

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

**Customary Land  
Case No. 20/1003 IC/CUST**

**BETWEEN: DADEE LAPENMAL**

Applicant

**AND: TOLSY AWOP**

Respondent

**Before:** *Senior Magistrate Moses Peter  
Justice Kalangis Mele  
Justice Pattison Peter  
Justice Manaley Simeon*

**In Attendance:** *Ulrick Lapenmal on behalf of the Applicant and Steve Elsiem on  
behalf of the Respondent*

**Copy:** *Parties*

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**DECISION**

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1. The Application purports to seek clarification in respect to the decision of the MIC dated 15 October 2007 declaring ownership of the land known as 'Amelprev' to the Respondent.
2. The rights given to the Applicant is stated in order 3 that: "*That all other parties to the case have the right to use the land. Such granted right is given effect light (sic) of the fact that claimants to the land have for many years caused development to it. It is for that reason that they will continue to maintain their existing properties but are subject to the authority of the declared owners of the land.*"



3. His application seemed to argue the merits of the court's decision and to our view has gone beyond the confine of clarification but opposing the substantial merits of the case which are matters for challenge in an appeal court.
4. We note from the decision of the Supreme Court in the case of **Lapenmal v Awop [2016] VUSC 90**; at paragraph 73 "*Having dismissed all grounds of appeal we uphold the decision of the Island Court in its entirety...*".
5. Further appeal decision of the Court of Appeal in the case of **Lapenmal v Awop [2016] VUCA 44**; at paragraph 30 states: "*In light of the above considerations, we are of the view that the applications and purported grounds of appeal are without merit and they are accordingly dismissed.*"
6. The Applicant has exhausted the appellate courts and never succeed so it is dangerous to accord him with an opportunity to contest the substance of the Island Court decision in the name of clarification.
7. He was given a secondary right and therefore he has no choice but to benefit from that right granted to him and his families by virtue of the MIC decision of 15 October 2007.
8. We therefore dismiss his application.

**DATED at Port Vila this 22<sup>nd</sup> day of June 2021**

**BY THE COURT**

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**Justice KALANGIS MELE**

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**Justice MANALE SIMEON**

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**Justice PATTISON PETER**

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**Senior Magistrate MOSES PETER**

