

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

CIVIL CASE 17 OF 2015

BETWEEN: JOHN NALSIN BUKTAN

Claimant

AND: SHEMA BUKTAN
JOSEPH BUKTAN
KEKEN BUKTAN
ROCKINSON BUKTAN
KEN BUKTAN
ROY BUKTAN
ROMEO BUKTAN
KENEDY BUKTAN
MORGAN BUKTAN

Defendants

Date of Hearing: 22 July 2021
Date of Judgment: 06 August 2021
Before Justices: Douglas FADAL (Chairperson), Johnsen Frazer, Patisson
PETER
Clerk: Collyne Tete Maki
In Attendance: Claimant - Present
Defendant – Present



ORDER

1. INTRODUCTION

Kot emi welkam ol parties mo ol famile memba we oli present blong listen long kes. Jeaman blong kes em i talem maot olgeta tri (3) jastis we oli sit daon long kes mo I no gat any objection we wan long olgeta parties I mekem long olgeta. Kot em i letem ol parties oli save se decision blong olgeta bae em i follem nomo ol toktok blong olgeta we bae I kam maot long kot tedei.

Kot emi letem ol parties tu I save se bae kot jajmen bae emi redi long Tuedei 10 August blong tugeta parties save kam blong pikimap long Malekula aelan kot ofis.

Kes ia emi filed I kam long Aelan kot long namba 12 October 2015. Fes Island court sitting emi long 25 February 2016 we kot I mekem oda mo dismissem kes ia. Supervising Magistrate emi revisem oda blong Aelan kot decision long 25 May 2016 mo emi dismissem mo odarem blong aelan kot I relistem kes ia bakgegen.

2. ISSUE BIFO LONG KOT:

- 1) *I tru se John Nalsin Buktan emi fes bon son blong Edward Buktan?*

3. BACKGROUND BLONG CASE

KLEIMEN

Kleimen emi filem kes I kam long kot mo statem se:

1. Emi fes bon son blong Edward mo Mary Buktan
2. Emi gat 2 brata mo 2 sista
3. Long 2005 kasem taem we emi kam filem kes ol defendan oli stap talem long komuniti se emi no pikinnini blong Edward Buktan
4. Long yia 2005 kes ia I bin pass long vilij kot we I gem decision mo oli faen I ko long John Nalsin
5. Long yia 2015 samples long manis September oli stat blong talem bakgegen se emi no pikinnini blong Buktan and emi putum kes bakgegen long vilij kot and ol defendan oli no appear 3 taem long kot ia mekem se vilij kot emi gem maot decision
6. Emi statem tu se emi wandem blong ol defendan oli stop blo sakem maot em long family blong em

Long taem blong cross examinsesen, ri examenesen mo examenesen in jif emi talem mo confemem long kot se:

- 1) Emi confemem se yes I gat ol pas vilij kot decision we long semak issue we oli stoppem olgeta blong nomo stap tokbaot se emi no pikinnini blong Edward Buktan
- 2) Emi confemem tu se papa blong em Edward Buktan emi bin witness blong em long ol vilij kot mo talem long kot ia se John Nalsin emi pikinnini blong em



- 3) Emi confemem tu long kot se emi bin aot wantaim long haus from we toktok I stap ko raon long vilij mekem emi aot ko stap wetem ol uncle blong em. Yet papa blong em Edward I ko bak from em mo oli mekem bifala kaikai from we emi ko bak
- 4) Emi talem tu long kot se papa blong em Sema Buktan mo Roy mo Keken nao I stap talem se emi no pikinnini blong Edward
- 5) Emi confemem tu long kot se risen why emi nemem evri defendan from we oli stap wokbaot tugeta so I gud blong ripotem evriwan olsem blong stoppem olgeta evriwan blong stop blong gossip
- 6) Emi talem tu long kot se raet blong Jif I stap long papa blong em blong I talem se bae emi kam jif from Jif emi always stap long fes bon

Fes witness emi Edward Buktan blong Binalum vilij emi witness mo talem se:

1. John Nalsin emi son or boe blong em
2. Emi fes bon son blong em

Long taem blong cross examinsesen, ri examenesen mo examenesen in jif emi talem mo confemem long kot se:

- 1) Emi forgetem se John Nalsin bon long wanem yia be emi bon long Binalum
- 2) Emi talem tu se emi gat 4 boe and wan emi ded
- 3) Emi confemem tu se long yia 2002 i gat wan ceremony we blong John Nalsin emi kam jif
- 4) Emi talem tu se emi tekem Mary long Binalum
- 5) Emi confemem se John Nalsin emi fes bon son blong em we i bon insaed long haus blong em
- 6) Emi confemem tu se long ol trifala boe blong em bae emi raet long John Nalsin

