se kot I luk save adopsen blong em.

Em I statem tu se Jessel John Reganvanu em I ko liv nomo long ples we em I stap long em naia from we I ko askem nomo long Taitus blong I stap long ples ia blong smol taem and naia em I stap kam blong agensem em. Emi statem tu se Leleksokle emi wan difren family tri we I no long family tri blong Mulon Tali.

TOKTOK BLONG DEFENDAN LONG TAEM BLONG CROSS EXAMINATION MO RI EXAMINESEN

- Emi confemem se emi no stret blad laen blong Mulon Tali be emi adopted tru long Kastom I ko long Mulon Tali
- Emi further talem se Mulon Tali emi adoptem em since taem we emi bebe kasem we emi kam mo liv long ol property blong Mulon Tali kasem tedei
- Emi se taem we emi smol kasem emi bigwan emi save nomo long Clera we emi only sista blong Mulon Tali be emi no save Leleksokle

WITNESS BLONG DEFENDAN

Defenden emi gat wan witness nomo we emi Jia Julun we tufalai semak mama mo difren papa. Emi talem long kot se Taitus Sam emi adopted by Mulon Tali tru long kastom

TOKTOK BLONG WITNESS BLONG DEFENDAN LONG TAEM BLONG CROSS EXAMINASEN, RI EXAMINESEN

Emi talem long kot se:

- Mulon Tali emi pefomem circumcision, pem woman blong Taitus mekem maret blong em mo mekem kaikai blong talem tanku long olgeta we oli lukaotem em taem emi baby
- Emi talem tu se emi no save long woman ia Leleksokle
- Mo emi save se Mulon Tali emi gat wan sista nomo
- Emi talem tu se Taitas Sam emi save tekem ol property blong Mulon Tali from emi adopted tru long Kastom mo Mulon emi nomo gat wan laef pikinnini

RESPONSE BLONG SECON DEFENDAN



Secon defendan Arnold Kalwajin emi kleim tru long mama blong mama blong em Aprel we emi Clera we emi only sista blong Mulon Tali. Emi statem se Mulon Tali emi no gat any pikinnini and emi adoptem Taitus Sam. Emi statem tu se Taitus Sam emi no save tekem ol property blong Mulon Tali from we emi no stret blad laen blong Mulon Tali.

Mr Arnold Kalwajin emi kleim tru long mama blong em Aprel we emi daughter blong Clera. Emi statem se Mulon Tali we Christian nem blong em Willie Mulon emi stret uncle blong em we I mekem em talem se em nao emi stret laef blad laen blong Mulon Tali. Emi statem se mama blong em I talem long em we oli save gud se uncle blong em Mulon Tali emi adoptem Taitus Sam.

Emi statem tu se mama blong em Clera mo Lekolan sista blong em taem tufala I smol tufala ko stap sam samtaem wetem uncle blong tufala Mulon Tali long Selewaori. Emi statem tu se Elesta Reganvanu emi laen blong Letentes and I no blong Mulon Tali

TOKTOK BLONG DEFENDAN LONG TAEM BLONG CROSS EXAMINATION MO RI EXAMINESEN

Emi talem long kot se:

- Kes ia emi blong laef blad
- I gat wan tareb I stap wokbaot and Mulon Tali emi belong long wan traeb
- Emi talem tu se Leleksokle emi no stap insaed long traeb blong Mulon Tali
- Emi no save long toktok we mama blong em I talem long kleimen long 06.12.2016 from I no gat man blong witnessem
- Emi talem tu se Reganvanu mo Thomas oli blong ol different traeb
- Emi save nomo se uncle blong em I gat wan sista nomo we emi Clera apu woman blong em
- Emi confemem tu se Mulon Tali emi adoptem Taitus Sam olsem pikinnini blong em from we emi no gat any pikinnini
- Emi confemem tu se long Lan kes long yia 1974 mo 1982 Taitus Sam nao emi winnim kes ia and emi kleim tru long Mulon Tali tru long adopsen
- Emi talem tu se Generation blong Mulon Tali emi stat long Lesbelales blong Amel Laten we I bonem Nufnuf we I bonem Mulon Tali and I no Barver olsem we kleimen emi talem
- Emi talem tu se Mulon Tali emi adoptem Taitus Sam tru long adopsen mo pefomem sam activity blong some se emi adoptem Taitus Sam and wan long ol samting ia nao emi circumcise
- Emi no agri se laen blong Mulon Tali I kam long Unua olsem we kleimen emi talem
- Emi agri tu se taem laef blad I no gat then adopsen emi gat raet blong onwnem nasara
- Mo I talem tu se risen why son blong Taitus Sam emi stap long ples we emi liv long em naia from we grave blong Mulon Tali I stap long eria ia and oli berem long ples we emi blong Mulon Tali

