

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

Chiefly Title case 1837 of 2017

BETWEEN: JEAN PIERRE

Claimant

AND: ISAAC LOUHABAT

JACOB LOUHABAT

Defendants

Date of Hearing: 19 August 2021

Date of Judgment: 12 NOVEMBER 2021

Before Justices: Joses LINGI (Chairperson), Walter PHILIP, Presilla
JOHNETY

Clerk: Collyne Tete Maki

In Attendance: Claimant - Present
Defendant – Present



JUDGMENT

1. INTRODUCTION

Kot emi welkam ol parties mo ol famile memba we oli present long kot. Jeaman blong kot em i talem maot nem blong olgeta tri (3) jastis we oli sit daon blong harem kes ia we evri parties oli agri long trifala jastis ia blong harem kes blong 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. Mr Jean Pierre emi toktok long kes blong em nomo and Mr Eribert Swaley emi toktok on behaf blong Isacc Louhabat mo Jacob Louhabat.

Applikesen we I filed I kam long kot emi blong jifly taetol blong "Piter A Nivoila Nasara".

2. ISSUE BIFO LONG KOT:

- I. *Jean Pierre Louhabat emi stret pikinnini blong Late Jif Rapsai or no? MO*
- II. *Whu long olgeta parties nao emi stret paramon Jif blong nasara ia "Piter A Nivoila" long Anuatak vilij, Northwest Malekula?*

3. BACKGROUND BLONG CASE

KLEIMEN

Long kleim blong em emi putum se:

1. Kleimen emi filem kleim blong em long namba 15 dei blong manis April long 2013.
2. Emi putum long kleim blong em se emi stret pikinnini blong Jif Rapsai Louhabat blong Anuatak village long Northwest blong Malekula mo emi bon long yia 1977.
3. Tufala defendan ia Isacc Louhabat emi brata blong late jif Rapsai mo Jacob emi son blong Isacc
4. Emi bin odein long age blong 15 long yia 1992 and late papa blong em nao Jif Rapsai emi odeinem em mo passem taetol blong jif blong "Piter A Nivoila" Nasara i ko long em
5. Long taem blong odenesen ol nara Jif oli witnessem olsem Jif Virambath blong Unmet vilij, Jif Estelo Arkhabet blong Anutak vilij, Jif Fred Nilapen blong Tulwei vilij, Jif Marcela blong Mhwei vilij, Jif Kalman Hapsai blong Brenwei vilij mo Jif Ohabat blong Limlasei blong Wiaru vilij.
6. Late papa blong kleimen emi ded long yia 1996 and afta long death blong em nao defendan oli stat blong raorao long em from jifly taetol blong em
7. Defendan oli rao tu long kleimen from coconas plantesen and afta long emia nao
8. Defendan i stap raorao long kleimen mo talem se emi no pikinnini blong Jif Rapsai Louhabat be emi pikinnini blong Joh Ohambat mo taem we Jif Ohambat emi se I no pikinnini blong em then emi mekem wan mo stori mo talem se emi pikinnini blong Benny blong Bethel vilij
9. Long yia 2002 defendan Isaac trespass ko long nasara blong em mo pefomem kastom odeinesen se emi Jif blong "Piter A Nivoila" nasaraa we emi no stret follem kastom blong olgeta Northwest Malekula



10. Long yia 2005 defendan Isacc mo Jacob mo sam nara jif oli trespass mo ko pefomem odenesen ceremony blong Jacob long nasara blong Jean Pierre we emi ko ripotem long Magistrate kot and kot i bin odarem blong tufala defendan mo ol nara jif i pem faen from we oli trespass mo ko mekem ceremony ia long nasara ia
11. Long yia 2013 tugeta defendan oli stap kleim se oli hae jif blong Anuatak we i no stret follem Kastom.

RICHARD TAVLILI

- 1) Fes witness blong kleimen emi talem long kot se olgeta parties oli family nomo
- 2) Emi talem se em tu i witnessem odeinesen ceremony blong Jean Pierre long yia 1992 we i tekem ples long nasara " Piter A Nivoila"
- 3) Emi talem se late Jif Rapsai emi fes bon brata blong Isacc Louhabt
- 4) Emi talem tu se long kastom blong big nambas second bon emi no save tekem raet or taetol blong fes bon. I save happen nomo sapos fes bon brata i no gat boe then second bon brata emi save tekem raet blong em
- 5) Emi talem tu se long yia 1991 emi luk fes step blong kastom ceremony we oli kollem " Ranintav" mo second step nao emi odeinesen
- 6) Mo emi confemem se emi luk defendan tu i witnessem ceremony ia we i minim se emi agri long kastom ceremony blong i tekem ples mo emi no bin complen from long taem ia
- 7) Emi confemem tu se long kastom blong olgeta em nao emi fes man we i kam mo gem raet long Jean Pierre long taem blong odenesen