DEFENDAN

Spokesman blong ol defendan we emi Roy Buktan emi filem response I kam long kot mo statem se:

1. John Nalsin Kelep emi papa blong John Nalsin we emi talem long Ken Buktan samples long yia 2004
2. Olegta we oli bin stap wetem Ken Buktan blong harem toktok ia emi Exxon Buktan, Rocky Buktan mo Kenny Metesso
3. Emi statem tu se tingting blong raisem issue ia bakegen long 2015 blong talem se John Nalsin emi no pikinni blong Edward Buktan emi from we John Nalsin emi ripotem Shema, Joseph mo late Pio Buktan blong pass long vilij kot mo talem se whu long olgeta nao I gem raet long Railia Buktan blong kam Jif blong Peterpriv mo Botorso.
4. Emi statem tu se Shema mo Joseph Buktan nao I talem long taem blong miting ia se John Nalsin emi no boe blong Edward Buktan
5. Emi statem tu se taem mama blong John Nalsin Mary I kam long haus blong Edward Buktan emi no save se Mary gat wan pikinnini finis I stap wetem apu blong em Japeth Sarrisets



6. Japeth Sarrisets emi tekem John Nalsin I kam long haus blong Edward taem emi gat 3 to 4 yia taem ia nao oli sek se Mary gat wan pikinnini finis we I bigwan I stap
7. Mama blong Edward Buktan emi cross mo talem se bae Edward I tekem bak pikinnini ia I ko bak long Rano be Edward I no wandem mekem mama blong em I wandem commit suicide from and emi mov ko stap wetem ol sista blong Edward kasem we emi pass away
8. Emi statem tu se taem we John Nalsin emi wandem maretem woman blong em Lenao I bin gat toktok se tufala I family nomo mo sendem toktok kasem John Nalsin Kelep blong emi kam toktok long em be John Nalsin Kelep emi kam mo talem se bae emi no save stoppem from emi jois blong John nalsin blong maret
9. Emi statem tu se Edward Buktan emi bin wandem drink posen blong wud from we emi harem toktok se John Nalsin emi no boe blong em
10. Emi talem long kot tu se John Nalsin emi stap faet from rank blong Jif

Long taem blong cross examinsesen, ri examenesen mo examenesen in jif emi talem mo confemem long kot se:

- 1) Emi confemem long kot se long 2005 emi bin mekem wan ceremony finis blong sealem kes blong blad
- 2) Emi talem tu se John Nalsin emi no pikinnini blong Edward Buktan from attitude blong em I no gud, emi neva cooperate wetem ol family we I mekem oli no wan
- 3) Emi confemem mo agri long family tri blong John Nalsin be emi talem se Hexon nao emi fes blong Edward Buktan
- 4) Emi confemem tu long kot se raet blong jif emi stap long Edward Buktan and Robea nao should kam jifemi talem se John Nalsin bon long Rano
- 5) Emi confemem tu se bae emi no agri sapos Edward Buktan gem raet blong jif long John Nalsin

Fes witness blong em emi Ken Buktan blong Binalum vilij emi talem long kot se:

1. John Nalsin Kelep nao I talem se pikinnini blong em emi John Nalsin
2. Emi talem tu se John Nalsin Kelep gat tri woman I blong Ambrym, I bong Lamap mo wan blong Tisman

Long taem blong cross examinsesen, ri examenesen mo examenesen in jif emi talem mo confemem long kot se:

- 1) Risen why emi talem toktok ia from we John Nalsin Kelep nao emi talem toktok ia
- 2) Emi talem tu long kot se waef blong emi singaot uncle long John Nalsin Kelep mekem emi stap kam long haus blong tufala nao emi talem toktok ia se John Nalsin emi pikinnini blong eem
- 3) Emi confemem tu se John Nalsin Kelep I stap pat wetem olgeta long ol Kastom ceremony from we emi family wetem waef blong em
- 4) Emi talem tu se long sam Kastom ceremony blong ol family Buktan John Nalsin Kelep emi no stap pat long em
- 5) Emi no save confemem mo connectem wokbaot blong Mary wetem John Nalsin Kelep



Secon witness emi Shema Buktan blong Binalum vilij emi talem long kot se:

