

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

Civil case 3551 of 2021

BETWEEN: JOHN RUBEN MALEMP

Claimant

AND: DANIEL MELTEKMAL

Defendant

Date of Hearing: 02 JUNE 2022

Date of Judgment: 24 JUNE 2022

Before Justices: Patisson PETER(Chairperson), Walter PHILIP, Max ARNAMU

Clerk: Collyne Tete Maki

In Attendance: Claimant - Present

Defendant – Present

JUDGMENT

1. INTRODUCTION

John Ruben blong Lembetiar village, Northwest Malekula emi filem kes agensem Daniel Meltekmal blong Travol 1 village, Northwest Malekula.

2. ISSUE BIFO LONG KOT:

- *Whu long tufala defendan emi stret bladlaen blong man ia Rally?*

3. BACKGROUND BLONG CASE

KLEIMEN

1. Emi filem kes long 28 dei blong manis October 2021
2. Emi kleim follem histri blong em I talem se emi kam maot long tabu rop or snake rope
3. Emi statem se wan man I maretem tu woman we oli liv tugeta long wan haus.
4. Wan long tufala woman ia emi gat 2 pikinnini afta nara woman emi no save bonem pikinnini
5. Oli liv tugeta mo hapi tugeta kasem wan taem tufala woman ia stat blong raorao from woman we I gat pikinnini emi complen se emi we I no bonem bebe I stap trakem ol pikinnini blong em blong sendem tumas
6. Mama we I no save bonem bebe emi stat blong harem no gud long haus and samtaem emi aot ko stap long Karen from we I harem no gud
7. Wan dei emi ko stap cry long Karen mo harem wan samting emi faerap loud taem we emi ko long ples ia we samting ia emi faerap I harem wan pikinnini I stap cry
8. Emi faenem wan smol boe I stap cry mo emi tekem I ko long haus blong em mo lukaotem em mo putum nem blong em " Rally"
9. Rally emi maretem wan woman Naure tufala I gat wan pikinnini nomo we emi wan boe we nem blong em " Nato"
10. Nato emi maretem wan woman Naure mo tufala I gat 4 pikinnini
11. Fourfala pikinnini ia wan long ol pikinnini ia nem blong em "Nelhanger"
12. Nelhanger emi maretem wan woman Ovie nem blong em : Leat" mo tufala I gat 2 pikinnini
13. Tufala boe ia wan nem blong em " Vindar" mo nara wan nem blong em "Meltektur"
14. Vindar emi maret wan woman Potovor mo tufala I gat 2 pikinnini, Malemb mo John Sesai
15. Malemb I maretem woman Ovie nem blong woman ia " Legah"
16. Malemb mo Legah tufala I gat 2 pikinnini nem blong tufala " Sandeh" mo " Legory"
17. Legory I maretem wan woman Tamleleve nem blong em " Anna" mo tufala I gat 6 pikinnini we 5 boe mo wan gel.
18. Nem blong ol pikinnini ia Rueben, Robert, Jimmy, Jack, Malre mo Ron
19. Ruben emi maretem woman Potovro mo tufala I gat 8 pikinnini we 4 emi gel mo 4 boe
20. Nem blong ol boe ia emi John, Sesai, Tommy mo Bendick
21. Johnsesai emi maretem woman Ambae mo tufala I gat 6 pikinnini, 4 boe mo 2 gel. Nem blong ol boe ia emi Remmy, Renzo, Revelino mo Regardo

1st Witness – John Wesly Meletektanon

Emi witness mo statem se:

1. Emi blad laen blong Jif Adam we emi bigfala kastom jif long Botovro
2. Naure emi stap ple kastom bisnis wetem Naure
3. Emi neva harem pupu man blong em I talem long em se Abel emi blad or pikinnini blong man VAO
4. Jif Meketekia emi odeinem Ruben Malemp olsem paramon jif blong Naure
5. Long taem blong odenesen ia I gat Joseph Meletekue, Amos Meltekmal we emi papa blong defendan tu we oli witnessem odenesen ia
6. Odenesen ia emi showem clear se Ruben Malemp emi blong Naure mekem se emi odein sapos emi blong VAO bae hae Jif I neva odeinem em

2nd Witness – Jackson Malep

Emi witness mo statem se:

1. Long taem blong wan ceremony em nao emi tekem maot robe long pig
2. John Sesai emi givim nomo long uncle blong em Adam

3rd Witness – Susan Massing (Represented by Alex massing)

Emi witness mo statem se:

1. Susan emi sista blong Abel Malemp
2. Tufala I bon long 2 difren papa mo wan mama nomo
3. Papa blong Abel emi Malemp mo papa blong Susan emi Massing
4. Taem we papa blong Abel I ded papa blong me Massing emi mekem kastom blong I stap wetem mama blong Abel
5. Massing emi mekem wan kastom (*we long lanwis oli nemem Tamtam*) I ko long John Sesai we emi brata blong Abel.
6. Emi talem se emi neva harem mama blong em or mama blong Abel emi talem long em se Abel emi blong VAO

4th Witness – Late Kalorong Atutun (Represented by James Atutun)

Emi witness mo statem se:

1. Ruben Malemp mo boe blong em John Ruben ko luk late papa blong em blong askem long em se Abel Malemp emi blong VAO? Late Kalrong emi respond mo talem se "whu I talem toktok ia long yu" Ruben I repond mo talem se Collin I talem... Late Kalrong em I ansa mo talem se "Collin I bon fastaem or mi bon fastaem?" emi talem tu se Abel emi pikinnini blong man Naure

5th Witness – Anna Malep (Represented by Robert Malep)

Emi witness mo statem se:

1. Emi secon bon son blong Anna Malemp
2. Mama blong em Anna emi bin talem long olgeta se emi laef long Naure afta bonem 6 pikinnini blong Abel Malemp
3. Mama Anna emi neva harem toktok ia se Abel emi blong VAO

4. Emi neva harem tufala pupu blong em tu I talem long em
5. Leroug emi maretem Malemp mo Malemp emi pem em long 2 pig we tut I fas

6th Witness – Fabiano Belosat

Emi witness mo statem se:

1. Emi harem pupu blong em I talem long em se Ruben Malemp emi man Naure
2. Follem ol rod blong kastom blong ol pupu blong em Belosat Meltekani emi wok tugeta wetem pupu John Sesai long ol kastom ceremony

7th Witness – Ruben Malemp

Emi witness mo statem se:

1. Leroug I maretem Malemp blong Naure
2. Meltek emi namba 4 generesen blong Rali mo em (Ruben Malemp) emi namba 8 generesen blong Raly
3. Rali emi blong nakamal Nerrovon
4. Botovlo mo Naure I gat semak origin mo kastom
5. Emi statem tu se emi no agri long decision blong Espigales Bay counsel kot from we gat biasness long decision making, no gat faireness blong toktok mo gat bribery
6. Emi attachem wan vilij kot decision we emi annexem "8"
7. Emi attachem tu wan decision blong vilij kot we emi deit 13 May 1988
8. Emi attachem tu wan leta we I kam long Jif Bambu Renrang we I mekem wan strong leta I ko agensem Daniel Meltekmal

Witness John Sesai emi tekem maot blong emi no wan witness blong em

DEFENDAN

1. Emi filem respond long 19 dei blong manis November 2021
2. Emi statem emi no agri long kleim long John Ruben
3. Emi kleim se histri mo bladlaen blong John Ruben I gat confusion long em mo wan kiaman wan
4. Emi talem se kleimen emi no talem stret se emi kam maot long wanem kastom graon mo wanem nasara
5. Emi talem tu se Ruben Malemp emi laef blad blong Meltek Sunabe blong Labarang long VAO vilij long Northeast blong Malekula
6. Emi refer I ko long wan Jajmen blong aelan kot long Lan kes 89 blong yia 2003 we emi bitwin Wilson Isaiah mo Ruben Medrid we long paragraph 4 poen 3 blong jajmen I talem se " Kleimen 2 Ruben Medrid (Ruben Malemp) emi no givim klia explenesen abaot familie blong em"
7. Long semak lan jajmen long paragraph 6 poen 1 I statem se "Ruben Medrid (Ruben Malemp) toktok blong family blong em blong bifo I no klia
8. Emi statem tu se mama blong Ruben emi gat bel finis long em taem Meltek Sunabe I ded
9. Afta we Meltek Sunabe emi ded mama blong em I ko stap long Naure wetem Maleb mo 5 dei afta emi bonem Abel we emi papa blong Medrid Ruben
10. Emi statem tu long se emi bin sendem toktok pante taem blong defendan taem we oli stap cuttem new bush be emi neva kam long miting

