

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

Civil case 1860 of 2020

BETWEEN: FAMILY SAIKON MALMELIVE

Claimant

AND: FAMILY EDWIN

Defendant

Date of Hearing: 13 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 familie 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 tugeta 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 Hedrick toktok long kes blong claiman and Mr Edwell & Kitlo Edwin emi toktok on behaf blong ol defendan.

Applikesen we I filed I kam long kot emi blong kastom raet mo fes bon blong Malmelive..

2. ISSUE BIFO LONG KOT:

- I. *Whu long olgeta parties nao emi fes bon blong Malmelive?*
- II. *Whu long tufala parties ia emi stret blad blong Edwin?*

3. BACKGROUND BLONG CASE

KLEIMEN

Long kleim blong em emi putum se:

1. Saikon emi fes pikinnini blong Malmelive wetem olfala woman ia Leleklenaow. Afta emi maret wetem Jessie mo bonem Kellen, Denny, Moriel, Henery mo Pesi.
2. Birth-raet blong em emi givim long fes bon we emi Saikon taem tufala I ko long nasara Tovorurum
3. Taem tufala I ko long Tovorurum blong emi givim raet ia long Saikon tufala I mitim wan olfala nem blong em Labut
4. Labut emi gem wan yam long tufala olsem kastom respect we I ko long tufala from we emi witnessem we Malmelive I givim raet ia long Saikon
5. Malmelive I talem long Saikon se nasara mo graon emi blong Saikon.
6. Jifly taetol we Saikon emi tekem emi Jinwalim mo Soliperu
7. Malmelive emi gat 7 generation evriwan we I stat long Malautin, Malmelive, Saikon, Grem, Hedrick, Patison mo Letricia.

PHILIP TIMOTHY

Fes witness emi kam blong witness se:

1. Saikon emi laef long han blong em long Uripiv
2. Apu blong em I no adoptem Saikon mo emi no blad laen blong em
3. Emi bin mekem wan kastom blong putum em I ko bak long Tovorurum

PAUL BUE



Secon witness emi kam blong witness se:

1. Edwin pikinnini blong em Saikon

KALMATAK FRAZER

Namba tri witness emi kam blong witness se:

1. Leleknawow emi kam maot long nasara blong em mo ko stap wetem Malmelive mo bonem Saikon

DEFENDAN

Long kleim blong em emi putum se:

1. Samples long yia 1800 Century, Edwin (Kastom nem Lolting) emi lego nasara Tovorom blong ko stap long Uripiv from emi fraet long black magic
2. Meaning blong kastom nem Ia Lolting I minim "man we I gat sori"
3. Meaning blong Malmelive emi "man blong pis"
4. Saikon emi minim " Yu wandem leftemap be emi tabu"
5. Malmelive emi nem we oli usem nomo long tambu haus (Nimbaur/nakamal)
6. Leleknawow emi woman blong Lolting
7. Lolting mo Leleknawow tufala I ko stap wetem Jid Danrum Longa long nasara Nji Nuwamb logn Tevri
8. Lolting mo Leleknawow I gat 3 pikinnini, fes bon emi Jovinbel, mo secon bon emi Tasinmal tufala tugeta i ded from blak magic. Third bon nomo emi Saikon we emi laef
9. From we Lolting mo Leleknawow tufala i fraet from black magic bae I killem Saikon mekem Lolting I putum em wetem wan sista blong em we emi Lemahser blong potun nasara we emi stap wetem Timothy Sererel blong potnambe nasara blong lukaotem Saikon.
10. Emi follem kastom we black magic oli wandem killem Saikon so emi mas ko laef wetem wan nara family be I no adopsen
11. Black Magic emi follem tufala from Saikon mo killem ded Lelelenaow mo Lolting emi tekem woman Binalum we nem blong em Jessie
12. Saikon emi wan man blong killem tamtam we Lolting nao emi teachim em long saed blong kastom fasin blong killem tamtam

JIF OWEN RION

Fes witness emi kam blong witness se:

