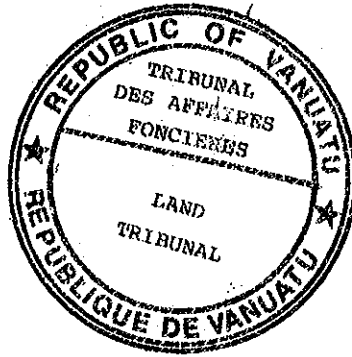


EFATE ISLAND COURT
HELD AT PORT VILA
REPUBLIC OF VANUATU

(LAND JURISDICTION)



LAND CASE NO. 1 OF 1993

MAROPE LAND

BETWEEN : FAMILY SOPE IMERE (Mele Village)

(Original Land Claimant)

AND : CHIEF NUNU NAPERIK MALA

(Land Claimant No. 1)

AND : NAFLAK TEUFI - IFIRA

(Land Claimant No. 2)

AND : FAMILY KALSAKAU - IFIRA

(Land Claimant No. 3)

AND : IFIRA TENUKU COMMUNITY HOLDING
LIMITED

(Land Claimant No. 4)

AND : FAMILY NIKARA

(Land Claimant No. 5)

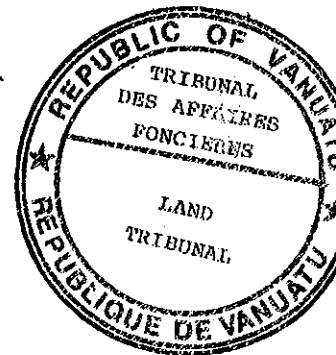
AND : IFIRA COMMUNITY

(Land Claimant No. 6)

CORAM : MAGISTRATE LUNABEK VINCENT

CUSTOM ADVISERS : CHIEF ESROME MANAPANGA
(Island Court Justices) : CHIEF URESARI FRANK KALMAIRE
: CHIEF METEU MAKAL KALSONG

CLERK : MALHON ARLIE, STEVE BANI



JUDGMENT

DISPUTE

Case ia hemi abaot wan land dispute. Land ia oli callem MAROPE LAND we hemi situated long Bauerfield Airport mo eria behind long Bauerfield airport long Island blong Efate.

Long 28 May 1993, Efate Island Court i bin putum wan mesej long Radio Vanuatu abaot wan land klem we FAMILY SOPE blong Mele Village oli lodgem mo oli statem se Family Sope blong Mele Village nao oli Kustom owna blong MAROPE LAND.

Mesaj ia hemi publicity mo information we Island Court blong Efate i makem follem provisions blong Island Court Act, Chapter 167, Order 6 (Subsidiary Legislation as amended) mo orders we Chief Justice blong Republic blong Vanuatu oli makem abaot Procedure blong Land Dispute (Order No. 1 of 1993 R.2). Olgeta orders ia oli specifyem se long side blong Land Kleim, Clerk blong Court hemi advisem public long date blong hearing mo informem public se Court hemi bin receivim wan land kleim (wetem details abaot land ia mo man we i putum kleim ia) mo sipos wan (1) man hemi tink se hemi Kustom Owna blong land ia o hemi tink se hemi gat wan interest long land we kleim i bin come aot long hem, man ia hemi save come long Island Court blong lodgem (putum) kleim blong hem o hemi save makem defense (opposition) blong hem agensem original land claimant (man we hemi putum kleim fastaem long Island Court). Man ia hemi mas come putum kleim blong hem bifo wan period blong 30 deis i expire.

PARTIES

Afta long Radio mesej ia, i gat six (6) party we oli lodgem kleim blong olgeta agensem Original Land Claimant.

So long taem blong hearing blong land dispute ia i gat seven (7) party we oli disputim MAROPE LAND.

Hemia nao name blong olgeta party ia:-

- Family SOPE blong Mele Village (Hem nao hemi Original Land Claimant "O.L.C.".
- Chief NUNU NAPERIK MALA (Hemi Land Claimant No.1 - L.C.1).
- NAFLAK TEUFI - IFIRA (hemi land claimant No.2 - L.C.2)
- FAMILY KALSAKAU - IFIRA (hemi land claimant No. 3 - L.C.3)
- IFIRA TENUKU COMMUNITY HOLDINGS LIMITED (hemi land claimant No. 4 - L.C.4)
- FAMILY NIKARA (hemi land claimant No. 5 - L.C.5)
- IFIRA COMMUNITY (hemi land claimant No. 6 - L.C.6)

STEP O PROCEDURAL APPROACH WE COURT HEMI FOLLEM BLONG HEAREM CASE IA.

Hearing blong land case ia hemi no easy from we olgeta party oli lay people mo some long olgeta oli never come long court o oli never conductem wan case before long wan Court. So Court hemi mas chowem

bigfala skill blong handlem proceeding under long law mo samtaem Court hemi mas usum common sense blong explainem proceeding long ol party.

Court hemi bin askem long each party blong makem wan written mo typed statement blong kleim blong hem mo court hemi askem tu long each party blong prodiusum o showem long court evidence we oligat blong supportem kleim blong olgeta - mo Court hemi bin askem long each party tu blong prodiusum family tree blong olgeta.

Court hemi acceptem se i gat wan (1) main speaker (lida) blong each party long case. Hemia hemi wan practice we hemi common long vanuatu from we olgeta claimant oli representem member blong family o groups o naflak (clan, tribes) o community.

Court hemi acceptem blong i gat cross-examination blong lida blong each party tu. Reason hemi from we olgeta party oli lay people mo sometaem hemi hard long understanem statement blong olgeta. So cross-examination blong each lida hemi blong allowem lida ia blong clarifyem statement mo position blong family o group we hemi representem.

Clerk hemi ridim aot statement blong kleim blong each party - after court hemi askem long lida blong party ia sipos hemi agri long content blong statement. Sipos hemi agri, olgeta lida blong narafala party long case, oli questionem (cross-examinatem) lida ia.

After cross-examination blong lida ia, hemi callem witness blong hem. Law hemi allowem five (5) witnesses long land case (order 18, rules 2), Island Court Act (Subsidiary Legislation) Cap 167.

Clerk hemi readim aot statement blong each witness mo Court hemi askem long witness ia mo sipos hemi agri wetem content blong statement blong hem, lida blong different party long case, oli questionem witness ia long statement blong hem

Visit blong land blong dispute

Long beginning mo kolosap end blong land case ia, Court hemi bin visitim land ia (follem order 18 R9 - Island Courts Act Cap 167.

BAONDRY BLONG LAND WE ISTAP LONG DISPUTE.

Long beginning blong land case ia, Court hemi makem i clear long olgeta parties se baondry blong land we istap long dispute hemi baondry we Original Land Claimant (O.L.C.), Family SOPE blong Mele Village, oli submittim long kleim blong olgeta - Baondry ia hemi stap long Map we Court hemi annexem long judgment ia (Exhibit 1). Baondry ia hemi Red colour long Map we yumi just refer long hem antap.

Baondry ia hemi coverem up olgeta eria ia : wan (a) big part blong Narrowby TITLE : 57K, 57L, 3762, 3899 57J, 57N, 128, 1231, 497, 2904, 3760, 2910, 1964. Court hemi wantem clarifyem se no mata we some party long case ia oli requestem se Title 57 I mo 57 M oli part blong Narrowby so oli shud stap long eria blong kleim, court hemi decide blong excludim tufala title ia 57 I, 57M long kleim ia from we Original Land Claimant hemi no putum tufala title ia insaed long baondry bong kleim blong Marope Land.



Baondry hemi coverem up eria blong Malaroa we hem includim Title 534, 111, 129. Hemi coverem up tu wan (1) part blong Erangorango Tile 3922. But hemi no touchem narafala part blong Eroongorango - Baondry blong land ia tu hemi coverem up eria blong Sawarewo title 118, 131, mo hemi includim tu eria we title blong olgeta oli, 3242, 94, 2757 (31/002). Baondry blong land kleim ia tu hemi includim land title 519, mo 578.

RAET BLONG OL PARTY BLONG APPEAL

Land dispute hemi really wan big sensitive issue, case blong Marope Land hemi no wan easy case. So decision we court ia hemi reachim hemi no wan easy wan. Decision ia hemi no save satisfyem yufala every party long Marope Land dispute.

Some long yufala we i no satisfy long decision blong Court long Marope Land bambai yufala i gat nogut tingting long Magistrate mo Justices blong hem. But Court hemi wantem makem i clear long yufala se Magistrate wetem Justices blong hem oli assumem constitutional duty (responsibility) blong olgeta nomo. So Magistrate wetem Justices blong hem oli performem duty blong olgeta unda long protection blong Constitution mo Law blong Republic blong Vanuatu.

Long opinion blong Court, hemi appropriate blong hemi talemaot naoia raet we yufala i gat mo yufala i mas save sipos some long yufala i no agri (satisfy) long decision blong case ia.

Reason hemi from we sipos hemi givim aot raet blong yufala long end blong judgment nomo, some long yufala we oli no satisfy long decision, mo go out, oli nomo save hearem streight wanem raet nao oli gat mo how nao oli save enforcem or (processem) raet ia.

Follem section 22 (4) blong Island Courts Act, Chapter 167, sipos wan party hemi no satisfy wetem decision blong Island Court long wan (1) land dispute, party ia hemi mas lodgem wan (1) appeal long Supreme Court. Appeal ia hemi mas come long Supreme Court befo wan period blong 30 deis i expire after Judgment blong Island Court i come aot.

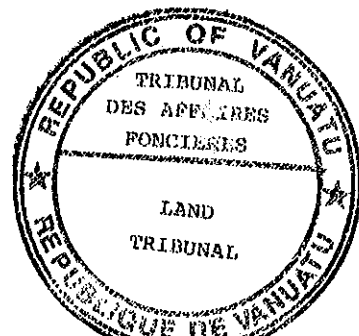
Mo Section 22 (5) blong same Act ia i talem se Supreme Court i save extendem period blong 30 deis blong appeal sipos application blong appeal i come long Supreme Court bifo wan (1) period blong 60 deis start from date blong decision blong Island Court i come aot.

After period blong 60 deis ia sipos wan long olgeta party hemi no lodgem wan appeal long Supreme Court, Magistrate we hemi Presiding over land matter ia hemi save registrem judgment blong Island Court ia (Land Jurisdiction) long Lands Department mo tu long Registry blong Supreme Court.

After registration, judgment ia hemi become faenal - bambai inomo gat any appeal agensem judgment ia blong Island Court long Supreme Court.

FACTS WE EACH PARTY HEMI SUBMITTIM LONG MAROPE LAND KLEIM

Bifo court hemi analysem kleim blong each party mo evidence we each party mo olgeta witness oli submittim long Court, Court hemi wantem talemaot se follem Section 25, Island Court Act, Cap 167,



Island Court hemi no gat any obligation blong applyem technical rules blong evidence but hemi save admittim mo considerem information we hemi gat abaot case.

CASE BLONG FAMILY SOPE BLONG MELE VILLAGE - ORIGINAL LAND CLAIMANT

Rongoana Sope hemi lodgem kleim long behalf blong Family Sope long Mele village - but hemi olfala tumas so grandson blong hem Roro Sope nao hemi leadim Sope blong Mele long Court taem blong hearing.

Follem toktok blong Roro Sope, Sope Family hemi basem kleim blong hem long Narewo we hemi pikinini boy (son) blong chief Manarewo we hemi stap long olgeta land ia bifo.

Bausa mo Sawia tufala i brata mo tufala i cousin brota wetem Narewo mo tufala i bin live long eria claimed from Tabusu afta tufala i mov i go long Ione. Then oli mov i go long Ifira. Then Sope i mov i go long Pango from we i bin gat some mixed feeling long Ifira Island.

Sope hemi grow up long Pango mo hemi stap come visitim apu blong hem Pausa mo Sawia wetem tufala sista blong tufala Toutafkal mo Leisoso long Ifira island.

Follem toktok blong Roro Sope, kleim long Sope Family blong Mele hemi based tu long sale blong Ione we Sope i bin makem i go long Bladiniere - mo hemi talem se Sope hemi takem Kano blong witnessem sale blong graon "IONE". Mo sope istap kasem money blong sale ia long Bladiniere - so long taem ia ino gat wan man Ifira hemi contestem sale ia, long Bladiniere.

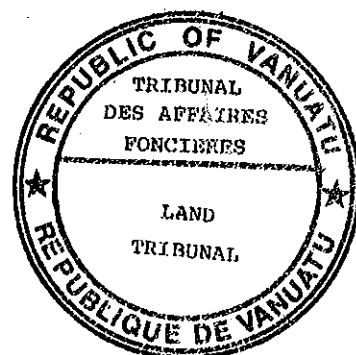
Mo hemi statem tu se Bubu blong Sope, Narewo hemi bin salem graon bifo long eria ia long wan white man name blong hem William Basset long 1872.

Roro Sope hemi presentem Family tree blong Family Sope blong Mele olsem ia:

1. Manarewo
2. Narewo
3. Marik Bausa & Marik Sawia. (Two (2) brothers) - with 4 sisters
* Leisoso - * Toutumo - * Toutafkal - * Tountano
4. Leitakae
5. Leikalo
6. Sope
7. Rongoana Sope

Detail blong Family Tree blong Sope Family istap annexed long Judgment ia.