DANIEL HARRY

1. Secon witness emi Daniel Harry emi tekem ples blong Jif John Virambath emi talem se em namangi we i tekem ples long yia 1992 emi tek ples long graon blong em long Tribun mo ceremony ia emi blong odenesen blong Jean Pierre
2. And Jif Rapsai emi respectem em blong gem wan pig long em blong i pefomem kastom ceremony long nasara
3. Long preparesen blong namangi ia Isacc tu emi witnessem
4. Emi talem tu se long kastom taem yu pefomem wan namangi emi raet we papa blong yu i gem long yu mo i gem wan example olsem long ofis bae emi black & white paper be long kastom emi namangi

DAVID NIPTICK

1. Namba tri witness emi David Niptick we emi replacem jif Virambath emi talem se taem blong wan kastom ceremony yu mas invaetem ol nearby jif blong witnessem kastom ceremony ia, we emi wan long olgeta we emi stap long taem blong kastom odenesen blong Jean Pierre Louhabat
- 2.

DEFENDAN

Long response blong em emi putum se:



1. Spokesman on behalf blong tufala defendan we emi Eribert Swaley emi readim respond blong tufala defendan olsem we tufala i filem response I kam long kot long 20 September 2013.
2. Emi putum se samtaem long yia 1960 I bin gat wan kastom exchange we olfala Lovis Piter Anwala we emi papa blong Rapsai mo Isacc emi brekem kastom and mekem exchange long wan woman we emi Amok PA mama blong Jean Pierre blong Amok emi kam long Jif Rapsai and Viter Sai blong Nvwala i ko long Jif Nissai long Amok.
3. Afta sam taem ol olfala long Piter oli stap ded from oli brekem kastom blong exchangem woman ia
4. From we ol olfala oli stap ded i mekem Amok Pa i ko bak long Amok. Brata blong em Jif Nissai i salem em bakgen i ko long wan man nem blong em Tiet Pa blong Tenmaru. Afta sam yia I pass emi ron we bakegen I ko bak long Amok.
5. Taem we emi stap long Amok nao emi stap frenem Benny Kalmet we I stap tij long Amok.
6. Long ia 1972 emi putum se Jean Pierre I bon long Wiaru.
7. Long yia 1975 Amok Pa emi tekem Jean Pierre mo tufala i kam bak long Jif Rapsai
8. Emi putum tu se Jif Rapsai emi gat 2 woman we tufala tugeta I no gat any pikinnini blong em
9. Emi statem se jif Rapsai emi no gat any laef blad pikinnini we I laef I stap so emi stap faet from raet blong late brata blong em jif Rapsai.

KALI LOUHABT

1. Fes witness emi kam blong witness se ol decision blong vilij kot emi valid evriwan

BENNY KALMET

1. Secon witness emi kam blong talem se follem eria kot long 16 October 2004 mo Malmentenvanu kot long 7 December 2004 we emi kes blong em we blong talem se Jean Pierre emi pikinnini blong em, stori ia bae emi semak nomo long Malekula Island court hearing naia
2. Emi statem tu se emi wandem bae Jif Jean Pierre wetem ol family blong em bae oli ko bak long em long Mahe vilij central Maekula.

4. COURT FINDINGS

JEAN PIERRE

Kot I faenem maot se:

- 1) Jean Pierre emi relate long defendan Isaac olsem smol daddy blong em mo Jacob olsem brata blong em
- 2) Kleimen emi bon long yia 1977 olsem we i stap long birth certificate blong em we emi filem i kam long kot mo nem blong papa we I stap long birth certificate emi blong late jif Rapsai Louhabat
- 3) Long yia 1991 Jean Pierre emi bin mekem fes pat blong pig killing ceremony blong em
- 4) Kleimen emi bin odein long yia 1992 we long taem blong odenesen ia defendan Isacc emi bin pat long em we em tu emi wan we emi paintem em follem traditional fasin blong Northwest Malekula long taem blong givim rank blong jif taetol long wan man mo emi showem wan photo we Isacc mo sam nara jif mo Jean Pierre oli stanap tugeta



- 5) Jean Pierre emi bin odein long nasara blong em we ol nara Jif tu oli kam blong sapotem mo witnessem em long odenesen ia we oli karem maot taetol long Jif Rapsai mo putum long Jean Pierre we emi kastom blong Northwest olsem we witness blong em David Niptick emi witness blong talem
- 6) Emi talem tu se long kastom blong Northwest long big nambas yu no save odenem yu wan blong kam wan Jif bae wan nara jif i kam odenem yu
- 7) Long taem blong odenesen ia i bin gat ol exchange blong ol pig we i usually done long taem blong wan odenesen we Isacc Louhabat tu emi bin pullum wan pig long taem blong kastom ceremony ia we I putum se emi sapotem kastom ceremony ia
- 8) Afta long ded blong Jif Rapsai nao issue blong Jean Pierre I kam antap se emi no pikinnini blong Rapsai we ol defendan oli neva raisem issue ia taem we Jif rapsai emi laef yet
- 9) Mo afta long ded blong Jif Rapsai ol defendan oli stat blong disputem em from jifly taetol we Jif Rapsai emi bin odenem em long em
- 10) Ol defendan oli bin stat raorao wetem kleimen from we oli no agri long em we emi ko long SDA then samtaem long 27/01/1995 oli kam ko luk em mo talem sori long em
- 11) Long vilij kot long 11/04/1996 long taem blong miting ia mama blong Jean Pierre emi talem se Jif Rapsai emi papa blong Jean Pierre emi nneva talem se Jean Pierre emi boe blong Benny Kalmet
- 12) Kot i faenem maot tu se I bin gat wan decision blong Magistrate court we emi civil case 22 of 2002 we emi tekem deit blong 4 September 2003 *Order 1* I talem i clear se "*The Chief Jean Pierre is the head chief of his family and clan*" i minim se higher kot ia emi luk save se Jean Pierre emi hed jif.
- 13) Long kes blong Magistrate court kes ia court I bin mekem oda blong defendan wetem ol nara jif oli fine from we oli trespass ko long nasara blong kleimen

