

MALEKULA ISLAND COURT
REPUBLIC OF VANUATU
02/19884 & 22/3438
(Civil Land Jurisdiction)

Civil Case No. 03 of 2022
REF LAND CAS

BETWEEN: SATO KILMAN
Black Gate, Lakator, Central Malekula

Appellant

AND: BUE MANIE
Lakatoro, Central Malekula

First Respondent

KENNETH KALTABANG
Lakatoro, Central Malekula

Second Respondent

DECISION

The Applicant in this matter applies to the Malekula Island Court to stamp the Island Court decision declaring the Applicant custom owner of the Lakatoro Land. The Applicant states that on 29th September, 1984 Malekula Island Court in case number 02 of 1984, recognized and declared as landers of Tembogo and Amelinges land.

The Declaration was said to have been made after a site visit undertaken by the Island Court as required by the island Court Act regulation. After the site visit of the land, the island court published its judgement on 29th September 1984 finding the Applicants as land owners of Tembogo and Ameliangas land but failed to stamp the sketchmap.

Thereafter when the Vanuatu Government was in the process of acquiring Lakatoro as state land, the two Respondents appealed the decision of the Island court of 1984 to the Supreme Court. The Supreme Court heard the appeal and declared all three of them, the Applicant and two Respondents as custom owners of the Lakatoro Land to be shared in three equal shares.

The Applicant claimed the Supreme Court did not quash the decision of the Island Court, accordingly, they are applying for the decision to be properly stamped. They have attempted to apply for a green certificate from the Customary Land Management Office (CLMO) but they require a stamped sketch map before they can grant a green certificate.

In response both Respondents dispute the Application saying the Judgement of Land case No. 2 of 1984 has been misconstrued by the Applicant because although there were mentions of the names of Tembogo and Amelinges Custom land in the minutes of the decision, the decision of the Island Court of 1984 was a declaration to Sato as land owner for Lakatoro land and not specifically the Amalinges nor Tembogo Custom land.



Secondly, the decision of the Island Court of 1984 was overruled by the Supreme Court to recognize the rights of the two respondents in this matter and thereby awarded them all equal shares of custom rights (the Applicant and the two Respondents) as custom owners of Lakatoro land.

Lastly the Respondents strongly stated that there was no declaration of made in respect of Amalinges and Tembogo custom land by the Malekula Island Court nor the Supreme Court.

The Court after having heard Application and Responses to the Application; and having perused the 1984 Decision of Malekula Island Court and the 1988 Decision of the Appellate Court in this matter, we make the following findings and decision.

Findings of Court:

1. Despite mentions of Amelingas and Tembogo in the minutes of decision of the Island court, the 1984 Declaration to the Applicant was for Lakatoro land not the Amelingas nor the Tembogo custom land. It is not clear, the court is unable to link from the two decisions the link between Lakatoro land and Amalinges Land despite the Applicants claim to the same land.
2. The Island Court nor Supreme Court in their decisions of 1984 and 1988 respectively failed to declare Lakatoro land is situated on Amalinges and Tembogo custom land and failed to have the parties produce and agree to a sketch map of the said customary land. The two Respondents strongly dispute the location of Amalinges and Tembogo custom land to be the same with Lakatoro land and
3. The Island Court decision of 1984 was appealed and the Supreme Court in 1988 varied the decision such that it recognizes the rights of all three parties including the two respondents and gave them equal custom rights of the Lakatoro land. The Supreme Court has literally varied the first decision that only recognized the Applicant and it would not be right to stamp a decision that was literally changed by the Supreme Court to include the Respondents.
4. Map of Amelingas and Tempogo custom boundary were **not** drawn up as part of the Island Court in 1984 decision nor the Supreme Court in 1988. It would be a straight yes to stamp had the Respondent agree to the newly drawn up map, but they disputed the map. The Map was drawn up by the Applicant after the island Court and the appeal court hearing ended and it is not right to assume without a proper land hearing process.
5. The Court is unable to link Lakatoro Land and the custom land of Amelingas and Tempogo land as Malekula Island Court nor the Supreme Court failed to link them as the same land. Today the Respondents disputed the location of the Amelangis and Tempogo land to be same Lakatoro land.

Following the above findings, the Court is not in the position of endorsing and stamping a custom boundary of Amelingas and Tembogo custom land as part of the decision of the Island court in 1984 as the map was never part of the Court decision. And whereas the sketch map is disputed by the Respondents, the Court is unable to stamp the newly drawn up sketch map.




The Applicant today however appears to understand the Court's position not to stamp and indicted that he is unhappy with the decision of the Supreme Court yet he admitted he did not appeal the decision soon after it was handed down as his financial situation did not allow him to. However, he confirmed that arrangements are underway to file an appeal (or otherwise an application for Judicial Review) of the decision of the Supreme Court before end of this year 2024.


And therefore, with the undertaking of the Applicant to appeal the Supreme Court decision of 1988 and/or file a claim in the Supreme Court, we hereby stay the matter for 12 months pending the outcome of the Supreme Court decision and direction on the matter.

The matter is re-listed for re-hearing and/or mention on 27th October, 2025 at 9.00am.


Dated at Lakatoro, Malekula this 29th October, 2024.




Justice Joses Lingi
Malekula Island Court



Justice Douglas Vatdal
Malekula Island Court



Justice Pati Peter
Malekula Island Court



Hannaline Nalau Ilo
Senior Magistrate