Lida blong Sope, taem we hemi stap toktok hemi refer back long wan book we hemi talem se olfala Bubu bong olgeta Sope hemi raetem before - Court hemi no gat knowledge abaot book ia. Family Sope oli no bin tenderem long Court.



Roro Sope hemi bin leadim Court mo visitim baondry blong land we istap long dispute mo custom place (creve & settlement & Nasara) we oli stap insaed long baondry we oli kleimem se oli blong bubu blong Sope.

Long visite ia Court hemi spendem two (2) days wetem Family Sope blong visitim land ia. Long first day, Roro Sope hemi leadim Court mo showem some craves mo olfala village blong bifo - mo oli tekem Court i go long wan custom nasara.

Long nasara ia i gat wan big nabanga tri, some fruit tries - But Court hemi noticem se ino gat stone. So Court hemi askem sipos i gat stone long nasara ia. Representative blong Sope blong Mele hemi sendem some members blong Family Sope (Mele) blong go lukluk long bush sipos i gat some stone. Court i bin wait but hemi no gat any stone we oli showem long Court long nasara ia long taem ia.

Long next day, Court istap visitim baondry we Sope i putum long Court abaot land blong dispute. Court hemi noticem se representative blong Sope Family (Mele) hemi hesitate plenty taem mo hemi no really clear abaot baondry blong land we hemi stap long dispute mo we hemi bin submittim long Court.

Hemi bin showem wan streight laen long Court olsem baondry blong Marope Land - (streight long get blong Russet - Tagabe)

Court hemi check long original map we Sope hemi putum mo Court hemi faenem se place we representative blong Sope hemi showem long Court hemi no follem original baondry we hemi putum long Court, hemi different.

Long cross-examination blong lida blong Family Sope (Mele) abaot question blong baondry blong land we istap long dispute, Roro Sope hemi admitim se olgeta (Family Sope - Mele) oli confuse long baondry blong land ia but oli kleimem nomo olgeta graon we istap insaed long baondry blong Marope land. (toktok ia i come out unda cross-examination we Kalpokor Kalsakau, lida blong Ifira Community - LC6 hemi mekem).

Roro Sope hemi bin admittim tu se graon blong Rango Rango ino graon blong olgeta (Sope blong Mele) taem we George Kaltai Singari Kalsakau hemi cross-examinatem hem.

Hemi bin talemaot tu taem lida blong Naflak Teufi Ifira (LC2) hemi questionem hem, se olfala Sope hemi leasim Ione mo hemi salem Baganivate. Mo hemi tenderem long Court wan document (Exh.2) olsem evidence blong sale blong Baganivata we i showem se Sope wetem Kano, tufala nao i salem Baganivata. Sope hemi no bin salem hem wan Baganivata olsem we speaker blong Sope (Mele) i bin statem.

Abaot connection blong Sope wetem Leitakae, Roro Sope i talem se Leitakae hemi daughter blong Toutafkal we hemi wan sista blong Bausa mo Sawia. Mo Leitakae hemi mama blong Leikalo mo Leikalo hemi maretem Savi mo boy blong tufala hemi Sope.

First witness blong Family Sope hemi Leimok Nganga - Toktok blong witness ia hemi go olsem:



Mama blong witness ia hemi daughter blong Pastor Sope. Hemi save good long plantation blong Ione from we bubu blong hem Sope i takem hem tufala i go takem money blong rent (lease) long Bladiniere (Planter).

Under long cross-examination, witness ia hemi talem nomo se every someting oli stap long book (hemia hemi refer nomo long book we Roro Sope hemi mentionem mo hemi no bin submittim long Court.

Witness ia i talem se Pastor Sope hemi maret tri (3) taem. Hemi hearem abaot first maret blong Sope but hemi no save wetem who - long second maret Sope hemi maret wetem wan woman Ifira mo tufala i gat wan boy Kalorongoa Kalchichi. Long namba tri (3) maret blong Sope, hemi maretem Levapupu mo witness ia i talem se olgeta pikinini blong last maret nao oli gat raet long graon. (Olgeta nao Family Sope blong Mele Village).

After consultation wetem custom advisors (justices) Court hemi bin informed se follem custom olgeta pikinini boy blong first maret nao oli gat raet long land. Sipos ino gat boy long first maret, ol pikinini boy blong second maret. Boy blong No.3 maret hemi gat raet nomo sipos ino gat boy pikinini long first mo second maret.

Court hemi luk se witness ia hemi honest long toktok blong hem but hemi luk se toktok (o evidence) blong witness ia hemi no strong enough.

Second witness blong Sope blong Mele hemi Kalpeau Vatoko. Olgeta toktok blong witness ia i go olsem:

Hemi stap wetem Family Sope blong Mele mo hemi suportem kleim blong Sope long full baondry blong disputed land.

Long cross-examination, witness ia hemi refer long same history book we Court hemi bin mentionem finis antap. Bubu blong hem Sope istap talem long olgeta se hemi stap rendem place ia i blong Bubu blong hem Sope.

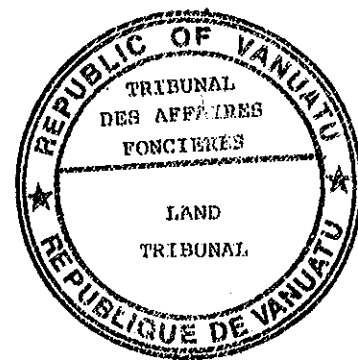
Court hemi faenem hemi hard blong believim witness ia, ino from we witness ia hemi no honest. No reason hemi from we toktok (o evidence) blong hem hemi no heavy enough.

Witness No. 3 mo last witness we Family Sope blong Mele oli gat hemi Kalvana Sope. Toktok blong hem i go olsem ia: Hemi born long 8 January 1953. Hemi boy blong late Pastor Sope.

Hemi witness long wanem papa blong hem (Johnson Sope) i talem long hem bifo hemi lug.

Bubu blong hem hemi salem graon tu bifo long place we dispute istap long hem. Mo graon ia hemi blong Family Sope.

Long cross-examination, witness ia hemi talem se hemi suportem kleim blong Family Sope blong Mele Village long full baondry long Marope Land but hemi save se Sope hemi leasim nomo Ione mo hemi salem wan place oli callem Baganivata.



Witness ia tu hemi refer long history book blong Family Sope blong Mele we hemi showem se Family Sope hemi follem nomo history blong Nareo.

Witness ia hemi honest, toktok blong hem hemi clear taem hemi talemaot se Family Sope blong Mele oli kleimem full boundry blong land we istap long dispute but hemi precisem mo specifyem se hem (witness) hemi save se Sope hemi leasim nomo Ione mo Sope hemi salem nomo Baganivata. Mo hemi refer tu long document (Exhibit 2) we Court hemi bin mentionem antap abaot sale blong Baganivata we Sope wetem Kano, tufala i bin salem Baganivata long Mr Bladiniere (French Plantor) long 31st May 1909. Family Sope hemi no salem Baganivata hem wan nomo ino true. Mo Court tu hemi no receivim any document abaot rent o lease we oli talem se Sope hemi rentem (o leasim) Ione long Mr Bladiniere.

However, toktok blong witness ia ino strong enough.

After consultation wetem olgeta justices (custom advisors) oli bin informem Court se, follem custom, custom land ownaship hemi base long man. Mo hemi transfer i go 1st pikinini boy blong custom owna - Hemia nao case blong Family Sope Mele Village.

CASE BLONG CHIEF NUNU NAPERIK MALA, Land Claimant No. 1 (L.C.1)

Chief Nunu Naperik Mala hemi lida blong second party long Marope Land dispute. Long statement blong hem, toktok blong hem i go olsem:

Hemi chief long Rango Rango, mo hemi chief blong graon we hemi stap long dispute. Hemi stanap follem custom o tradition blong graon ia we history istanap bifo kasem todei.

Hemi mentionem olgeta names blong eria we dispute istap long hem i gat:

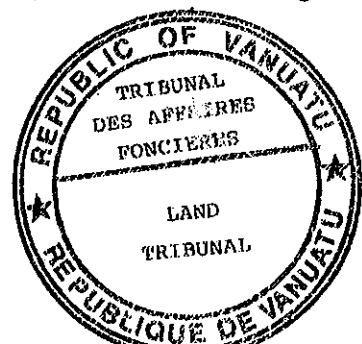
Fairea Tapu, Tapusu, Ilopo, Laketavariki, Metalo, Lakura, Lakola, Suareo, tekonei, Telieporo, Tapaiki, Metenairiki, Talietau, Baganivata, Ione, Marope, Lukuno, Matekapu.

Hemi talem se bigfala custom chief we hemi rule long olgeta eria ia bifo long taem blong darkness hemi Chief Manareo, Chief Manareo hemi papa blong Chief Nareo Marik Atlangi, Chief Nareo hemi salem olgeta Land ia long ol white man.

Respresentative blong land claimant No.1 (LC1). hemi basem kleim blong hem long olgeta Original Deed blong Sale long olgeta graon we dispute istap long hem. From we hemi talem se hem wetem family blong hem we istap long Family tri long hem (See annexed document) oli descendant blong Chief Nareo.

Long part III blong statement blong hem, lida blong LC1 hemi attache wan Map we i showem olgeta graon we Chief Nareo hemi salem insaed long baondry blong kleim start long 1872 kasem 1887. Mo hemi attachem tu copy blong Deed of Sale blong olgeta graon ia. Court hemi markem olgeta mo detail abaot name mo olgeta deed of sale blong graon ia i go olsem:

Narrowby, Eria No. 1 long Map (Exh .3). Deed of Sale blong Chief Nareo i go long William Basset long 22 August 1872 (Exhibit 4).



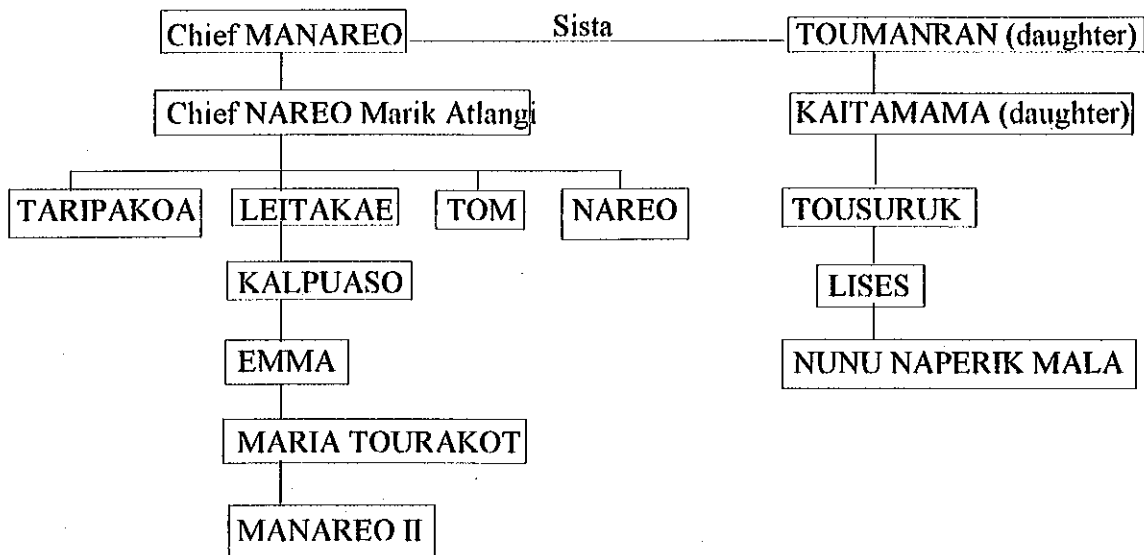
Erang Rang (o Rango Rango) Eria 5 long Map. Deed of Sale blong Chief Nareo i go long Alphonse Bernier long 20 November 1884. (Exhibit 5).

Malaroua (o Malaroa) Eria 2 long Map. Deed of Sale blong Chief Nareo i go long Alphonse Bernier long 27 August 1885 (Exhibit 6).

Ebooka - Eria 4 long Map. (title 378) Deed of Sale blong Chief Nareo i go long Higginson long 12 September 1883 (Exhibit 7).

Napuana Matapu - Eria 3 long Map (title 519). Deed of sale blong Chief Nareo i go long Mac Leod long 12 September 1883 (Exhibit 8)

Chief Nunu Naperik Mala hemi continue blong talem se follem history blong olgeta long taem bifo i gat:



Lida blong LC1 hemi talem se taem we Manareo hemi dead, son blong hem Chief Nareo M.A. hemi takem place blong hem olsem big chief. Mo hemi talem se olgeta nao oli true custom owna blong olgeta graon we istap long dispute.

