

BETWEEN: KALRONG THOMAS

Applicant

AND: BERSY TIMOTHY

Respondent

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

In Attendance: *Kalrong Thomas and Walter Kilman on behalf of the defendant*

Copy: *Parties*

DECISION

1. The Applicant sought for enforcement of the court in respect to several actions of the Respondent which appeared to be in breach of the judgment of the Island Court issued on 5 August 2015.
2. He alleges that while the Island Court declared joint ownership of the land to both parties, it appears that the defendant has continued to sell parcels of land in the declared boundary and retained the proceeds of the sale to himself and his immediate family.
3. We quote from the clarification judgment of the Malekula Island Court as follows:
“...the finding to the second query as to who Esau was representing indicates that Esau Willie was appearing on behalf of his (sic) himself and his adoptive family namely



Lekolan Gongi, April Kalwatsin and their descendants. Their interest on the land would be on an equivalent capacity with Esau Willie as customary owners of the declared land beside Bersi Timothy. Sharing of the declared land and any rental proceeds therein from any development will be on and equal basis among themselves”.

4. While we observed that the actions of the Respondent as reported by the Applicant is a disregard of the orders of the Island Court, we made it clear to the Applicant that we are not in a position to enforce the decision of the Island Court however, we remind the parties to comply with the orders of the Island Court dated 5 August 2015 and where no compromise could be reached and that the Respondent continues to ignore the orders of the Island Court, the Applicant has liberty to seek further redress either by filing civil action in the Magistrates’ Court or that he file criminal action against the Respondent in the Police department.
5. On the same note, the Respondent is given liberty to seek leave to appeal the decision of the MIC dated 5 August 2015 out of time.

DATED at Lakatoro this 22nd 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