RESPONSE BLONG NAMBA 3 DEFENDAN

Walter Gongoi emi kleim tru long mama blong em Lekolan we emi daughter blong Clera. Emi statem se Mulon Tali emi stret uncle blong em we I mekem em talem se em nao emi stret laef blad laen blong Mulon Tali. Emi statem se mama blong em I talem long em we oli save gud se uncle blong em emi Mulon Tali. Emi further talem se emi no save long adopsen



blong Taitus Sam. Emi statem tu se emi gat raet blong kleim ol properties blong Mulon Tali follem laef blad long saed blong mama blong em.

TOKTOK BLONG DEFENDAN LONG TAEM BLONG CROSS EXAMINATION MO RI EXAMINESEN

Emi talem long kot se:

- Emi kleim nomo tru laed blad laen tru long Clera from we I bonem mama blong em
- Emi confemem tu se son blong Taitus Sam we emi Jean Mark emi liv long Norsup long graon blong Mulon Tali
- Emi talem tu se mi no save Leleksokle mo I neva harem mama blong em I talem se Mulon I gat tu sista we emi Leleksokle mo Clera, emi save nomo long Clera
- Emi confemem tu se Generation blong Mulon Tali emi stat long Lesbelales blong Amel Laten we I bonem Nufnuf we I bonem Mulon Tali and I no Barver olsem we kleimen emi talem
- Emi confemem tu se mama blong em I neva talem long em about adopsen blong Taitus Sam mekem emi no save confemem any tingting long adopsen blong Taitus Sam

RESPONSE BLONG NAMBA 4 DEFENDAN

Spokesman blong Ruben Marcel we emi Jacob Toame emi kleim se Lesbelale we I bonem Nufnuf we Nufnuf I bonem Mulon Tali, Clera mo Leleksokle emi kam maot long Unua. Emi talem se brata blong Lesbelale we emi Rere oro emi bon Marcel we I bonem Ruben, Emi talem se laef blood blong Mulon Tali we I laef I stap emi Ruben from ol nara parties oli stap kleim tru long woman be laef blad blong Mulon we emi stap tru long brata blong Lebelale we emi Rere Oro.

TOKTOK BLONG DEFENDAN LONG TAEM BLONG CROSS EXAMINATION MO RI EXAMINESEN

Emi talem long kot se:

- Spokesman emi talem se em mo Ruben Marcel I gat connection from we emi witness blong papa blong em long kes blong graon
- Emi talem tu se Mulon Tali gat tu sista Clera mo Leleksokle
- Emi agri tu se Lesbelale emi papa blong Nufnuf
- Emi talem se Mulon Tali emi no adoptem Taitus Sam be emi putum nem blong Taitus Sam nomo
- Emi talem tu se wan man I pefomem circumcision, mekem birthday mo mekem maret sapos emi putum nem long wan nara man
- Emi talem se Ruben emi laef so Clera mo Leleksokle no save kleim ol property blong Mulon Tali from we emi blong em

Afta we kot I harem toktok blong tufala parties kot I mekem ol findings olsem:

4. COURT FINDINGS

Kot I faenem maot se:



- Elesta Reganvanu emi talem se Barver we emi papa blong Nufnuf emi kam long Unua
- Elesta Reganvanu I talem se Leleksokle I fes daughter blong Nufnuf
- Elesta Reganvanu I talem se Leleksokle emi mama blong Joseph we emi papa blong Eslesta Reganvanu
- Elesta Reganvanu emi agri se Clera emi sista blong Mulon Tali mo Leleksokle
- Witness blong Elesta Reganvanu we emi Yang Reganvanu emi agri tu se Leleksokle emi blad laen blong Mulon Tali mo Glera we I no gat sapot long ol nara parties se oli luk Leleksokle
- Elesta Reganvanu emi no pruvum enaf long kot mo no gat any sapot blong talem se Leleksokle emi laef blad blong Nufnuf