Hemi talem tu se taem chief Nareo Marik A. hemi dead, pikinini son blong hem Tawara hemi takem place blong hem olsem chief mo hemi takem title name Taripakoa. Mo lida blong LC1 hemi go on blong talem se taem Taripakoa hemi dead Misi Mackenzie hemi appointem Kalsakau hemi come chief from we Kalsakau hemi save read mo raet. Mo lida blong LC1 i talem se start long taem ia Miss Mackenzie hemi karem aot raet ia long Family blong hem mo givim long narafala man we hemi no related nating long custom Chief mo tu hemi no related nating long gaon blong dispute. Hemi bin refer long wan Book we George Kaltai Kalsakau hemi raetem "History of the Three Flags" long page 16, George Kalsakau i statem se "Rev. J.W. Mackenzie nao i orderem Kalsakau i kam Jif long 1908" (Exhibit 9)

Hemi continue blong talem se long 1944 Ati blong hem Tussuriki mo Leitakae tufala i leadim wan team blong Family blong hem (Nunu Maperik Mala) i go wokabaot long ol olfala Village mo visitim ol olfala



creves, ol nasara we oli bin stap usum bifo, mo tu, tufala i showem original spot blong Marae Malpakoa we taem oli muv igo long Ifira, oli bin ko instolem long wei.

Hemi declarem tu se long 1977 taem we plante toktok istap go blong kraon i mas go bak long kastom owner, olgeta oli bin formem wan committy blong work blong putum back Tribal Chief blong olgeta. Long 1979, ol olfala blong hem oli putum hand long head blong hem mo hemi karem Chief Taitel Nunu Naperik Mala, And hemi talem se hemi chief blong lukaotem family mo descendants blong big Chief Manareo mo Nareo M. A. mo hemi talem hemi Chief blong kraon blong olgeta.

Hemi statem tu se long 1980, hemi bin takem some member blong family blong hem i go visitim dark bush mo visitim kraon blong olgeta. Mo hemi talem se long 1982, hemi leadim wan (1) group of 40 people man mo woman i go wokabaot mo witnessem se oli true family blong kraon mo hemi precisem se follem custom hemi makem custom i go long ol olfala nasara mo ol village blong olgeta long dark bush mo makem ceremony blong kava mo killing pigs ceremony long wan wan village mo 7 emelex (nasara). Hemi talem se i blong showem respect blonghem olsem new chief i ko long ol olfala chief mo ol olfala village.

Hemi talem tu se long 1988, long nasara blong Metalo, hemi bin putum hands long head blong Patrick Crowley mo givim name long hem olsem assistant blong hem mo hemi takem taetol name Manareo II. Mo narawan hemi George Kalpilelu we i takem taetol Munuariki. Ceremony ia plenty family oli bin witnessem.

Lida blong LC1 hemi bin tenderem long Court wan letter we hem i raerem i go long Chief Willy Bongmatur abaot ordination blong Patrick Crowley mo George Kalpilelu (Exhibit 10)

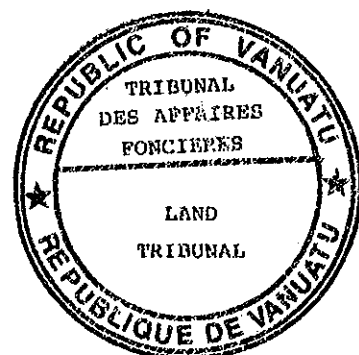
Finally, hemi talem se long 15 July 1989, farea Malpakoa i stanap bakeken long original kastom spot. Hemia i blong fulfilim wish blong ol olfala blong hem mo hemi statem tu se hemi live long Erango Rango, wetem ol people blong hem, olgeta i makem gardgen mo cattle project, naoia i gat more than 200 buluk long graon ia.

Long cross-examination, Chief Nunu Naperik Mala hemi answerem olgeta question without any hesitation. Hemi confirmem wanem we istap long statement blong hem. Taem oli questionem hem abaot Leitakae hemi talem se Leitakae i daughter blong Nareo blong Erango Rango. George K. S. Kalsakau i bin questionem hem to abaot customary onaship blong land long Ifira sipos hemi follem man o woman.

Chief Nunu Naperik Mala hemi answer streight forward se long Ifira, custom ownership i follem man mo woman.

Court i bin consullem olgeta custom chiefs mo oli talem se long custom blong Efate mo including Ifira, custom land onaship hemi base long mand mo taem we ino gat man we i takem raet ia, Custom onaship blong land i save transfer i go long saed blong woman. Nunu Naperik Mala i talem tu se hemi basem claim blong hem long olgeta Original Deed of Sale (Exhibits 4,5,6,7,8).

Chief Nunu Naperik Mala i bin leadim Court mo olgeta party mo hemi showem Marea Malpakoa, Matatekapu (ye blong riva Tagabe), place we maralapa itap pass mo sleep long hem, mo whole blong Namarai. Mo Court hemi noticem se hemi really concern abaot olgeta tabu places.



So Court i luk toktok blong hem hemi strong mo Court i luk LC1. hemi gat strong toktok long kleim blong ownaship blong Marope Land.

Bob Kalphabun hemi fisrt witness blong Nunu Naperik Mala blong givim evidence. Hemi bin makem wan long statement mo long statement ia, hemi confirmem nomo full statement blong Chief Nunu Naperik Mala. Mo hemi talem se long 1930 (Friday 24 January, 1930) Joint Court blong New Hebrides i bin rejectem wan opposition we Kalsakau, Sope, Kano oli makem bifo long Joint Court agensem wan application 79 (Exhibit 7) Societe Française des Nouvelles-Hebrides i lodgem blong Registarem Narrowby. Mo hemi talem se refused blong Joint Court i base nomo long Original Deed of Sale between Narawah o Nareo mo William Busset long 1872.

Long cross-examination, hemi no hesitate taem hemi answerem olgeta questions we lida blong narafala party oli askem long hem. Taem wan party i askem how nao hemi witness long Nunu Naperik Mala:

Hemi talem from we hemi descendant blong Cheif Nareo M.A. we i salem ol land ia long white man.

Second witness blong Nunu Naperik Mala blong givim evidence long Court hemi, Tongakai Kalpokai.

Witness ia i confirmem olgeta someting we istap long main statement blong Chief Nunu Naperik Mala.

Long cross-examination, Court i luk se taem hemi no save answer blong same question, hemi just talem nomo se hemi stap long main staement. Mo taem we land claimant No.4 i questionem hem abaot Manareo, hemi answe se hemi papa long Nareo, mo Nareo hemi bornem Leitakae. Mo party ia hemi askem hem abaot pikinini blong Leitakae hemi answer se hemi no save. So Court hemi sherem opinion se witness ia i confuse lelebet but sametaem hemi talem true toktok.

Next witness blong Chief Nunu Naperik Mala hemi Donal Waiwai.

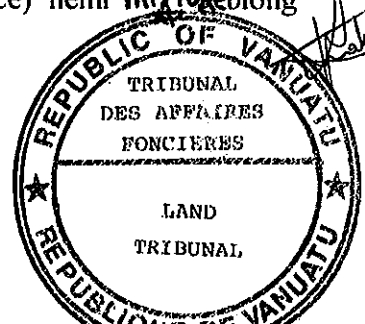
Long statement blong hem i talem se Chief Nunu N. Mala i kastom owner blong land we istap long disputem emi talem se hem come witness from we long 1944 taem we hemi gat 12 years nomo, bubu blong hem Tusuriki mo Leitakae i takem hem wetem tufala uncle blong hem, Willy Kalmelu, John Kaluamo i go wokagaot mo visitim graon we dispute istap long hem. Mo hemi talem se grandmother blong hem Tousuriki i ded long 1966.

Long cross-examination hemi talem se papa blong hem name blong hem Denis mo hemi sapportem claim true long uncle blong hem..

Witness ia tu i confirmem se chief Narewo M. A. hemi Chief blong Farea Malpako long Erango Rango bifo oli transferem i go long Ifira. Witness ia Court i luk se even though hemi no save answer blong plenty question we oly askem long hem, Court i luk se hemi honest mo talem wanem hemi save.

Alick Kalmelu hemi witness No. four (4) blong chief Nunu Naperik Mala.

Witness ia i statem se long Efate (particularly long Eria blong olgeta) man or woman or family i kualifae nomo blong onem kraon tru long laen blong woman. Hemi talem se long English language oli kolem se matrileanal system. Hemia kastom sistem blong kat raet long kraon (inheritance) hemi mixture blong



woman, man wetem family spirit. Long plante village raet ia istap nomo long man, woman or family we ikamaot long semfala blood lean.

Hemi go on blong talem se todei bae i kat plante mixture blong kleim i kam antap be blong skelem good ol claim ia bambae oli base more long stampa tingting se kraon i kamaot true long saed blong woman. Hemi continue blong talem se taem yumi lukluk long onership or qualification blong talem se who i kastom owner long graon ia, olgeta i gat plante evidence or proof se olgeta i qualified long two (2) said (mi ting se hemi meanim long saed blong man and long said blong woman) mo hemi talem se from reason ia now hemi witness long chief Nunu Naperik Mala we hemi true descendant blong Nareo M. A. we hem nao i true custom owner blong land we istap dispute.

Hemi continue blong statem se Kalsakau i saenem ol pepa or Act of sale hemi blong showem authority blong hem olsem chief, be ino kraon, from long first place emi no kat graon.

Witness ia oli cross-examinatem more then 5 hours mo hemi answerem olgeta question blong olgeta narafala parties without hesitation. Court i agri wetem some answer - Court i disagri wetem narafala answers blong witness ia.

Long question blong customary land ownership sipos long custom blong Ifira i base long man or woman, witness ia i talem se originally long Ifira, onaship blong graon i come long saed blong woman but wetem evolution man hemi come insaed. And hemi continue blong talem se from reason ia ~~now~~ naflak (tribe o clan system) i born i come follem blood laen blong woman. So hemi talem se olgeta istap long saed blong woman mo long saed blong blood laen blong man tu at the same taem.

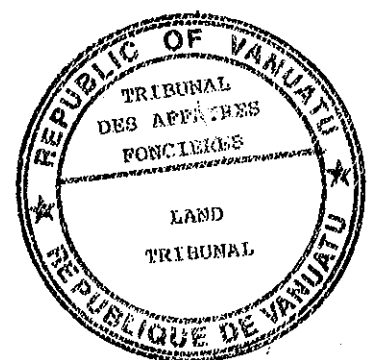
Court hemi consultem olgeta custom advisers mo oli talem se long custom blong Efate (but oli no presaecem particular situation blong Ifira) customary land ownaship i base long man. Blong determinem who nao i custom owner long wan graon, oli mas lukluk long every man we oli laef i stap we oli blood laen blong original custom ona sipos ino gat any man, then right blong customary ownership blong land i save transfer i go long pikinini boy blong sista blong man we hemi custom owner.

Long opinion blong Court hemia hem customary ownership system we i pass true long Uncle Relationship.

And woman i save become custom owner blong graon under long special circumstances nomo. Taem we inomo gat man we i come from same blood laen blong custom owner.

Court hemi acceptem tingting ia nao. And Court hemi faenem i hard blong believim wanem tingting we witnesss Alick Kalmelu i statement long this Court from we tingting blong talem se customary land ownership i base long man and woman at the same taem hemi very easy but hemi save createm confusion mo conflict tu.

Wan mo reason we Court i faenem i hard blong acceptem se customary land ownership i base long man and woman equally from we witness ia hemi supportem claim blong chief Nunu Naperik Mala we hemi basem claim blong hem long olgeta Original Deed of Sale we i showem se Chief Nareo nao i salem big part blong graon ia we dispute istap long hem.



Nareo hemi wan man, wan custom chief too but hemi no wan woman and taem Court i askem long witness sipos hemi save abaot any woman we hemi Chief long custom bifo. Hemi talem hemi no save mo too plenty long olgeta olfala we oli stap long Court ia ol talem aot long witness box se long custom blong Efate, mo especially blong Ifira, Customary land ownership i base long man. And woman i save become custom ona under special circumstances nomo (taem we inomo gat male i laef long streight blood laen) - Ino really woman yet hemi shud be boy blong sister blong custom ona we i ded finis. Sipos i no gat boy then woman i save become custom ona.

Witness ia too hemi talem aot se long saed blong cutom, customary land ownership i base long Custom chief. Court hemi bin askem advise long olgeta custom advise oli confirm se custom onership blong graon istap wetem custom chief mo go daon long descendant blong chief ia from we long system blong custom chief hemi wan hereditary system.

So customary ownership istap long wan custom owner long behalf blong olgeta members blong tribes blong hem. So that olgeta members blong hem oli gat customary right of use long land we custom chief i custom owner long hem.

So that Court hemi acceptem wanem we witness ia i talem long place ia.

Patrick Crowby hemi last wintess blong Chief Nunu Naperik Mala custom name blong hem i Manareo II. Witness ia hemi statem se hemi descendant blong Chief Narewo Marik Atlangi we i gat three (3) descendants sons but oli no gat pikinini, Mo Narewo M. A. i gat wan (1) daughter nomo Leitakae we hemi bonem olgeta. Hemi talem se hemi witness blong confirmem se olgeta nasara we Chief Nunu Naperik Mala i talem long statement blong hem, witness ia i walkabaot long hem, mo hemi save se ol nasara ia oli stap streight where place.

