

**BETWEEN: FAMILY ALBERT**

Applicant

**AND: KALSARI NISAI**

Respondent

**Before:**

*Senior Magistrate Moses Peter*

*Justice Kalangis Mele*

*Justice Pattison Peter*

*Justice Manaley Simeon*

**In Attendance:**

*Alpet Albert for Family Albert, Kalsari Nisai self-represented.*

**Copy:**

*Parties*

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**DECISION**

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1. The Applicant applied to the Malekula Island Court seeking clarification in respect of the decision it issued in favour of the Respondent and several people referred to in the judgment as "Ors".
2. The land declared in favour of the Respondent is known as 'Nval' and is situated at Leviamp on North West Malekula.



3. The Applicant's purported application is to ask the court to include his family amongst all other families who are residing at Nval to share the same interest in the land with the Respondent.
4. It is obvious that Family Albert together with the rest of the families who remained in Nval land with the Respondent had on 1995 assisted the Respondent by filing a claim in the Malekula Island Court.
5. The Respondent is the chief of the village and is imperative that he registers all their interest in the case filed in the MIC.
6. The Island Court declared the land in favour of Kalsarie Nisai (Respondent) as there was no counter claim filed against their claim.
7. It appears that the Respondent has gone to obtain a Certificate of Recorded Interest in the Customary Land Management Office and in a meeting with the Custom Land Officers, all other families who remained with the Respondent were listed in the form as persons with secondary rights over the land.
8. It transpired that Family Albert were not included in the list.
9. The Respondent admitted that the Applicant and his family were supportive of the claim registered in the MIC in 1995 however, they are not included in the list with Custom Lands Officer because they were disrespectful to him at some point and to which he ordered them to pay a fine with a pig but until today they have not complied with his orders.
10. Because they did not want to pay the fine to him, he wrote several letters to them asking them to leave "Nval" land but they refused to leave.
11. We considered the decision of the MIC which states at paragraph 1 as such:

*"The Plaintiff claims customary ownership of Land which custom name is "Nval" and same situates at Leviamp on North West Malekula. He claims on his behalf and others (schedule 1)".*

*"...The Subject Land remains undisputed, therefore the Malekula Island Court, Pursuant to 0.6.r.11 of the Island Court (Civil Procedure) (Amendment) Rule No.1 of 1993, Cap. 167, enter judgment in the favour of Chief KALSIARY NISAI in respect of land known in custom as "NVAL" and is demarcated on the attached sketch plan."*




12. The meeting held at Leviamp between Chief Kalsarie Nisai, his people and John Bongnaim who is the Custom Land Officer in Malampa Province on 1<sup>st</sup> February 2017 is to identify families whose interests are declared in the Malekula Island Court with Chief Kalsarie Nisai.
13. All families are present except for some other families which the record showed are absent due to loss of a family member.
14. Those families whose names are recorded in the CLO's list are Family Tunbel, Family Nory, Family Niptik, Family Willie and Family David.
15. In total, there are 37 names that are included in the list by Custom Lands Officer and all have consented that Kalsaria Nisai and Jonathan Moihu are to represent these families in any further consultations with the Customary Land Management Office.
16. It appears all the names of people who are residing with the Respondent at included except for Family Albert.
17. We are of the view that Family Albert are among the grouping who backed the Respondent in the land claim before the Malekula Island Court in 1995 and cannot be denied the rights as declared by the Island Court.
18. While there are differences between Family Albert and the Respondent at some point due to their rivals in another land dispute of Tvannah Land, we accept that as a totally different matter with different interests and has no bearing with the rights declared to the Respondent and other families including Family Albert by the MIC in 1995.
19. That being said, we order that:
  - a) Family Albert shall have joint secondary rights with the other families whose names are recorded in the documents presented by the Custom Lands Officer.
  - b) The Custom Lands Officer must include Family Albert in the list for purpose of issuing of a certificate of recorded interest.
  - c) Family Albert must perform a custom reconciliation with Chief Kalsarie Nisai (Respondent) on 60 days from today so to restore peace and harmony in their village.



DATED at Lakatoro this 22<sup>nd</sup> day of June 2021

BY THE COURT



.....  
Justice KALANGIS MELE



.....  
Justice PATTISON PETER



.....  
Justice MANALEY SIMEON



.....  
Senior Magistrate MOSES PETER

