

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

Civil case 1134 of 2022

BETWEEN: JOHN WILLIE MALA

Claimant

AND: PETER ALI

Defendant

Date of Hearing: 08 September TO 09 September 2022

Date of Judgment: Monday 19 September 2022

Before Justices: Douglas FADAL (Chairperson), Joses LINGI, Manle SIMEON

Clerk: Collyne Tete Maki

In Attendance: Claimant - Present
Defendants – Present



ORDER

1. INTRODUCTION

Mr John Willie Mala blong Tanmial village emi filem kes agensem Mr Peter Ali blong Tanmial vilij, Northwest Malekula.

2. ISSUE BIFO LONG KOT:

- *Peter Ali emi stret blad laen blong Man ia "Dan Senembe" or no?*

3. BACKGROUND BLONG CASE

KLEIMEN

1. Kleim emi filed long 24 May 2022
2. Emi i kleim se defendan emi no bladlaen blong Senembe
3. Long risen se mama blong Peter i bonem Peter finis bifo i ko stap wetem Dan Senembe
4. Meleunmetenvanuaeh council i bin mit long 7 March 2022 follem raorao blong tufala parties mo finem maot se em i no bladlaen blong Senembe
5. Defendan emi stap usem nem ia we em i no gat raet blong usem nem ia
6. Dan Senembe emi wan missionary teacher we mission em i stap use mem
7. Long yia 1940 emi bin ko teach long Lopeivi mo finem wan eoman Lopeivi nem blong em Lucy
8. Long taem ia emi gat wan pikinnini finis we emi Peter afta i jes kam stap wetem Dan
9. Peter emi pikinnini blong man ia Ali
10. Ali emi kross from pikinnini blong em mekem se emi tekem wan axe mo ronem Dan blong emi no tekem pikinnini blong em
11. Dan emi aot long Paama mo tekem Lucy mo Peter mo oli kam long Malekula
12. Dan emi bin ko teach long mission bakegen long Atchin
13. Taem tufala i stap long Atchin wan man nem blong em Nemiaha Ruru emi wandem Lucy mo i tekem Lucy ko stap wetem em
14. Dan emi ko mo tekem woman ia Rina we emi gem blong Hambi pramon jif blong Tenamet long yia 1965
15. Long yia 1972 emi gem raet blong paramon jif blong Potorwof long John Willie Mala long 10 days blong em mo Peter emi jif blong Tanmial
16. Dan emi pem woman blong Peter we emi Elioth
17. Papa blong Peter we emi Ali emi stap afterem Peter blong i ko bak luk em
18. Peter i no wandem ko bak mo i ko luk wan man Kalory blong emi blokem rod blong Ali blong nomo stap afterem em
19. Peter emi no stap respectem tu ol nara brata blong em we olfala woman ia Rina i bonem olgeta olsem damage mol fruit trees taem we oli ko stap harvestem or kaikai
20. Peter emi mekem sam nara problem long community we i no stret fasin long kastom
1. Emi witness mo tokbaot kastom man ia Kalory we Peter i bin ko luk em

DEFENDAN

1. Long 1947 Dan emi tij lng Lopeivi aelan



2. Long 1949 Dan Senembe I pem Lucy long Jeremia
3. Long yia 1949 semak yia yet Pasta Takau emi mekem maret blong Dan mo Lucy long Lopeivi SDA church
4. Long 1950 Mi bon long haus blong Dan mo Lucy Senembe long Lopeivi island
5. Long 1972 December Dan I givim birthright blong paramon ji blong Tanmial, taem ia Peter I gat 22 yia
6. Long 1972 ia yet John Willie emi gat 10 days afta we emi bon mo Dan I tekem em I kam aotsaed mo oli givim nem ia John Willie long em, be Dan I no putum em olsem paramon jif blong Potowof
7. Dan I no gem raet long John Willie Mala from we emi no circumcise yet mo follem kastom blong Northwest yu mas circumcise bifo yu karem wan raet
8. Long 1974 Dan I pem nambas blong Peter I ko long ol uncle blong em long Lopeivi
9. Long yia 1976 Dan emi ko pem woman blong Peter Eliot long Matanvat vilij
10. Emi stap confemem se emi stret blad blong man ia Dan Senembe from we evri kastom pefomens Dan I mekem long em
11. Long family tri blong Peter emi statem se Lucy emi fes woman blong Dan mo Rina emi second woman blong Dan
12. Emi statem tu long family tri blong em we John Willie Mala wetem Peter tufala I gat semak papa we emi Dan