Mo hemi talem se chief Narewo M.A. hemi big Chief blong big nakamal (big farea) mo controlem olgeta (smol smol chief) or smol fae. Fare we istap long control blong Nareo M. A. I gat: Farea Tapu, Erango Rango, Ione, Baganivata, Marope, Matekapu, Mornapau, Forengameat, mo hemi talem se long olgeta nakamal ia i gat olgeta tapu places i stap kasem tedei.

Court hemi luk se witness ia hemi honest - mo hemi precise long answer blong hem long question blong ol party.

CASE BLONG NAFLAK TEUFI IFIRA - LAND CLAIMANT 2

Naflak Teufi blong Ifira hemi No. 3 Party long Marope Land case. George Chichirua nao hemi leadim Naflak Teufi blong Ifira.

Long main statement blong hem, George Kano Chichirua hemi talem se hemi claimem graon ia from we hemi custom graon blong Naflak Teufi Ifira mo Naflak Teufi blong Ifira nomo hemi custom owna blong graon ia "Marope Land".

Lida blong Naflak Teufi Ifira hemi bin talem tu se klaim blong Naflak Teufi Ifira hemi base long Chief Nareo. Hemi talem se Chief Nareo nao hemi salem big part blong graon we dispute istap long hem todei from we hemi custom Chief blong graon ia.



Representative blong Naflak Teufi Ifira hemi tenderem long Court wan(1) copy blong Deed of Sale blong Narrowby dated 22 August 1872.

Court hemi noticem se some party tu oli refer o mentionem Deed of Sale blong 1872. (c/ Narrowby). George Kano, lida blong Land claiment 2, hemi talem se, hemi kamaot long blood laen blong custom Chief Nareo we hemi salem graon long eria we dispute istap long hem.

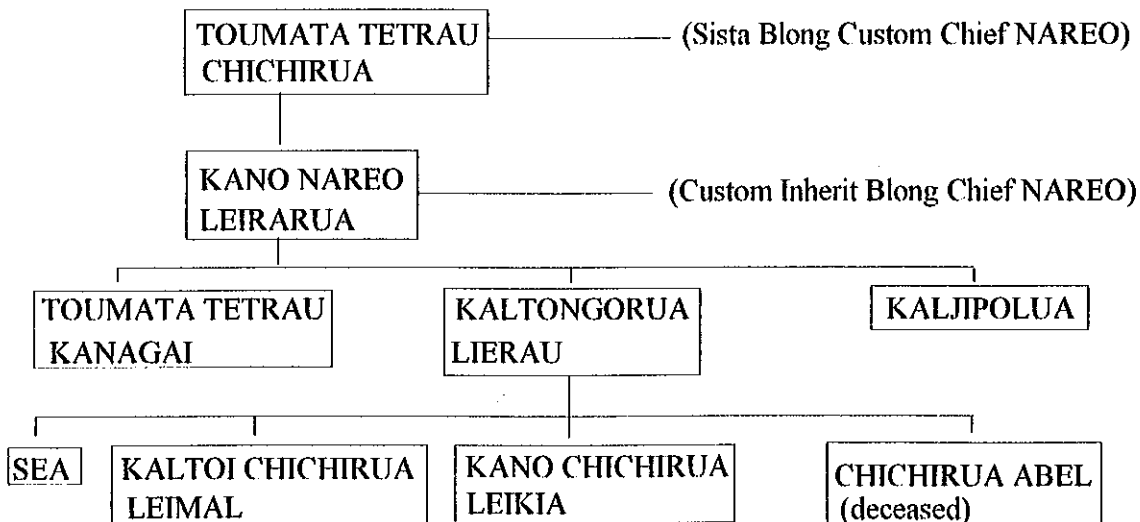
Hemi talem tu se hemi descendant blong Kano. Mo Kano hemi first(1) pikinini boy blong true sista blong custom Chief Nareo.

Hemi continue blong talem se Chief Nareo hemi givim custom power mo rights we hemi gat long olgeta graon we hemi salem mo full graon we hemi gat mo lukaotem olsem custom Chief, long Kano. From we Kano olsem lida blong Naflak Teufi blong Ifira hemi talem, hemi come long true straight blood line blong Custom Chief Nareo.

George Kano, blong suportem toktok blong hem, hemi givim long Court copy blong wan(1) document long French abaot ol Chief blong tribe blong Vila.

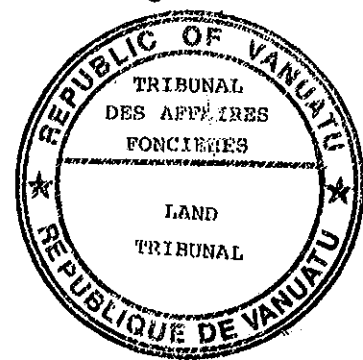
"Notes sur les Chefs de la tribu de Vila" dated 7 January 1923. "wetem English translation blong document ia. (Memorandum about Chief of Vila Tribe) (Exhibit 12)

Court hemi acceptem documents ia. Hemi olfala document blong bifo. Document ia nao i showem se Kano hemi inherit long custom land blong custom Chief Nareo. From we Chief Nareo ino gat male descendant. Hemia nao Family tri we lida blong Naflak Teufi blong Ifira hemi presentem taem we hemi stap presentem case blong hem long Court.



Unda long cross-examination blong leada blong different party long case, George Kano hemi answerem olgeta question mo hemi no hesitate noting. Mo hemi repeatim plenty taem se hemi true blood laen blong Nareo we hemi salem olgeta graon we istap long dispute.

George Kano hemi talem tu se hemi wetem Family blong hem oli save gud abaot eria blong land ia. Mo todei olgeta oli makem garden long some part blong land ia unda long dispute.



Mo George Kano hemi tenderem long Court two(2) Akis (Exhibit 13) Mo hemi talem se hemi price we white man hemi paem long graon ia bifo wetem some narafala someting more. I gat corroboration wetem Deed^{of} Sale blong narrowby by W. Basset on 22/08/1872. Tufala Akis ia olgeta different lida blong party long case oli no bin disputim. Court hemi acceptem tufala Akis ia.

First witness blong Naflak Teufi Ifira hemi Kalsei Kaltabang.

Witness ia hemi wan olfala blong 85 years. Long statement blong hem, witness ia hemi talem se hemi no save anyting abaot olgeta sale o transaction we istap takem place bifo long graon ia.

Witness ia hemi talem se hem wetem papa blong hem tufala i work long graon ia .

Taem oli questionem hem, witness ia hemi talem se hemi save Leitakae mo hemi bearem hem. But hemi precision se hemi no save abaot laef blong Leitakae.

Witness ia hemi reportem plenty taem during cross-examination se graon we dispute istap long hem hemi graon blong Naflak Teufi.

Chief Ata Masong Mapula hemi second (2nd) witness blong Naflak Teufi Ifira-witness ia hemi makem wan short statement. Long statement ia toktok blong hem i go olsem: Ati blong hem Leinawi we hemi come long village blong Ravenga hemi go live long Malapachi village wetem Naflak Teufi Ifira.

Naflak Teufi hemi stap long Malapachi long taem finis. Village ia hemi stap long area blong claim.

Long cross-examination, witness hemi admittim se hemi no save anyting abaot place insaed long eria blong dispute. Hemi talem tu se hemi no save abaot Kano Nareo. But hemi save nomo se taem we Aunty blong hem Leinawi hemi runway hemi come daon long eria we dispute istap naolia, hemi come mo go live wetem Naflak Teufi (Ifira) from Naflak Teufi hemi stap finis antap ia long bush blong eria claimed. Court hemi bilievim toktok blong witness ia.

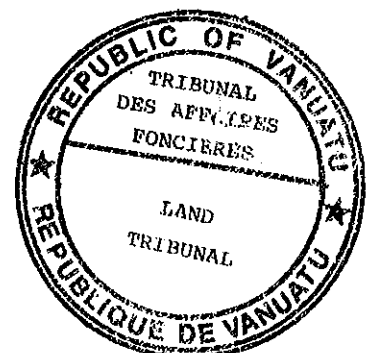
Witness No. 3 blong land claimant 2 hemi Kaltai Wabaiat.

Witness ia hemi makem wan longfala statement but big part blong statement blong hem, ino relevent wetem land case ia.

Long wan part blong toktok blong hem, witness Wabaiat hemi talem se graon blong dispute hemi graon blong Naflak Teufi from olgeta memba blong Naflak Teufi ia nao olsem Kalman mo Tagkaroa oli strong man blong faet bifo long eria blong claim.

Taem witness ia hemi stap answerem question blong olgeta lida blong party long case, Court hemi faenem aot se witness ia hemi no save gud eria blong land blong claim witness ia hemi confused.

Next witness blong Naflak Teufi hemi Mrs Agnes Kiri Leitaumewiwi. Long statement blong hem, witness i talem se toktok blong hem hemi relatem nomo wanem Ati blong hem Leimas hemi talem long hem. Olgeta oli no streit man Ifira Tenuku (Vila Island). Olgeta oli come long Bush long place we dispute istap long hem. Hemi talem tu se Bubu blong olgeta name blong hem Kalman, waef blong hem hemi Leisel mo tufala i come from Naflak Teufi .



Witness ia hemi answerem questions blong olgeta party without hesitation. Witness ia hemi save gud some long eria blong dispute. Hemi talem se hemi stap makem garden bifo kasem todei long Tangaroa between olfala Control Tower mo Airport. Toktok blong witness ia i gat pawa.

Witness ia hemi bin submittim long Court some photos abaot haos we Family blong hem oli buildim long eria claimed mo olgeta blong Mele trust oli destroyem, witness i talem. Ol photos ia oli showem caves we oli stap long eria we witness ia hemi makem garden. (Exhibit 14).

Mo hemi showem tu long Court some shell blong bifo we witness i talem se hemi collectem long Bush long place we hemi makem garden. (Exhibit 15).

Last witness blong Naflak Teufi hemi Mahit Kalourai. Witness ia hemi talem long statement blong hem se graon blong dispute hemi blong uncle blong hem George Kano Chichirua from we George Kano hemi custom Chief blong tribe blong olgeta (Naflak Teufi).

Follem toktok blong witness ia, bifo ol people blong Efate Island oli no live wan wan albaot long Bush. Ol people long Efate, oli mas live long group we oli callem tribe o Naflak from we i gat tribal faet (war).

Witness ia hemi statem se tribe o Naflak Teufi hemi rule long land blong dispute ia.

Mo Chief Narewo we hemi salem graon we dispute istap long hem, hemi bigfala Custom Chief blong tribe blong olgeta.

Witness hemi talem tu se long taem bifo, wan wan man hemi no save ownem graon hem wan from we hemi dangerous.

Hemi talem se wan tribe i save ownem bigfala graon olsem tribe blong Chief Narewo.

Witness ia hemi confirm unda long cross-examination se George Kano nao hemi true Chiefly blood laen we hemi connect wetem land blong claim from we Kano nao hemi very immediate related igo long Narewo.

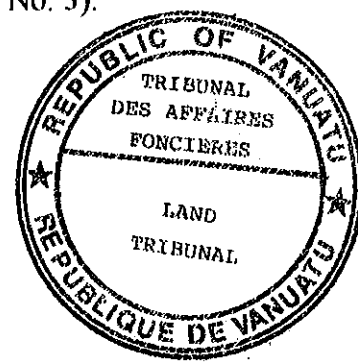
Witness ia hemi repeatim mo insist se bifo olgeta individual oli no save ownem graon. Ownership blong graon istap wetem tribe we Chief hemi comeaot long hem. Mo afta Christianity period nao individual ownaship blong land i exist long Efate, particularly long eria blong claim.

Witness ia hemi wan middle man, hemi honest long toktok blong hem mo toktok blong hem hem strong mo hemi gat pawa.

Case blong Naflak Teufi Ifira we George Kano hemi leadim hemi wan serious mo strong case concernem customary ownaship blong Marope Land, no matter we ol party oli disputim some area o name blong village blong bifo we George Kano i showem long Court.

CASE BLONG FAMILY KALSAKAU BLONG IFIRA

George Kaltoi Singari Kalsakau nao i representem Family Kalsakau. (Land claimant No. 3).



George Kalsakau i bin makem wan longfala statement. mo long statement emi talem se Marope Land hemi blong Paramount Chief Tari mata Kalsakau mo blong pikinini blong hem mo pipol blong Ifira. George Kalsakau i basem claim blong hem long olgeta points ia:

Chief blong Ifira o any Chief blong Efate hemi Chief blong graon.

Graon emi base long Patrilineal system, folem raet blong man oltaem. Mo unku i plei strong part long Family.

Chief Kalsakau nomo istat mo stap toktok from graon blong Fila Island long 1900 ikam, mo ol generations blong hem oli stil stap toktok from graon yet kam kasem tedei.

Ol family Kalsakau mo ol memba blong family Kalsakau oli kam long Paunapokasi mo ol narafala vilij kolosap mo oli stap muv ikam long Fila aelan.