Kot I faenem maot se:

- Taitus Sam emi talem long kot se Mulon Tali I pefomem wan Kastom ceremony blong adoption blong em we emi tekem wan pig we tut I fas, yam, faol mo 5 paon blong I tekem Taitus Sam I pikinnini blong em
- Arnold Kalwajin, Elesta Reganvanu I confemem se I gat adoption we Mulon Tali I mekem long Taitus Sam
- Taitus Sam emi talem se emi save se Glera em wan nomo emi sista blong Mulon Tali mo emi no save long woman ia Leleksokle
- Witness blong Taitus Sam Jaia Julun I talem se Mulon Tali I gat wan sista nomo we emi Glera
- Witness blong Taitus Sam I confemem long kot se Taitus Sam, Mulon Tali I Adoptem em follem Kastom fasin
- Taitus Sam I talem se Lesbelas nao I bon Nufnuf we i bonem Mulon Tali
- Taitus emi no agri se Leleksokle emi long semak family tri blong Mulon Tali

Kot I faenem maot se:

- Arnold Kalwajin i confemem tu long kot se mama blong em Aprel we i pikinnini blong Glera we emi sista blong Mulon Tali mo I no Leleksokle olsem we Elesta I kleim from long kot
- Arnold Kalwajin oli talem se Lesbelas nao I bon Nufnuf we i bonem Mulon Tali
- Arnold Kalwajin emi no agri se Leleksokle emi long semak family tri blong Mulon Tali

Kot I faenem maot se:

- Walter Gongoi em i confemem tu long kot se mama blong em Lekolan we i pikinnini blong Glera we emi sista blong Mulon Tali mo I no Leleksokle olsem we Elesta I kleim from long kot
- Walter Gongoi emi sapotem se Mulon Tali oli berem em long eria we Jean Mark son blong Taitus Sam I liv long em from we emi property blong olgeta
- Walter Gongoi I talem se Lesbelas nao I bon Nufnuf we i bonem Mulon Tali
- Walter Gongoi emi no agri se Leleksokle emi long semak family tri blong Mulon Tali



Kot I faenem maot se:

- Ruben Marcel emi talem se emi blong Unua mo emi kleim tru long wan man nem blong em Rereor we emi brata blong Lesbelales we I no gat wan long ol nara party I sapotem em from generation ia
- Rereor emi no blad laen blong Mulon Tali from emi wan nara generation we ol nara parties oli no save long em
- Kleim blong Ruben Marcel ol nara parties oli no sapotem from oli no save long man ia Rereor

Afta we kot I mekem ol findings ia kot I mekem oda se:

5. COURT ODA

1. Walter Gongoi mo Ruben Marcel bae tufala I kam joen in olsem party long kes blong blad laen blong Mulon Tali
2. Taitus Sam emi stret adoptive son blong man ia Mulon Tali
3. Evri birth raet, Kastom raets mo property blong Mulon Tali emi blong adopted son blong em Taitus Sam mo ol descendants blong em
4. Lekleksokle emi no bladlaen blong Mulon Tali mo Glera
5. Walter Gongoi we mama blong em Lekolan mo Arnold Kalwajin we mama blong em Aprel tufala I blad laen blong Mulon Tali tru long apu woman blong tufala Glera
6. Walter Gongoi mo Arnold Kalwajin bae tufala I mas respektem ol Kastom raets mo Kastom properties blong Mulon Tali we I givim long Taitus Sam
7. Ruben Marcel emi no gat raet blong kleim blad laen blong Mulon Tali
8. Sapos wan longolgeta parties I no glad long decision ia emi gat 30 dei blong emi apil I ko long Magistrate kot

ODA IA KOT I MEKEM LONG 27 BLONG MANIS APREL 2021

BY THE COURT



Justice Joses LINGI



Justice Patisson PETER



Justice Lorna BONGVIVI

(Chairperson)