4. COURT FINDINGS

Claimant

1. Emi confemem long kot se Peter emi paramon jif blong Potowof
2. Emi confem tu se Peter mama blong em Lucy we emi fes woman blong Dan
3. Emi confem tu se Dan emi odceinem Peter blong kam paramon jif long yia 1972
4. Emi confem tu long kot se Dan I pem woman blong Peter we emi Eliot
5. I no gat any witness we I kam long Lopeivi blong confemem se Peter emi pikinnini blong man ia Ali
6. Emi confeme tu se Peter I liv ova 30 to 40 yia long Tanmial we oli neva dispute wetem em kasem we Dan mo Lucy I ded
7. Emi confemem long kot se ID blong Peter emi Senembe
8. Kot I faenem maot se emi confemem long kot se Dan i pefomem ol kastom ceremony long Peter finis bifo Peter emi stap mekem ol problem long ol family
9. Witness Grenly Ulhambath emi talem se emi luk Peter I kam toktok long Juda blong emi ko luk Micah long Lecan mo talem long em se Juda emi sendem em, be emi no save confemem long kot se Peter I ko luk Kalory mo tufala I tokbaot wanem. Mo Kalory tu I no providem wan statmen I kam long kot blong talem se emi bin luk Peter blong blokem rod blong Ali
10. Witness Shadrach Yanharambat emi witness mo talem se brata blong em Micah, Peter I ko luk em blong tufala I ko luk Kalroy. Be I no gat any witness blong kam confemem se Peter I bin ko toktok wetem Kalory mo tufala I tokbaot wanem
11. Witness Benseth Joel emi talem long kot se papa blong em I wan assessor we I stap jajem ol kes we wantaem mama blong Peter I mekm ripot wetem em we Peter I killem nogud em mo mama blong Peter I bin talem long em se Peter emi pikinnini blong Ali. After long taem ia



assessor I bin mekem ripot and emi pass long kot blong Mr Wilkins and emi panishem Peter long fasin we emi killem mama blong em. Kot I faenem maot se Peter emi no panish from toktok we Lucy I talem se Peter emi pikinnini blong Ali.

12. John Willie Mala emi witness mo talem se emi tribe blong Senembe be from we tribe blong Mala I finis mekem se oli mekem kastom blong tekem maot em ko long Mala tribe. Kot I faenem maot se follem kastom sapos kastom oli mekem long yu long wan tribe bae yu no save ko bak long mo kleim any samting long tribe we yu kam maot long em. Kot I faenem maot tu se man we I putum yu I ko long Mala tribe emi Dan.
13. John Willie Mala emi confemem tu long kot se yes
14. Kot I faenem maot tu se Claimant mo defendan tufala I wan family nomo we John Willie Mala emi kam maot long namba 2 mama
15. Kot I faenem maot tu se namba 2-woman blong Dan we emi Rina emi no maret wetem Dan olsem we Lucy I maret wetem Dan
16. Witness 1 to 4 blong em oli kam blong witness nomo ol problem we defendan Peter I stap mekem long past wetem papa, mama, mo ol brata blong em
17. I no gat any witness blong kam confemem se Peter emi pikinnini blong Ali blong Lopeivi

Defendant

1. Peter I confemem long kot se Dan I pem woman blong em sapos emi no boe blong Dan bae Dan I no save pem woman blong em
2. Witness Eliot tu we emi woman blong Peter emi confemem long kot se Dan I ko pe mem long Matanvat vilij
3. Emi confemem tu se John willie Mala emi brata blong em we emi kam maot long namba 2-woman blong Dan we emi Rina
4. Kot I faenemaot tu se yes Peter emi confemem long kot se yes Mr Wilkin I bin panishem em blong ko long Jail from we emi killem nogud mama blong em from we I stap swear tumas mo toktok plante, be I no from we mama blong em I talem se emi pikinnini blong Ali
5. Kot I faenem maot tu se ceremony blong raet we Dan I gem long Peter, Peter emi wan big man finis afta I tekem raet ia mo fulap jif blong smol nambas I bin stap blong witnessem ceremony ia
6. Peter emi confemem tu se odeinesen blong raet ia Jif blong Matanvat nao I pefomem
7. Emi confemem tu se John Willia Mala I stap long family tri blong em from we tufala wn papa nomo be difren mama
8. Emi confemem tu se John Willie Mala emi wan nara tribe
9. Witness blong em Sam David we emi stret uncle blong em emi kam blong confemem long kot se Peter emi pikinnini blong Dan mo Lucy. Kot I faenem maot tu se emi confemem se Dan I pem nambas blong Peter I ko long big brata blong em we I pruvum se emi pikinnini blong Dan
10. Witness Sam emi confemem tu long kot se Dan I pem Lucy
11. Witness Peter Paul blong Paama aelan emi confemem tu long kot se Dan I kam liv long Lopeivi mo finem Lucy long we
12. Witness Eliot we emi waef blong Peter emi confemem long kot se Peter emi fes bon blong Dan mo Lucy. Kot I faenem maot tu se Eliot emi bin stap blong witnessem we Dan I gem raet long Peter
13. Witness Eliot emi confemem tu long kot se yes Peter I stap mekem sam rabis fasin be oli talem sori finis blong stretem be I no from we Peter emi pikinnini blong Ali



14. Witness Eliot emi confemem tu long kot se Dan emi no maretem Rina
15. Peter emi confemem tu long kot se yes emi ko luk Kalory blong mekem lif be emi from we oli gat issue wetem graon be ino blong blokem Ali

5. COURT ORDER

1. Peter emi stret pikinnini mo blad laen blong Dan Senembe
2. Any long tufala parties I no agri long decision ia emi gat raet blong apil I ko long Magistrate Court bifo 30 dei



Dated at Lakatoro this ¹⁹~~08~~ day of September 2022

BY THE COURT



Justice Manle Simeon



Justice John Wesley Tawi



Justice Douglas Fadal