1. Emi talem se emi bin stap long vilij kot blong 2005 we oli miting finis afta mekem ol faen
2. Emi no luk ples we John Nalsin I bon long em
3. Follem Kastom blong 30 dei emi no save se oli mekem long wea
4. Risen why oli no putum John Nalsin emi jif from we emi no blad blong brata blong olgeta

Long taem blong cross examinsesen, ri examenesen mo examenesen in jif emi talem mo confemem long kot se:

- 1) Emi confemem long kot se kes blong blad laen ia I bin pass 2 taem finis long kot
- 2) Emi talem tu se John Nalsin bon long Rano smol aelan
- 3) Emi talem tu se raorao blong Edward Buktan emi no likem woman blong John Nalsin mekem John Nalsin emi ron wei
- 4) Emi confemem tu se I bin gat victory kaikai from we John Nalsin emi kam bak long olgeta
- 5) Emi talem tu se John Sandei emi talem long Edward Buktan se bae emi no killem pikinnini ia from we emi no pikinni blong em
- 6) Emi confemem tu se mama blong olgeta emi ded from we John Nalsin emi no pikinnini blong Edward Buktan
- 7) Emi confemem tu se emi stap wokbaot wetem Edward Buktan taem oli yang
- 8) Emi confemem tu se taem papa blong olgeta ko pem Mary emi gat 14-15 yia finis
- 9) emi no save confemem long kot se Rano mo Binalum I klosap tumas blong oli harem se Mary karem wan pikinnini we I no blong Edward Buktan be olgeta oli no even harem nius ia
- 10) emi no save tu long relationsip blong May wetem Edward Buktan
- 11) emi confemem tu se sapos Edward emi gat pikinnini wetem Mary bae emi no save long wokbaot blong tufala
- 12) emi no save confemem tu long kot se birth certificate blong Edward Buktan nem blong papa blong em emi John Nalsin Kelep
- 13) emi confemem long kot se emi no harem tu se John Nalsin emi pikinnini blong whu
- 14) emi no save confemem tu se whu putum nem ia John Nalsin

Namba tri witness emi Joseph Buktan blong Binalum vilij emi talem long kot se:

1. emi luk John nalsin bon long Rano
2. emi harem tu we mama blong olgeta talem long Edward Buktan blong tekem bak John Nalsin i ko long Rano
3. emi harem tu John Nalsin I talem se John Nalsin emi pikinnini blong em
4. emi talem tu se Edward Buktan emi wandem drink posen from we emi harem no gud long toktok se John Nalsin emi no pikinnini blong em



Long taem blong cross examinsesen, ri examenesen mo examenesen in jif emi talem mo confemem long kot se:

- 1) Emi talem long kot se emi no bin talem toktok ia long ol previuos kot from emi blong ol pikinnini
- 2) Emi talem tu se emi no talem long Edward Buktan blong tekem bak John Nalsin I ko long papa blong em from we emi lukaotem em kasem emi bigwan
- 3) Emi confemem long kot se ol uncle blong John Nalsin oli no talem se John Nalsin emi no pikinnini blong Edward Buktan from we olgeta I no corporate wetem ol uncle

4. COURT FINDINGS

- 1) Kot emi faenem maot se Edward Buktan we emi papa blong John Nalsin emi confemem long kot se John Nalsin emi tru pikinnini blong em
- 2) Kot emi faenem maot se Ken Buktan I talem se John Nalsin Kelep blong Tisman emi talem long em se John Nalsin emi pikinnini blong em be I no gat evidence long John Nalsin Kelep blong pruvum
- 3) Kot emi faenem maot se John Nalsin Kelep blong Tisman I talem emi gat 3 woman we wan emi blong Ambrym nara wan blong Tisman mo wan blong Lamap mo I no mentionem Mary blong Rano we emi mama blong John Nalsin Buktan
- 4) Kot emi faenem maot se Shema Buktan emi talem se oli tokbaot blad laen kes ia 2 taem finis be emi no gat enaf evidence
- 5) Kot emi faenem maot se Joseph Buktan emi talem se emi no raisem issue ia long past kot from we kot ia emi blong raorao blong ol pikinnini nomo

5. COURT ORDERS

1. John Nalsin Buktan emi stret pikinnini blong Edward Buktan
2. Eni long ol parties I no hapi long decision ia emi gat 30 dei blong emi apil ko long Magistret kot

DATED LONG LAKATORO LONG 06 DEI BLONG MANIS AUGUST 2021



Justice Douglas FADAL
(Chairperson)



Justice Patisson PETER



Justice Johnsen FRAZER