1. Malmelive emi las kastom jif bifo Christianity we I aot long Uripiv mo kam sho
2. Long yia 1952 Mr Wilkin I stap lukaot ol assessor mekem ol olfala oli se olgeta I jes kam nomo so oli jusum papa blong em Rion blong kam assessor
3. Emi olsem wan assessor stat long yia 1952 kasem 1987
4. Long yia 1987 olfala Denny nao I slappem backsaed blong em we I stap kasem 2017
5. Long yia 2017 wetem agrimen blong family taetol ia I ko long fes blong fes papa jif we I tek m nem ia Malmelive 2



JOHNATHON EDWIN

Secon witness emi kam blong witness se:

1. Kastom raet emi blong Malmelive.

QWNCY TASONGI

Namba tri witness emi kam blong witness se:

1. Woman blong tambu man ia I kam maot long nakamal blong em

Emi talem long kot se witness 4 mo witness 5 bae I nomo kam witness long kot.

4. COURT FINDINGS

FAMILY SAIKON

Kot I faenem maot se:

1. Kot I faenem maot se Edwin mo Malmelive tufala nem I difren be emi semak man nomo we kastom nem emi Malmelive mo Christian nem emi Edwin
2. Leleklenaow nao emi fes woman blong Edwin we emi kam maot long potun nasara we emi gat tu pikinnini we tufala I ded
3. Afta we tufala pikinnini ia I ded Edwin I fraet long kastom we I follem woman mekem emi ko stap long Ambrym
4. Taem we Edwin emi kam bak long Ambrym Leleklenaow I gat bel finis mo I bonem Saikon afta emi ded
5. Edwin taem emi aot long Uripiv emi leko Saikon I stap mo emi aot wetem ol narafala pikinnini blong em wetem Jessie nomo I kam long Litzlitz
6. Leleknaow mo Edwin I bin ko liv long Uripiv from we tufala I ko haed from we tufala I fraet long fes man blong Leleknaow we kastom blong em I stap follem tufala
7. Saikon emi liv long Uripiv kasem tedei mo emi pefomem every kastom ceremonie olsem maret, circumcise, funerals etc.. long Uripiv nomo mo follem kastom blong Uripiv nomo
8. I no gat wan ples long sho we Edwin I givim long Saikon olsem coconas mo cocoa blong emi stap usem
9. Edwin emi no givim any kastom teaching blong nasara long Saikon
10. Saikon emi no pefomem any kastom ceremony blong karem raet blong Edwin
11. Kot I faenem maot tu se family Saikon oli liv long Uripiv kasem tedei we witness blong em tu I confemem long kot
12. Long yia 2017 family Saikon oli tekem invitasen blong stap long appointmen blong niufala jif be oli no bin ko wisessem
13. Kot I faenem maot tu se jifly taetol we Saikon emi stap tekem emi blong Uripiv nomo I no long Tovorun



DEFENDANT

FAMILY EDWIN

Kot I faenem maot se:

1. Edwin emi stap wetem namba 2 woman blong em Jessie mo bonem Kellen, Denny, Rion, Moriel, Henery Mo Pesi
2. Saikon emi bin stap mo wisessem taem we Rion emi kam assessa mo jif long taem blong master Wilkin mo taem emi ded ol olfala blong Litzlitz we oli laef oli slapem shoulda o bak blong jif Owen blong emi tekemap taetol blong papa blong em olsem Jif we emi Malmelive. Long taem ia Saikon emi no mekem any samting or mov se emi no agri long Rion blong kam wan assessa.
3. Long ceremony blong Samuel blong tekem bak taetol blong Tovorun, evri jif mo pipol blong Litzlitz mo surrounding vilij oli stap blong wisessem ceremony ia be family Saikon nomo oli no agri mo oli no present
4. Kot I faenem maot tu se Edwin emi no givim any birthraet blong em long Saikon olsem ol properties mo any kastom taetol blong em

5. COURT ORDERS

1. Family Saikon emi no fes bon son blong Edwin Malmelive
2. Denny nao emi fes bon son blong Edwin Malmelive
3. Family Edwin nao oli stret blood blong Malmelive
4. Any long ol parties I no agri long decision ia emi gat 30 dei blong apil I ko long Magistrate kot



ODA IA KOT I MEKEM LONG NAMBA 12 NOVEMBER 2021

BY THE COURT

Justice Presilla JOHNETY


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Justice Walter PHILIP


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Justice Joses LINGI

Chairperson