11. Long manis August 2021 emi bin filem wan kes agensem defendan mo pap blong em long Espigales bay counsel blong I lukluk long case blong bladlaen blong defendan se emi no laef blad blong Naure
12. Emi kleim tu se Leroug I ko long Meltek Sunabe and emi emi talem se Meltek Sunabe emi gat 2 woman Leroug mo wan woman Tonlamb
13. Emi statem tu se Leroug emi gat bel blong Abel nara sista blong em I no stap mekem gud long em mekem emi ron we ko stap long long Lemeli
14. Leiroug emi stap 5 dei nomo mo bonem Abel
15. Leroug I stap nomo long Lemeli mo Malemp I ko askem em blo stap wetem em
16. Malemp I tekem Leroug mo Abel I ko long be emi no pem Leroug kasem emi ded
17. Emi statem se taem Abel I bon long Lemeli pupu blong defendan I ko luk taem blong em Meltesale blogn VAO mo tufala I ko brekem neck blong faol mo yam long Lemeli (*Brekem nek blong faol emi showem se Abel emi pikinnini blong Meletek Sunabe*)
18. Meltekia I pem em I ko long uncle blong em long Botovro Mr Abel I stap be I no save pat long ceremony ia from emi no laef blad blong Naure
19. Emi statem tu se las man Naure emi meletekia I confemem long Amos Tetaon mo Samson se Abel I no pikinni blong em, em I pikinni blong man VAO
20. Emi statem tu se Abel emi lidim kastom danis mo holem wild cane mo danis long foret blong Narek Neime. I min se Abel mo Robert tufala I jif long labarang long VAO
21. Emi base plante tu long ol findings blong vilij kot decision blong manis August 2021
22. Emi attachem wetem respond blong em Lan kes decision long Lan kes 3 blong 1989 we lan nem emi Botolfo we emi annexem "DM1"
23. Emi attachem tu Botorap consel miting blong Espigales bay we emi annexem "DM2"

1st Witness – Samson Atutun

Emi witness mo statem se:

1. Papa blong em Paul Malsal nao we Malemp emi kam askem Leroug long em blong emi stap wetem em (Long kastom emi se "emi ko from lif stick Tobacco ia
2. "From point 1 antap I mekem taem we Leroug emi ded Sakran (Saot) I kam lo papa blong em Paul blong tufala I ko long Lebetiar mo karem bak ded body blong Leroug mo kam berem em long Lemeli

2nd Witness – Rogasia Neimkon

Emi witness mo statem se:

1. Taem Meltekia (John Sesai) emi wandem pem em I ko bak long ol uncle blong em long Botovro wmi sendem toktok o long long let papa blong em Jif Nale Neimkon, mo brata blong em leit Bruno Neimkon
2. Taem oli ko John Sesai emi bin talem long olgeta se em nao emi las man Naure
3. Emi statem tu se sapos Ruben emi blong Naure mo fes bon bae emi mekem lafet blong ded or pem John Sesai I ko long uncle blong em be emi no bin mekem

3rd Witness – Barthelemy Molunrugaru

Emi witness mo statem se:

1. Taem Abel emi bon uncle blong em Saot (Sackran) I ko luk papa blong em Metesale mo tufala I karem yam mo faol ko long Abel long Lemeli mo brekem nek blong faol blong showem se Abel emi pikinnini blong Meltek Sunambe

4th Witness – Fredson Tera

Emi witness mo statem se:

1. Emi bin olsem wan vilij counsel jaj long wan kes blong coconas blong Valeria Antoine blong VAO
2. Long taem blong kes ia I gat em wetem Ruben, Joseph Meltekue mo Nale Neimkon nao oli bin ol jaj long atem ia
3. Long taem blong kes ia James Atutun I mekem objection long Ruben mo talem se "bae yu no save jajem kes ia, bae yu jajem yu wan bakgegen"?
4. Follem objection ia nao emi showem long em se Ruben emi blong VAO

5th Witness – Amos Melteckmal

Emi witness mo statem se:

1. Wan Sandei em mo late brata blong em Samson tufala I bin ko visitem John Sesai blong pray wetem em
2. Taem tufala I ko tufala I sek se maot blong em I solap
3. Tufala I askem long em and emi talem se "pikinnini blong man VAO I stonem em mo klosap mi ded

6th Witness – Ricky Colline

Emi witness mo statem se:

1. Ruben Malemp emi big Jif blong Lanarang mo stret blad laen tu
2. Wan olfala man blong Labarang nem blong em Meltesunambit emi gat tu woman, wan blong Tolab mo wan blong Lemeli we emi Leroug
3. Woman Tolab emi bonem Benina we I maret I ko long Atchin
4. Woman Lemeli emi gat bel long Labarang finis mo ron we I kam bak long Lemeli from woman Tolab I stap no gud long em
5. Woman Lemeli emi stap 5 dei nomo mo bonem Abel
6. Papa blong em Jif Saot mo Meltesalet papa blong uncle Cmaille tufala I ko long Lemeli mo pefomem kastom blong brekem neck blong faol from Abel
7. Long taem ia pupu blong em I talem long Paul Malsal and family se boe ia emi pikinnini blong brata blong em mo I mas ko bak long Labarang
8. Woman Lemeli ia man Labarang I pem em long 5 pig
9. Malemp emi askem woman I long lif Tabaco mo Paul emi talem long em se yes mo emi tekem em I ko long Naure
10. Malemp emi no pem woman ia from we man VAO emi pem em finis
11. Abel emi follem mama blong em blong ko stap long Naure mo Malemp emi no mekem any kastom ceremony long em from we emi no boe blong em

12. Taem woman Lemeli emi ded oli berem nomo long Naure from we bifo I no gat trak mo rod I no gud blong karem body I ko bak long VAO

7th Witness – David Meltelili

Emi witness mo statem se:

1. Abel papa blong Ruben emi bin danis wetem wild cane long foret long ded blong late Korolong Antoine long VAO
2. From we emi danis long kastom danis ia we oli kollem Narel Neime (minim danis blong haus) mo danis long foret I showem se em I blong Labarang long VAO

Witness Joseph Meltekue emi tekem maot blong emi no witness from we emi witness long semak toktok olsem Fredson Tera

4. COURT FINDINGS

John Ruben

Kot I faenem maot se:

1. Emi confemem follem histri blong em se woman Tolab ia we I bonnem 2 fala pikinnini ia I no gat laef generesen kasem tedei
2. Emi confemem tu se long kastom blong northwest follem kastom histri blong wan wan man bae oli originated I kam tru long kaikai or animal or any samtin blong nature emia nao blong em em I robe
3. Emi confemem tu se em mo Bambo Renrang tufala I kam maot long semak nakamal and Bamboo emi sapotem em tru long leta we emi submittem I kam long kot from we Daniel I stap agensem em
4. Emi confemem tu se aunty blong defendan nao I bonem papa blong em
5. Witness blong em John Wesly Meletektanon I confem long kot se Jif Adam we em I pupu blong em i odeinem Ruben Malemp olsem Jif blong Naure tru long family laen blong Rali. Sapos emi save se emi blong VAO bae emi no odeinem em and even no gat any man even defendan emi stoppem or agensem odenesen ia. Mo even I gat sam nara man I kam wisessem odenesen ia
6. Witness Jackson Malemp em I confem long kot se em I tekem pig mo passem long Neimkon from we emi uncle blong John Sesai. Kot I faenem maot tu se uncle blong em Rogasien Neimkon nao ia emi gat dispute wetem Family Malemp we emi ol uncle blong em
7. Witness Alex Massing em I confem long kot se em I harem ol toktok blong Susan long taem finis and Susan I jes pass away nomo las yia and emi livim ol toktok ia wetem em mo ol family
8. Witness James Atutun emi confem long kot se emi gat kastom relationships wetem Naure tru long smoke faea. Emi talem se sapos Naure oli luk smoke blong faea mo kam sapotem em, mo only man we emi save logn Naure emi Ruben Malemp