Mo hemi statement se papa blong hem Paramount Chief Tarimata Kalsakau i kamaut long blood blong kastom Jif blong Rango Rango, Paunapokasi, Malapoa mo Ifira. We olgeta i tru kastom owners blong graon ia Marobe. Hemi go on blong talem se, papa blong hem Chief Kalpokor Makaurei nao i maretem Kaitamama we i sista blong kastom Jif blong graon ia.

George Kalsakau i pass true long cross-examination blong ol parties. Hemi talem se hemi claimem whole boundary blong Marope Land from papa blong hem i wan Chief, hemi from Paunapokasy, blood blong hem i casem North Efate mo long Sherperds Islands. Hemi talem se papa blong hem (Graham Kalsakau) i tok abaot graon. Hemi small hemi luk hemi luk papa blong hem i toktok abaot graon. Hemi continue blong talem se Kalpokor Makauei ino salem wan piece blong graon ia but hemi salem nomo Malapoa College. (Outside boundary)

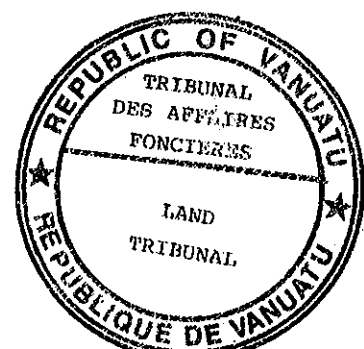
Long question we one long party long land dispute i askem abaot original place blong Kalsakau, George Kalsakau i answer se Kalsakau i come aot long same place wetem Kaitamama, Tousurik, (Warolua i ~~come~~ daon).

Long cross-examination blong other party long case, George Kalsakau hemi answerem olgeta questions mo hemi submittim long Court plenty documents olsem evidence blong supportem case blong hem. (olgeta documents ia oli attachem wetem judgem ia.) (Exhibit 16).

Representative blong Family Kalsakau ino showem long Court any custom place we i custom place blong Kalsakau olsem Nasara insaed long boundary claimed.

Fes witness blong Kalsakau hemi Kalbeau Naru Kalsakau. Statement blong hem i base long fact we Jif Kalsakau nomo istap toktok from graon long bifo ikam.

Olgeta narafala oli just witnessem Kalsakau nomo. Bifo long kastom blong Ifira, Jif hemi Chief blong graon mo Jif Kalsakau i Chief blong kraon. Family Kalsakau i gat 8 generations nao mo witness ia igo on blong talem se ancestors blong Kalsakau icome antap long Paunapokasi, Rango Rango, Sawareo, warela mo oli muv ikam mo oli ko long Fila Aelan. (Family tri blong L.C. 3 hemi stap attached long Judgment).



Long cross examination, witness ia i answerem olgeta question we olgeta narafala oli askem without hesitation. One long olgeta party i putum long hem se Kalsakau toktok long graon long behalf blong people from we hemi Chief.

Kalbeau i answer se hemi no ting. Hemi talem se Kalsakau i tok long graon long behalf blong hem olsem custom owner, olsem hemi Chief mo long behalf blong people to. Court iluk se witness ia hemi honest long toktok blong hem. Mo at the same time, Court i faenem i hard blong believem every toktok blong hem from we how nao you become custom Chief long wan graon sipos you no gat any Nasara long place we claim istap.

Second witness blong Family Kalsakau hemi, Kalwat Thomas Kalondak. Witness ia hemi makem wan writtem statement mo content blong statement blong hem hemi similar long wanem toktok witness Kalbeau i talem long statement blong hem. Hemia nao basis blong statement blong hem: Chief Kalsakau hemi Chief blong graon. Hem nomo istap tok from graon we istap long saed blong Fila Island. Olgeta ancestors blong Family Kalsakau oli come antap long Bush long Paunapokasi, Rango Rango, Tangaroa.

Long cross-examination, witness ia i talem aot se hemi witnessem Family Kalsakau from we olfala Kalsakau i tok from graon blong Ifira bifo finis.

Taem we (Nunu N. Mala hemi askem witness ia sipos Kalsakau igat any special custom place insaed area claimed. Kalwat Thomas i answer se hemi suportem claim blong Family Kalsakau from we hemi Chief mo hemi putum boundary. Mo hemi talem se Kalsakau i mas gat wan special custom place long eria claimed. But hem hemi no save talem straight where place Kalsakau i gat wan special custom place long eria claimed.

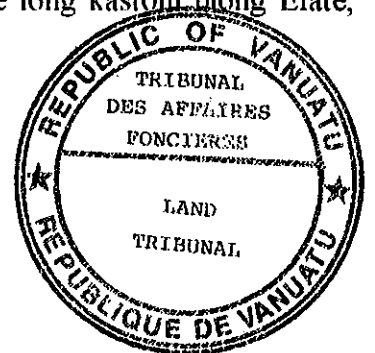
Court i faenem i hard blong believem toktok blong witness ia from we witness ia hemi no sure long answer blong hem mo representative blong Kalsakau Family ino bin showem long Court special place ia olsem nasara we Kalsakau i come out mo chief blong nasara ia long eria claimed.

Next witness blong Kalsakau family hemi Kaltoi Lulu - content blong writen statement blong witness ia i simila long statement we previous witnesses blong Kalsakau Family i makem.

Long cross-examination, witness ia i answerem olgeta questions. Sometimes i hard small blong follem toktok blong hem but generally toktok blong hem i clear. Witness ia i talem se long custom, olgeta graon we istap long dispute i blong Kalsakau from we Kalsakau hemi chief we i faet from graon.

I true se Kalsakau i stap faet from graon but hemi stap faet from hemi duty blong hem as chief blong faet from graon long behalf blong people blong hem, mo ino from we hem nao i custom owner. Bifo independence dispute long graon istap between white man (Planters) mo olgeta local indeginos people, whereas todei customary land ownership dispute istap between olgeta Ni-Vanuatu.

Petro Kalman hemi namba four (4) witness blong Family Kalsakau - content blong statement blong witness ia i simila nomo long previous witness blong family Kalsakau. Long statement blong hem i talem se chief Kalsakau hemi kat name blong hem long pepa mo taetol blong graon from se hem nomo istap toktok from graon taem we hemi laef iet. Witness ia i go on blong talem se long kastom blong Efate, kastom chief nao hemi chief blong graon.



Court hemi consultem olgeta custom advisors mo olgeta i confirm se custom chief nao hemi chief blong graon. But chief ia hemi wan custom chief blong land claimed from we i gat olgeta custom place mo specially nasara blong hem olsem custom chief.

Witness Petro Kalman mo particularly representative blong family Kalsakau i no showem long Court any custom place o nasara blong Kalsakau olsem custom chief long area claimed.

Last witness blong Family Kalsakau hemi Doctor John Ita Kauine Kalsakau - Witness ia i bin makem wan short written statement blong three (3) laen. Long short statemetn ia hemi talem se hemi descendant blong Kalsakau mo hemi fully sapotem toktok blong Mr George K. Kalsakau we hemi papa blong hem mo at the same taem hem nao speaker blong Family Kalsakau.

Long cross-examination, witness ia hemi answerem olgeta question mo olgeta answer blong hem long olgeta questions blong narafala parties hemi simple, clear mo supportem strong claim blong papa blong hem, George Kaltoi Singari Kalsakau.

Long wan (1) particular question abaot baondry between Ifira mo Imere we hemi no stable, witness ia i answer se bubu blong hem Kalsakau i Chief mo hemi putum baondry bifo mo hemi base long boundry ia nao.

Mo taem some long olgeta lidas blong narafala parties i questionem hem abaot situation blong olgeta parties we oli come long Mele (Village) whether oli save claimem land ia mo whether oli gat any right long Marope land, witness ia i talem se i gat mark finis i stap between Ifira mo Imere (Mele) start Taunono kasem, Paunapokasi Hill. Olgeta blong Imere oli no gat right. Court bambae hemi makem some directions after long point ia.

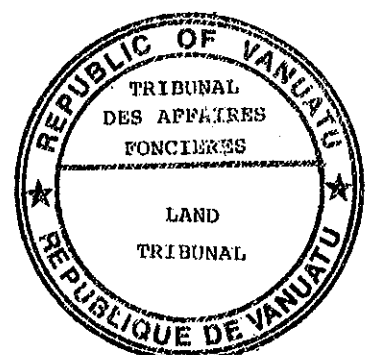
CASE BLONG IFIRA TENUKU COMMUNITY HOLDINGS LIMITED (LC4.)

Main speaker mo representative blong party ia hemi HENDEN SINGARI MALULAPALAPA KALSAKAU.

Henden Kalsakau i mekem wan written statement. Long statement ia hemi talem se hemi representem 27 families long Ifira Tenuku Community. Mo hemi submittim name blong olgeta 27 families we oli stap long "Memorandum" and Articles of Association of Ifira Tenuku Community Holdings Limited.

Long staement ia hemi talem se marope land hemi blong olgeta 27 family ia blong Ifira Tenuku Communities - Long statement hemi talem se narowby hemi wan part long land ia mo chief Narewo nao i salem.

Long statement ia Hendem Kalsakau i basem claim blong 27 families we hemi representem olgeta, long basis we olgeta oli true bloodline descendants blong tribe long "Maululapa" tribe we olgeta i come out long hem. Court ino gat evidence long point ia.



Hemi continue blong talem se long kastom, land hemi follem partrilineal but ino matrilineal, but long case blong wan family we inomo gat any surviving male custom land ownership i transfer i go long woman. So oli save follem matrilineal system.

Mi mas talemaot se mi consultem custom advisas and oli confirmem toktok ia.

Henden Kalsakau i go on blong talem se bifo chief nao oli toktok from graon (land) long behalf blong People, mo chief nao oli custom land owner long behalf blong people blong olgeta.

Court i acceptem toktok ia but Court i must talemaot se toktok ia i no supportem nating basis blong claim blong Ifira Tenuku Community Holding. Representative blong Ifira Community Holdings Limited i submittim some documents we oli documents blong ITCH Ltd nomo. Wan map nomo we olgeta different party too oli submittim long Court abaot Narowby (re annexed).

Party ia hemi no gat any witness blong suportem claim blong hem.

Henden Kalsakau i pass true cross-examination blong lidas blong different party long land claim ia.

Olgeta answers blong hem long questions oli simple - clear.

Court i faenem se Henden Kalsakau hemi traem best blong hem blong answerem olgeta questions blong different party but lida blong ITCH Ltd hemi no showem long Court any custom place olsem nasara insaed long marope land olsem custom place blong 27 families we hemi representem olgeta. Ino gat wan long 27 Families ia icome witnessem claim blong L.T.C.H. LTD.

Court i noticem too se lida blong ITCH Ltd hemi presentem long Court 1 family tri.

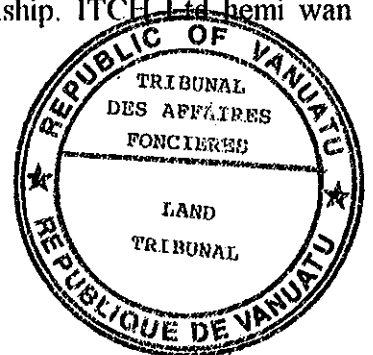
Family tri ia i reflectem family tri blong Teufi Ifira LC2 mo family tri ia i i base too long family tri blong family Kalsakau. Follem documens blong ITCH. Hemia ino wan surprise because George Kalsakau we hemi lida blong Family Kalsakau long Marope land claim hemi (of Court papa blong Henden Kalsakau) chairman blong ITCH Ltd mo George Kalsakau i presentem different basis blong claim.

Pastor George Kano hemi vice chairman blong ITCH Ltd hem too i lida blong Teufi Ifira so hemi presentem diffent basis blong claim blong hem.

Henden Kalsakau, lida blong ITCH Ltd ino bin callem any witness long presentation blong claim blong hem long Court blong suportem claim blong hem.

Long side blong family tri we Henden Kalsakau i presentem long Court, Court i no satisfy long hem because Mr Henden Kalsakau hemi stap complitim some names blong family tri inside long Court - (Long one occasion hemi bin correctem mo adddem some name long family tri we hemi showem long front blong Court wetem olgeta justices).

So Court ino satisfy long family tri blong ITCH Ltd mo too Court i faenem i hard blong bilievim se claim blong ITCH Ltd hemi gat strong basis long saed blong customary land onaship. ITCH Ltd hemi wan company.



CASE BLONG NIKARA FAMILY (LAND CLAIMANT No. 5)

Representative blong Nikara Family hemi Pastor Pierre Nikara blong Imere (Mele Village) Name we hemi stanap long hem hemi Nikara Paunareo.

Pierre Nikara i makem wan shop written statement. Long statement blong hem i talem se Nikara i come first taem long eria claimed mo hemi claimem full boundry. Hemi talem se hemi gat custom proofs long olgeta eria claimed long Marope Land. Hemi talem se Nikara now hemi custom owna long Marope Land ino different claimants.

Long basis blong claim blong hem i talem se hemi follem blood laen blong man. Hemi no follem woman.