ISAAC LOUHABAT & JACOB LOUHABAT

Kot I faenem maot se:

- 1) Issacc Louhabat emi stret secon bon brata blong late Jif Rapsai mo Jacob emi stret son blong Isaac
- 2) Afta long ded blong Jif Rapsai nao Isacc emi stat blong raorao long Jean Pierre se emi no boe blong Jif Rapsai be emi no bin rao long Jif Rapsai taem we emi laef yet from issue ia
- 3) Defendan Isacc emi bin tekem pat long kastom blong paintem Jean Pierre bifo oli odeinem em and emi no bin disputem or stoppem odenesen we brata blong em late Jif Rapsai bae i pefomem long Jean Pierre i showem se emi agri long odenesen ia
- 4) Kot i faenem maot tu se long yia 2002 Isacc emi bin trespass i ko long nasara blong Jean Pierre wetem sam jif blong oli odeinem em we i no stret follem kastom blong big nambas long Northwest Malekula
- 5) Emi confemem tu se Magistrate court emi bin mekem oda agensem olgeta mo ol nara jif , blong oli pem fine from we oli trespass ko long nasara blong Jean Pierre
- 6) Defendan emi agri tu se long kastom yu no save odenem yu wan blong kam jif bae wan nara jif mas kam odenem yu be emi mas tekem maot taetol long papa blong yu blong putum long yu



- 7) Kot i faenem maot se odenesen we ol Jif oli mekem long Isacc emi no stret follem Kastom blong big nambas from oli no tekem maot jifly taetol ia long late jif Rapsai blong putum or odenem em long taetol ia be oli kam ko putum nem ia directly nomo long em
- 8) Kot I faenem maot tu se dendan long yia 1996 emi bin accusem Jean Pierre se papa blong em emi Jif Ohambat we Jif I bin talem long wan vilij miting se kleimen emi no boe blong em
- 9) Kot i faenem maot tu se sam taem long yia 2004 defendan Isacc afta we emi talem se Jean Pierre emi boe blong Jif Ohambat mo Jif Ohambat emi bin talem se Jean Pierre emi no boe blong em then, emi talem wan nara stori bakegen se Jean Pierre emi son blong Benny Kalmet, so defendan emi kam ap wetem tu difren nem long tu difren occasions we I pruvum se ol allegations blong em i no tru
- 10) Kot i faenem maot tu se witness Benny Kalmet emi harem nomo we wan cousin blong em i passem infomesen long em or talem maot long em se Jean Pierre emi pikinnini blong em, be mama blong Jean Pierre i neva talem maot long em
- 11) Kot i faenem maot tu se long ol past vilij kot decision mama blong Jean Pierre emi neva talem se Jean Pierre emi boe blong Benny Kalmet emi always talem se emi son blong Jif Rapsai we i soem se defendan oli stap tekem ol stori from nomo we oli stap harem
- 12) Kot i faenem maot tu se witness Benny Kalmet emi talem se Jean Pierre emi boe blong em from we long yia 1971 to 1973 taem emi stap tij long Amok vilij and emi bin stap ko luk mama blong Jean Pierre, be Jean Pierre emi bin bon long yia 1977 olsem we i stap long birth certificate blong em we emi 4 yia difference long ol yia we taem we emi stap tij long Amok. So I minim se Jean Pierre bae emi no boe blong Benny Kalmet.

5. COURT ORDERS


1. Jean Pierre Louhabat emi tru odein paramon jif blong " Piter A Nivoila" Nasara long Anutak vilij Northwest Malekula
2. Jean Pierre Louhabat emi stret pikinnini blong late Jif Rapsai
3. Odenesen we Isacc Louhabat I mekem long son blong em mo ol nara Jif emi no stret follem kastom
4. Isaac Louhabat mo Jacob Louhabat bae tufala I stop blong disturbem Jif Jean Pierre Louhabat blong pefomem ol kastom duties or wok blong em
5. Eni long ol parties i no hapi long decision ia emi gat 30 dei blong emi apil ko long Magistret kot



ODA IA KOT I MEKEM LONG 12 NOVEMBER 2021

BY THE COURT

Justice Presilla JOHNETY



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Justice Walter PHILIP



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Justice Joses LINGI

Chairperson