9. Witness Robert Malemp emi confem long kot se em i maret finis mo em i wan big man mo jes stap harem toktok se Abel em I blong VAO. Ol toktok ia I jes stap kam maot taem we mama mo papa blong em i ded
10. Witness Fabiano we em i kam maot long Labarang nakamal long VAO em i gat kastom relesensip wetem wetem Naure mo emi save se Ruben Malemp em i blong VAO
11. Witness Ruben Malemp emi confem toktok blong John Ruben se em mo Bambo blong wan nakamal mo Bamboo em I stap insaed long famil tri blong em anda long Vintar

Daniel Meltekmal

Kot I faenem maot se:

1. Defendan emi stanap strong long kastom blong brekem nek blong faol blong talem se Abel emi blong VAO from we Saure mo Meltek Sale nao tufala I ko brekem nek blong faol long Lembetiar (*em I wan kastom ceremony blong pruvum se pikinnini ia Abel emi blong VAO*). Be long kastom fasin pefomens ia I mas tekem ples long VAO I no Lembetiar
2. Em I no save pruvum long kot from wanem nao Saure mo Melteksale I no tekem Abel I ko long Vao blong gro ap long VAO taem emi bigwan be emi still gro ap long Naure
3. Defendan emi confem tu se Malemp mo Leiroug tufala I gat wan mo boe Sandy we emi ded, we Sandy ia tu I stap long family tri blong Rali we kleimen John Ruben I putum I kam long kot
4. Defendan emi confem tu long kot se Bamboo emi blad laen blong Naure
5. Defendan emi confem tu se Rali emi man Botolvo
6. Emi confem mo no showem long kot se em I no gat wan kastom fomesen
7. Em I confem tu se aunty blong em nao bonem Ruben Malemp so emi relate wetem Ruben Malemp tru long woman
8. Em I confem long kot se em I no blong Naure be mama blong em nao blong Naure. I pruvum long kot se blad laen blong papa blong em I long wan difren ples emi faet tru long mama blong em nomo
9. Em I should respon long kot on behaf blong mama blong em
10. Defendan em I basem respon blong em plante long graon blong Naure
11. Witness Samson Autun em I confem long kot se Leiroug emi stap wetem Massing afta we man blong em I ded mo oli berem Leiroug long Lemeli. I pruvum se emi woman blong hae jif ia em ia nao oli berem em long Naure. Sapos emi long kastom then bae I gat way long kastom blong muvum skull or hed blong em I ko bak long VAO from we man VAO I pem be I no gat kasem tedei
12. Witness Rogasien Neimkon emi confem long kot se kastom we I tekem ples I ko long ol uncle blong Botovro nomo. Sapos emi agri se emi blong VAO then ol uncle blong VAO tu I mas present long taem blong ceremony ia
13. Witness Barthalemy confem mo sapotem toktok blong defendan long kot se kastom blong brekem nek blong faol I tekem ples long Lemeli we I pruvum long kot se Abel emi no pikinnini blong man VAO be blong Naure

14. Witness Fredson Terah emi no save pruvum long kot se Ruben Malemp emi blong VAO em harem nomo long vilij kot long kes blong coconas be em I no harem se papa blong em o uncle blong em I tokbaot se Ruben emi blong VAO
15. Witness Amos Meltecmal emi confem long kot se emi harem nomo John Sesai I talem se Ruben emi blong VAO be emi no pruvum long kot se toktok we John Sesai I talem emi tru toktok
16. Witness Ricky Collin I confem long kot se Abel em I big jif blong em long Labarang, be em I no save pruvum long kot we oli stap involvem or usem Abel long ol kastom ceremony long Labarang, mo ol past kleim long aelan kot oli no include Abel or usem nem blong em olsem big jif. Em I no providem tu I kam long kot wan family tri we include Abel insaed long ol past Aelan kot kes blong em.
17. Witness David Meltitli emi confem long statmen blong em mo talem se mining blong danis ia we long kastom nem em i Narel Neime(*minim danis blong haus*). Insaed long kot emi contradictem statmen blong em se eni man nomo save danis long kastom danis ia we I minim se I no ol man VAO nomo be I save any nara man

5. COURT ODA

1. John Ruben emi tru bladlaen blong man ia Rali
2. Any parties emi no agri long kot decision ia emi gat 30 dei blong emi apil I ko long Magistrate kot.

ODA IA KOT I MEKEM LONG 24 BLONG MANIS JUNE 2022

BY THE COURT

Justice Max Arnamu

Justice Walter PHILIP

Justice Patisson PETER

Chairperson