Mo hemi submittim long Court family trie blong Nikara, we i go olsem :

NIKARA I

NIKARA II

TARIPAKOA

KALOKAIRE (Kalokis / Ovatusa)

KALMAN

PASTOR PIERRE NIKARA

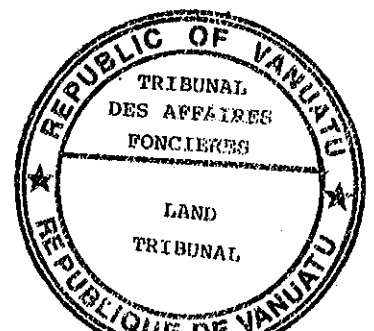
Long cross-examination, hemi wan long olgeta lidas blong party long Marope Land claim we hemi facem hard taem too blong answerem olgeta questions. Taem we representative blong family Sope i questionem Pierre Nikara about five party we oli claimem Nareo, Pierre Nikara i talem se hem nao hemi head blong Nareo. Hemi talem se really papa blong Nikara hemi Namarai mo name blong hem hemi Marik Nareo. Taem representative blong Sope Family i askem who ia mama blong Nikara. Pierre Nikara i reply back mo i talem se hemi follem man but hemi no follem woman.

Mo hemi talem too se hemi gat 10 years old taem we oli givim hem name ia Nikara.

Hemi talem se hemi stanap long birth raet. Mo hemi talem again se hemi claimem full baondry from we hemi gat olgeta custom pruve olsem nasara - village blong Nikara bifo.

Bambai mi makem some observation about point ia after - whether Pierre Nikara i showem long Court any customary evidence long saed blong claim blong hem o not.

Pierre Nikara i talem se Nikara i muv antap long Sawareo i come daon long Somalopa then hemi muv i go long Ide Way Island (Mele Island).



Hemi go on blong talem se name we hemi takem (Nikara) hemi baondry.

Hemi talem too se hemi no basem claim blong hem long deed of sale mo hemi talem se hemi no makem any research. Hemi talem nomo se hemi defendem blood laen blong hem mo customary onership we hemi constitutem right we hemi gat long Marope Land.

Plenty narafala questions oli come aot long saed blong custom name blong olgeta place we oli stap long Marope land.

Pierre Nikara ino hesitate nating blong answerem olgeta questions ia mo too hemi demonstratem long Court se hemi save gud olgeta eria claimed mo hemi no hesitate blong givimaot names blong olgeta.

Taem we question abaot baondry between Imere mo Ifira i come blong hemi answerem lida blong Nikara family i talem se hemi no stanap blong defendem Mele Village - Hemi talem se hemi stanap blong defendem blood laen we hemi basem claim blong hem long hem. Baondry between Imere mo Ifira - ino save stoppem claim blong hem long Marope Land.

Hemi talem se Tarpakoa we hemi pikinini (son) blong Nikara istap long land claimed hem wan nomo then hemi muv i come long Malapoa then muv i go long Mele Island mo Taripakoa ia hemi different Taripakoa. Hemi no same Taripakoa we some long olgeta party oli refer long hem mo we i ded long 1908.

Hemi talem se Taripakoa we hemi stanap long hem i bin lif some where 16.00 year Taripakoa we some party i refer long hem i first chief long Christianity mo i ded long 1908 but hem i descendant blong chief Taripakoa we hem stap bifo.

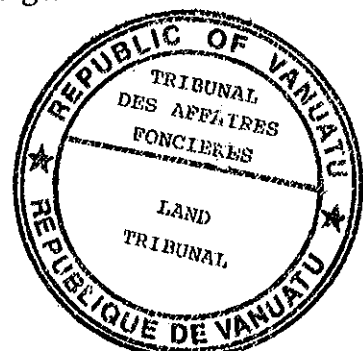
Olgeta narafala party oli askem plenty questions and leada blong Nikara family + hemi just givim same answer long olgeta.

Lida blong land claimant No 4 ITCH Ltd i askem long pastor Pierre Nikara sipos hemi save se Leitakae i pikinini blong Narewo - Pierre Nikara i talem se hemi save se i true, mo hemi addem se Narewo ino takem wan woman nomo - hemi takem plenty woman mo hemi talem se hemi no save which wan i takem Leitakae.

Hemi talem too se hemi save abaot family blong Narewo we oli stap long Court long taem blong hearing blong Marope Land but hemi talem se hemi no save identifyem olgeta. Hemi no talem any reason why.

Taem we lida blong Ifira Community, Kalpokor Kalsakau i cross-examinatem representative blong Nikara family abaot Paunareo, Pierre Nikara i answer se Paunareo i wan man - Paunareo hemi no Nareo - Hemi no Manareo. Hemi Chief. Hemi talem too se hemi no save Papa, Mama, brata o sista blong Paunareo. But hemi talem se wife blong Paunareo Nikara hemi Leiriki mo tufala i gat 1 son we hemi Tarpakoa mo i come casem hem Pierre Nikara. (Re Family tri antap).

Hemi go on blong talem se i gat plenty man oli muv long eria claimed bifo. But Nikara nao i fes wan mo long saed blong custom, everyone i save claim but custom birth right ino save change.



Mo Kalpokor Kalsakau i putum long Pierre Nikara se bubu blong hem (Pierre Nikara) i catem aot boundry finis between Ifira/Imere so that olgeta we oli makem decision oli makem finis. Man we igat graon long saed blong Nikara i makem decision finis. Se graon we istap long eria blong claim hemi blong Ifira Community.

Court i noticem se hemi i wan admission we lida blong Iira Community i makem long Pierre Nikara se hemi gat interest long Land claim ia.

Mo long answer blong hem Nikara i talem se hemi gat wan objectif mo objectif ia i blong claimem back customary birth right we hemi gat long Marope Land. Blong suportem claim blong hem, Pastor Pierre Nikara i leadim Court wetem lidas blong olgeta party long eria claimed blong showem olgeta custom place blong Nikara.

Bifo hemi leadim Court mo olgeta lidas blong party, representative blong Nikara family i bin talem aot long Court se hemi agree wetem Chief Nunu Naperik Mala long olgeta place we Chief ia i showem long Court abaot muvment blong Maralapa (Namarai) long Matatekapu (eye blong water). Lukuno hill blong Rango Rango, Matekapu (Tagabe River).

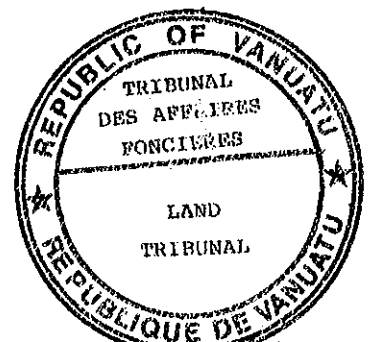
Long 8 October, 1993, representative blong Nikara family i bin showem long Court mo lidas blong narafala party long claim, wan olfala village long bush we claim istap long hem mo hemi talem se hemia hemi village blong Malokusa we oli callem Malagiuta village. Foundation stone we i fence blong village istap. Hemi talem se original land claimant (Family Sope blong Imere) oli callem Tapusu. But Pierre Nikara i talem se hemia ino Tapusu, hemi Malagiuta village.

Long same date hemi leadim Court wetem narafala party i visitim wan(1) different olfala village we foundation stone we i fence blong village ia istap yet. Mo hemi talem se village oli callem Napuana village. (Back side hill blong creek). Hemi talem se Malokusa i settle long place ia. Long Napuana village igat 1 big flat stone we i high mo Pierre Nikara i talem se stone ia i showem se hemi iputum wan(1) someting. Taem we mi bin askem Pierre Nikara se who ia i putum wan someting hemi talem se Nikara istanap long hem. Long first place hemi talk abaot Malokusa, then i talk abaot Nikara, bambae mi makem observation after.

Abaot ten (10) meters from Napuano village i gat 3 craves. Nikara i admittim long mi se hemi no save abaot trifala (3) craves ia. But Chief Munu Naperik Mala (Land claimant No. 1 i talem se hemi save abaot - mo trifala craves ia i someting blong hem.

Long same date yet, Pierre Nikara i leadim Court i go visitim wan kave - kave ia oli collem MAROPILO - I gat wan river we i run mo come out long MAROPILO KAVE.

Pierre Nikara i talem se long place ia nao Malokusa i come toktok taem blong war bifo mo transformem hem i come Nikara - Nikara i mean nagalat mo Pierre Nikara i showem long Court wan (1) big stamba blong Nagalat tree we istap outside long Maropilo kave. Mo Pierre Nikara i talem se Malokusa istap come drink water ia nao taem blong war bifo. Long same day iet, Pierre Nikara i showem long Court Saraana Station. Pierre Nikara italem woman station. Woman refuge. Hemi talem se Malokusa i wan(1) big mo strong warrior mo taem i killim ded olgeta narafala warrior (enemy) hemi takem woman blong olgeta i come long Saraana Station.



Malokusa i gat plenty woman. Mo Pierre Nikara i talem se long station ia oli bin planem Natafoa tri follem wan(1) triangle. Mo hemi comment se fruit blong Natafoa oli red olsem colour blong Maralapa we hemi red Namarai.

Pierre Nikara i shoem long Court two (2) Natafoa tri but hemi no showem long Court No. 3 Head blong Natafoa we hemi constitutem triangle.

Taem we mi askem long Pierre Nikara blong givim precision abaot Malokusa. Hemi talem se Malokusa, Nikara mo Maralapa oli wan(1) person nomo.

Malokusa o Nikara o Maralapa (Red Namarai) hem wan warrior mo hemi Chief too. Bambae mi makem some observation long point ia after. Pierre Nikara i talem se Saraana Station istap long Lakura mo bifo ol whiteman oli planem coffee. Mifala i luk olgeta coffee tri we olj grew long bush. Mo hemi, talem se hemi blong Ballande bifo. Road blong olgeta hemi Sentier Bernier. We youmi save luk too long map blong eria ia.

Hemi showem long Court too Sawareo village blong bifo just kolosap long house blong Mr Bourdet. I hard blong faenem real evidence. Hemi leadim Court i go long Matnairiki (creek) mo hemi wan bigfala area, Talieporo mo nara place long Marope Land.

Hemi leadim Court too igo kolosap long wan hill oli collem Leopau mo hemi talem se i gat wan village istap long place ia.

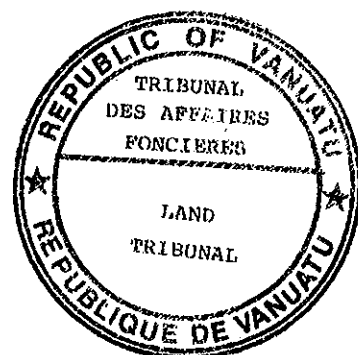
Mo hemi talem se Nikara we hemi basem claim blong hem long hem, hemi no man Mele. Mo hemi talem se back graon blong hem ino come from Mele. Hemi talem se hemi muv insaed long eria we claim istap long hem. Mo too hemi admittim se place ia istap outsaed boundary claimed. But hemi talem se hemi faenem nid blong showem long Court. Mo taem we hemi leadim Court i come long Malapoa (see colosap long Football Field Malapoa) Pierre Nikara i talem se Matevaka hemi really name blong Tebakor. Matevaka i mean water mo lagoon. Mo hemi go on blong talem se bifo Iriiki Island ino bin exist. Hemi part blong Efate Island nomo we oli callem Sandwich Island. So Nikara nao i pushem aot Island blong Iriiki mo bifo Island ia hemi Leiriki (narafala party oli confirnem finis name ia). Mo hemi talem se Nikara i leavim footprint blong hem long main land hemia nao hall we Municipal blong Port-Vila i sakem toty long hem bifo behind long new Bon Marche Supermarket (Tebakor). Hemia blong showem pawa blong hem se i nomo gat any warrior we i strong i bitim hem (Nikara) long Island blong Efate.

Nowia youmi go deal wetem olgeta witness blong Nikara family.

First witness blong family Nikara hemi Kaltarick Ova Nikara.

Witness ia i makem wan(1) short written statement. Long statement ia hemi talem se Nikara hemi true custom owna long land we dispute istap long hem. Mo particularly hemi mentionem bloc 118 c. we hemi Sano Ranch. Mo olgeta oli callem Malagiuta. Mo Sawareo istap insaed too.

Hemi putum too long statement blong hem bloc 93 c. But bloc 93 c hemi outsaed boundary hemi no include insaed long boundary blong Marope Land claim.



Under long cross-examination, witness ia i answerem olgeta questions without hesitation mo olgeta answers we hemi givim abaot custom place long eria blong dispute hemi go in line wetem wanem we representative blong Nikara family i talem.

Witness ia i save gud abaot ol bush mo custom place long eria blong dispute. Long question se where nao rightfull custom land owna. Witness ia i talem simply se rightfull custom owner hem "Man we iborn long eria claimed, grew up long eria ia, igat property. Mo hemi originate from eria ia. Mo i gat proof istap". Mi acceptem definition ia.

Long question whether claim blong Nikara family istap insaed long boundary blong Ifira o Imere (Mele), witness i talemaot simply se hemi save olgeta blong Ifira/Imere oli putum mark (boundary) finis. But hemi talem se Nikara claim i base long name blong olfala blong olgeta from we hemi icode out long eria nao we olgeta blong Ifira oli talem se iblong olgeta .

Witness i confirmem se Maralopa i wan bigfala Namarai. Hemi red mo i change icode man mo hemi makem war i connect wetem storian blong Pierre Nikara. Witness ia italem se hemi ting se Nikara i Chief blong some people mo oli callem hem Paunareo. Mi luk olsem witness ia ino sure long point ia.

Witness ia i talem aot se Nikara i Chief hemi takem name ia Paunareo mo hemi papa blong Leitakae.

So long place ia i gat connection wetem land claiment No. 1 Chief Nunu Naperik Mala. Hemi talem too se hemi no save abaot Manareo, hemi no save abaot Nareao but hemi talem se hemi save abaot Marik .Atlangi.

Witness ia i talem se Tarpakoa we hemi blong Nikara hemi no Chief mo Kalokis we hemi pikinini blong Tarpakoa hemi laen blong Chief but hem ino Chief.

Court i faenem se witness ia hemi honest taem hemi answerem ol question even though long, one o two occasions hemi hesitate.

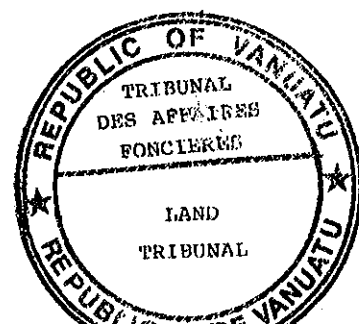
Second witness blong family Nikara hemi Simon Ova Taripakoa.

Witness ia ibin makem wan short statement. Long first part blong statement ia hemi tok abaot Malapoa (.Sumalapa) mo hemi talem se Nasara blong Nikara istap ia. Hemia hemi outsaed boundary blong Marope land.

Long second part blong statement hemi refer long Maralapa. Mo hemi talem se Maralapa hemi Nasara blong Nikara. afta hemi talem se Marolopa hemi wan(1) bubu blong hem we istap long River Tekapu mo hemi Chief Nikara we hemi silip long river mo emi true story casem todei.

Mo hemi talem se hemi sapotem claim blong Nikara family. Mo hemi talem se family ia nao i true custom owna long Marope Land.

Witness ia italem se hemi born long 1920. So hemi gat some way 73 years taem hemi givim evidence blong hem long witness box abaot case ia. Witness ia i talem se hemi save Taripakoa we Nikara i refer long hem hemi different from Taripakoa we some party long case ia oli refer long hem. Hemi talem se hem i save Taripakoa blong Mele. Mo hemi bubu blong hem mo hem i play play wetem Taripakoa ia.



Mi faenem se igat inconsistency long place ia wetem, toktok we representative blong Nikara family i talem abaot Taripakoa.

Pierre Nikara (lida blong Nikara family) i talem aot long wan answer blong question we land claimant No. 3 (family Kalsakau) George Kalsakau i putum long hem abaot Taripakoa mo i answer se ran abaot 16.00.

First witness blong Nikara blong answerem same question i talem 14.00 - 15.00. Simon Ova Taripakoa we i born long 1920 i talem se hemi save Taripakoa ia mo hemi play play wetem hem taem hemi small boy. Long olgeta narafala question we olgeta leada blong different party oli putum long witness ia hemi answer without hesitation. Mo hemi talem se Nikara hemi wan Chief but hemi wan Chief blong Family nomo. Mi trustem tokltok blong olfala ia long point ia. Mo olfala ia tu italem se hem work long Sawareo casem place we Abbatoir istap long hem. Mo hemi no save over limit igo long Golf Course.

Taem we oli askem hem se hemi should stap man Ifira rather than man Mele, hemi answer straight forward se hemi ting olsem ia nao. Mi luk se olfala witness ia i honest long toktok blong hem. Mo plenty taem hemi just talem nomo se hemi no save answer blong some question blong olgeta party.

Witness No. 3 blong Family Nikara, hemi John Nikara Melo.

Witness ia hemi no submittim any written statement. Mi acceptem under long request to (name) blong Nikara Family se hemi givim oral evidence blong replacem wan(1) witness blong Nikara we hemi no bin turn up.

Under long cross-examination, witness ia i showem se hemi save ol places long eria claimed. Witness ia italem se Nikara hemi Chief blong Nakamal blong hem. Taripakoa i Chief blong Nakamal blong Sumalapa (Malapoa).

Witness ia hemi confuse from we hemi talem se 1st station blong Nikara istap long Enam then 2nd station hemi long Malapoa. And afta hemi talem se Nikara iwork long Sawareo. Mo hemi katem canoe long eria blong dispute.

Mo hemi talem se hem i true mo main Speaker blong family Nikara i kiaman.

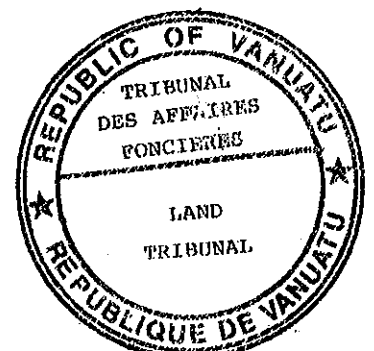
Toktok blong witness ia i contradiction toktok blong representative blong Nikara family. Mi no save believim long point ia, Witness, ia because i gat plenty custom village o place we Pierre Nikara i refer long olgeta ... but witness italemaot clearly se hemi no save.

Witness No. 4 blong Family Nikara hemi Kaltalo Kone Taurongoa Nikara. Witness ia i talem se since hemi gat 8 years, hemi save ol place ia blong dispute. Witness ia i talem se Nikara icome out antap long Bush long Sawareo mo istap mov igo long Henam, Buffa, Rango Rango icome casem Malapoa (Sumalapa).

Witness ia i confirm se Nikara i Chief blong Family blong hem nomo. Witness ia i talem se Nikara igat right long full boundary long claim because hemi mov igo long full eria blong claim.

Witness ia i talemaot se igat family Teufi Ifira long Mele village. Mo witness ia i talemaot se Kalokis o Kalokaire o Ovatusa wetem Leirarua we hemi wife blong Kano Narewo (grand grand father) blong George Kano, lida blong land claimant No. 2, (Naflak Teufi Ifira) tufala i bubu blong hem.

Witness ia tu italem se Nikara i Chief blong Naflak blong hem nomo. Mo Nikara i claim from we hemi first man long area blong dispute.



Under long cross-examination blong lida blong Ifira Community, witness ia i talemaot se Narewo hemi title name blong Nikara nomo. Paunareo hemi title name blong Nikara - nomo Nikara i true custom name blong land owner blong graon we istap long dispute.

Mo hemi talem too se Narewo we hemi refer long hem hemi wan (1) diffrent Narewo we olgeta narafala party long case ia oli refer long hem. Hemi talem se Narewo we family Nikara i base long hem hemi blong bifo finis. Hemi laef bifo Narewo we olgeta narafala party oli base long hem mo (hem nao i salem graon - we dispute istap long hem).

Toktok blong witness ia i showem se Nikara i wan man bifo. Narewo we hemi salem graon hem after - mo Nikara i wan man we i mov from wan place to another place - long eria mo outsaed eria disputed. Mi luk se witness ia i honest mo toktok blong hem i gat pawa.

Last witness blong family Nikara hemi Kaltabang Tafuralapa.

Witness ia i makem wan (1) short statement. Mo i talem se Nikara i true custom owner long graon blong dispute ia. Hemi talem se hemi save ol true kastom name blong place insaed eria claimed. Hemi talem hemi wintessem Baganivata Title 57L, Tepokoi - Wariki - place blong Airport i come daon long Tenaune. (Tagabe agriculture station).

Long cross-examination, wintess ia i talem se Ova hemi 1 sight - 1 spirit - Hemi talem se olgeta i usum name Nikara taem we problem blong graon i come antap. Hemi confirm se Nikara i wan name blong 1 bubu blong olgeta.

Witness ia i talem se Nikara i gat long full area claimed because Nikara i stap mov insaed long ol eria ia. Mo taem i mov i gat people too long place ia but Nikara hemi head blong olgeta.

Witness ia i confirm se long custom i gat 1 big chief mo i gat small small chief too.

Wintess ia i confirm se Narewo i name blong Nikara. Nareo ia hemi different, hemi live bifo Narewo we hemi salem graon long eria claimed.

Witness ia i confirm se long custom i gat warior, cleaver, doctor blong chief.

Witness ia i talemaot se olgeta olfala oli plenty oli come daon from bush, blong eria claimed, some i go to long Ifira, some i go long Imere.

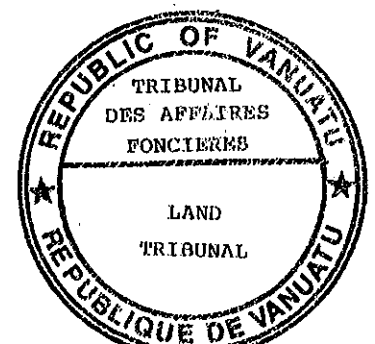
Mi faenem se toktok blong witness ia some i true, some i confuse.

Court hemi faenem se case blong Nikara family hemi wan strong case tu long saed blong custom ownship blong Marope Land.

CASE BLONG IFIRA COMMUNITY L.C.6

Main Speaker mo representative blong Ifira Community hemi KALPOKOR KALSAKAU.

Kalpokor kalsakau i bin makem wan longfala affidavit o written statement. Long statement blong hem hemi talem olgeta toktok ia se :



Hemi talem se hemi save gud abaot history blong graon blong dispute mo decision we court blong condominium taem i makem abaot graon ia.

Hemi talem se hemi memba blong Ifira komuniti mo hemi talem se Family Sope blong Mele village oli no kat klaim nating long ground ia Narrowby, mo hemi refer long map we istap long statement blong Chief Manto Kalsakau, wan long olgeta witness blong hem. Map ia hemi stap annexe long judgment ia.

Hemi talemaot tu se follem history blong ground ia hemi ground blong Ifira Komuniti bifo finis i kam kasem tedei.

Hemi talem se follem custom Ifira kommuniti i lukaotem olgeta graon mo wan wan man long Communiti blong Ifira i gat raet blong usum ground nomo.

Mo hemi talem se sipos wan man hemi kamaot long Communiti long tingting blong hem hemwan nomo, graon i stap oltaem olsem property blong Communiti.

Hemi talem se Sope blong Mele oli livim Communiti mo from samting ia oli lusum raet blong kastom ground blong Ifira Kommuniti. Hemi talem se Sope blong Mele oli no gat kastom raet blong usum graon ia we klem istap long hem.

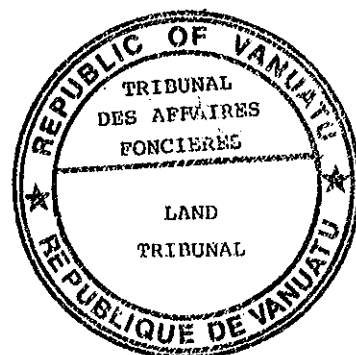
Hemi presaesem se graon ia istap oltaem olsem graon blong Ifira Kommuniti. Mo hemi specifaem se raet blong usum graon ia hemi stap long family Kalsakau. Hemi talem se from we famili Kalsakau mo narafala famili kolosap oli stap usum graon ia we hemi Narrowby kasem 22 August 1872 mo taem ia Narawah man blong toktok blong jif Fubuwana i salem mo jif ia nao i agri blong salem.

Hemi presentem long Court fas pepa blong agrimen wetem William Basset mo hemi talem tu se afta we oli salem finis graon ia, Kommuniti blong Ifira oli stap usum graon ia kasem 1930, mo taem ia nao oli ronemaot olgeta blong Ifira wetem musket. Hemi tenderem long Court map blong Narrowby - map ia tu hemi annexed long judgment.

Hemi go on blong talem se long midel blong year 1910 mo 1920 graon ia i bin regista unda long Condominium mo olgeta we oli gat interest oli gat raet long saet long law blong pulumaot tingting blong olgeta mo oli save harem long saed long caveat we oli askem.

Hemi talem tu se long 1928 bubu blong hem, jif Kalsakau I, hemi filem wan caveat long behalf blong Kommuniti blong Ifira, mo hemi talem se ino gat narafala man, group, family or village i putum kleim blong graon, wetem Sope blong Mele, from we oli no gat raet long graon ia mo ino gat tu naoia hemi talem se blong pruvum toktok blong hem hemi putum olgeta pepa ia :-

- Application
- Confirmation of Caveat
- Demand for Defence
- Notice of Opposition
- Judgment (Exhibit 17)



Mo wan (1) copi blong letter we bubu blong hem i bin sendem i go long Mr Blondimieres taem hemi ownem graon long Narrowby. Mo hemi talem se jif Kalsakau i putum olgeta pepa ia long behalf blong Ifira Kommuniti.

Kalpokor Kalsakau i statem tu se long Court hearing blong case ia hemi bilivim se i gat rabis argumen bitwin "Native advocate" mo ol "Land Owna" (White man) from we emi no traem blong Kontestem kleim. But hemi go agri nomo se graon emi blong "Land Owner" (White man) long fashion blong kleim blong hem mo askem blong jenjem different graon we kommuniti i stap yusum i kam wan reserve land. Ifira kommuniti i lusum raet blong yusum graon insaed "Narrowby".

Representative blong Ifira i talem se hemi save gud se kommuniti blong Ifira i karem bak olgeta raet blong hem long said blong graon anda long constitution.

Mo hemi talem tu se hemi bilif se toktok blong family Sope blong Mele hemi olsem "blong kasem graon" olsem we istap hapem long 1872 mo 1930 mo hemi declarem se hemi askem stron long Court blong holem graon ia olsem kastom graon blong Ifira.

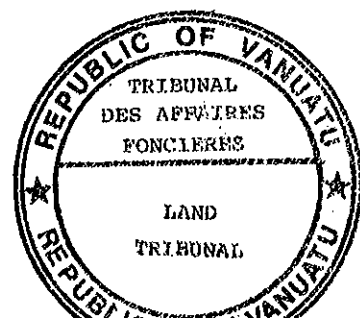
Kalpokor Kalsakau i talem se every samting ia uncle blong hem jif Kalsakau II i talemaot long hem bagegen mo hemi talem se i gat pruv long hem long record blong Caveat long taem blong hearing. Mo hemi talem se, bubu blong hem i krae long Court long ol krukut fasin mo ol wrong dicsion mo hemi luk long Court ia blong stretem olgeta wrong we istap. Mo hemi talem se any dicsion we ino follem rikuest blong Ifira Komuniti bae i soem nomo wan sakses blong toktok ova stamba fasin blong kastom.

Long end blong affidavit o writem statement blong hem, Kalpokor kalsakau i talem se graon we hemi kastom graon blong Mele we istat long baondri blong la Colle River long flat ples mo igo kasem baondri long Ifira antap long Hill, long ples ia i mak we ol man long Mele mo ol man long Ifira oli stap faet bifo from ol pispis graon mo hemi talem se long ples ia nomo Sope blong Mele i mas luk long kastom graon blong olgeta. Mo hemi talem se hemi stap long north lelebet long graon we oli klemem.

Mo finally, Kalpokor Kalsakau i talem se long abaot 1981/82 Ifira Komuniti mo Mele village i agri se Mele Kastom graon i stat long lef blong la Colle River mo graon we istap long raet we Narrowby tu istap insaed i blong Ifira.

Representative blong Ifira Community hemi spendem planti taem tu under long cross-Examination blong leada blong narafala party. Kalpokor Kalsakau hemi bin defendem case blong hem mo answerem plenty questions we olgeta leada blong narafala party oli putum long hem. Bambae youmi no save go detailem every single questions but bambae youmi go true nomo olgeta main questions we olgeta lida blong Party oli putum we hemi confirmem nomo main Affidavit blong hem. Long question abaot position blong hem insaed blong Ifira Community, Kalpokor Kalsakau i answer se hemi gat wan agriment wetem Ifira Community blong lukaotem graon we hemi alienetem land blong Ifira bifo. Mo hemi se hem i follem nomo toktok blong Chief Kalsakau I we i talem se graon we oli alientem icome back long Ifira Community. Mo hemi talem se position we oli confirmem long meetings long Farea (Nakamal blong Chief).

Long question we lida blong Sope i putum long Kalpokor sipos everywan long Ifira Komuniti oli gat raet long ownship long graon, representative blong Ifira komuniti. i talem se customary land ownship istap



long Kommunity, everyone oli gat raet of use nomo. Mo bubu blong olgeta i mekem finis agriment long farea blong Chief.

Hemi go on blong talem se graon i blong wan (1) komuniti unda long 1 chief mo insaed long komuniti i gat smol smol chiefs. Chief i gat raet blong muvum ol man mo chosum where place oli stap.

Jif i givim statement long smol jifs blong ritenum licence ia, yu pem back long jif. Wanem oli callem "SAUTONGA" (Nasautonga) (North Efate).

Taem we lida blong Sope i askem wanem nao bambae representative blong Ifira Kommuniti bambae hemi makem sipos wan man Mele i pruvum claim blong hem, Kalpokor i answer se long custom taem you go you go nao, taem you come back you mas paem back birth right blong you.

Mo taem oli askem sipos wan Community i gat raet blong challengem individual raets Kalpokor Kalsakau hemi se graon i go back long custom owna. Community tu i save become custom owner mo hemia nao spirit blong Land Act hemia long saed long compensation. Long saed blong Family Sope blong Mele, we oli putum claim, hemi talem se Sope iborn long Ifira but hemi come long Pango fastaem hemi no disputim fact ia but hemi talem se Sope blong Ifira igat raet long graon ia from hemi 1st born. Sope blong Imere inogat raet sipos Sope Imere i wantem come insaid oli mas past true long Sope blong Ifira.

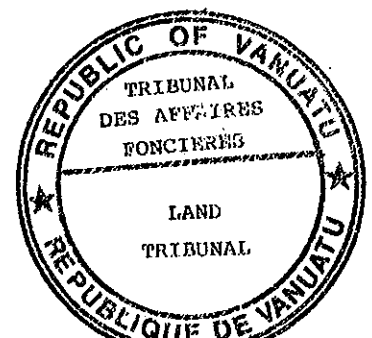
Sope blong Ifira ibin askem wan narafala question se taem we igat wan custom boundary we istap finis mo 2 chiefs nao tufala i setem daon man we igat interest insaed long narafala boundri isave claim right blong hem yet o boundary ia i blokem man ia blong hemi nomo claimem interest we hemi gat long next graon tu. Long question ia, Kalpokor Kalsakau hemi answer se bifo man ia inomo save claimem interest blong hem insaed different boundri but todei custom i change.

So hemi talem se long graon we dispute istap long hem, Sope blong Mele ino gat raet long hem from graon i blong Ifira Community mo Sope blong Mele we hemi 2nd born ino bin makem any agriment wetem Family Sope blong Ifira we oli 1st born blong Sope Family.

Kalpokor Kalsakau italem se graon we istap long dispute hemi graon we Chief i givim long Kommunity from generation to generation. Hemia i min se Chief i givim nomo raet of use long ol people mo descendant afta descendant.

Wan long olgeta lida blong party long case hemi bin putum long Kalpokor se graon we Narewo. Hemi salem, istap long heritage blong Narewo. Kalpokor i reply se Narewo i salem graon we oli collem Marope be hemi small nomo. Mo hemi talem se Narewo ino wan Chief. Folem custom, man blong Chief i salem graon hem nao i shud salem graon. Mo hemi admittim se may be i gat plenty Narewo but hemi go on blong talem se Narewo we istap long Ifira sista blong hem hemi Leionga but hemi i wan different Narewo ia. Hemi talem se Chief Kalsakau italem long hem se laen blong Narewo i finis ino gat descendant male(boy).

Kalpokor Kalsakau hemi save abaot olgeta pis graon long eria blong dispute mo hemi specifyem taem we Chief Nunu Naperik Mala i cross examinasen hem se hemi save se Sawarewo istap behind long river Sono long left saed blong hill. Mo hemi talem se Sawarewo ino stap insaed long Marope land from we Sawarewo



istap behind Sano river antap. (see Map attached). Mo hemi talem aot se Chief blong Ifira italem se Ova (Nikara) oli gat raet long Sawereo igo antap.

Taem we representative blong Nikara i questionem Kalpokor Kalsakau sipos hemi save abaot wan(1) pikinini blong Molokusa. Kalsakau i answer se igat wan(1) pikinini blong Molokusa we name blong hem Ova we i bin go long Mele. Hemi talem se Ova wetem some man more oli come antap long bush oli go long Mele. Hemi talem se hemi save se representative blong Family Nikara icome aot long Ova. Hemi no save Nikara bifor, hemi just save abaot Nikara long Court hearing nomo.

Last question we Kalpokor i answerem hemi abaot mining blong Kommunity. Kalpokor hemi defaenem olsem hemi Chief, Tribes, Clans we oli stap unda long Chief ia mo olgeta small small Chiefs. Hemi i exist bifo come kasem todei. Mo hemi talem se Chiefly laen hemi Hereditary but long Ifira Community i mas agri.

Wan long olgeta party i contestem point ia mo hemi talemaot se long custom bifo, community ino agri. Consensus istap finis long who nao hemi Chiefly Blood laen blong takem work blong Chief.

First witness blong Ifira Community hemi Barak Tame Sope.

Witness ia ibin makem wan affidavit o wan sworn written statement. Long statement ia hemi talem se hem mo Family blong hem, oli memba blong Ifira Kommunity.

Hemi talem se hemi readim Affidavit blong Jif Manto Kalsakau III, Kalpokor Kalsakau mo Tapangkai Sope mo hemi talem se oli true everywan. Hemi talem se graon we Sope blong Mele oli klemem ino kastom graon blong olgeta. Hemi se graon ia hemi kastom graon blong Ifira Kommunity. Hemi statem se long taem ia long 1872 graon ia hemi kastom graon blong Ifira Kommunity mo Kalsakau Family nao oli stap usum.

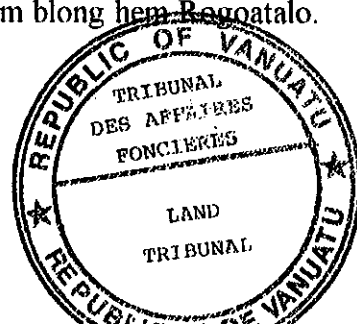
Mo hemi talem se follem kastom blong Ifira man we hemi livim or i go aot long Kommunity, man ia iaotem hem wan long olgeta raet blong hem blong usum or gat raet long graon olsem. Hemi go on blong talem se Sope blong Mele oli long wei lelbet wetem hem mo Family blong hem mo hemi talem se bifo olgeta everiwan i mekemap Kommunity blong Ifira. Mo hemi statem se taem olgeta istap tugeta olsem wan Kommunity olgeta i gat raet blong usum graon ia we oli makem long map.

Hemi talem se ino gat wan memba blong Family blong hem igat raet long graon bat olgeta everywan igat semak raet olsem ol narafala memba blong Kommunity blong Ifira.

Hemi statem se Sope blong Mele oli livim Kommunity long somwe 1800's. Hemi talem se long taem ia nomooli lusum raet blong olgeta oli joenem olgeta long Mele mo ol kastom raet we olgeta igat naoia long saed blong kastom graon hemi istap long Mele.

Mo hemi presentem history blong Family Sope we igo olsem:

Kalmatalu Sope hemi born long Plau long Ifira aelan. Papa blong hem Sawi, mo mama blong hem Leikalo. Sope hemi maretem Leinamus we hem tu i blong Ifira mo tufala igat wan boy nem blong hem Regoatalo.



Sope i go makem mission work long Aulua, Malekula. Mo long place ia nao woman blong hem i ded. Sope icome back long Ifira. Then hemi go makem mission work long Mele Village.

Sope i maretem wan woman Mele, name blong hem Livabubu. Sope wetem Levabubu tufala igat 9 pikinini. Sope istap long Mele gogo hemi ded. Rogoatalo Sope hemi stap long Ifira mo hemi maret wetem Salome mo tufala i gat 3 son. Tapangkai hemi wan long trifala pikinini boy blong Rogoatalo mo Tapangkai Sope nao hemi Papa blong witness ia.

Witness ia i talem tu long affidavit blong hem se hemi save oltaem raet blong graon we istap long Ifira mo we oli blong Sope Family oli stap oltaem long hand blong Rogoatalo Sope we witness i talem se hemi bubu blong hem.

Mo hemi talem se graon long Mele mo Pango we Family Sope igat samfala raet long hem, hemi blong olgeta we oli kamaot long Sope long tufala village ia. So hemi talem se olgeta raet blong graon long Ifira, Sope blong Mele mo Pango ino gat raet blong toktok long hem.

Mo finally witness i askem long Court ia blong holem taet se Kommunity blong Ifira hemi stret kastom owna blong graon ia.

Witness ia hemi spendem long taem tu under long cross examination blong lida blong narafala party.

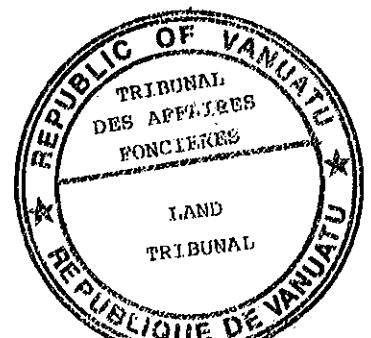
Witness ia hemi wan long olgeta lida blong Vanuatu mo hemi save gud blong answerem olgeta questions from hemi gat big experience finis long saed ia. So long cross-examination hemi confirmem toktok we istap long affidavit blong hem we i suportem toktok blong lida blong Ifira Kommunity, Kalpokor Kalsakau.

Kot believim wanem we witness ia italem abaot history blong Family Sope from hemi confirmem wanem we different party oli bin talem particularly Family Sope blong Mele se oli come from Ifira.

Long position we witness ia i witnessem se ownaship blong graon ia istap long Ifira Kommunity bambai Court i clarem view blong hem afta. Long stand we witness ia i talem mo sapotem speaker Kalpokor Kalsakau se Sope blong Mele oli no gat raet long graon we istap long dispute. Court bambae i givim view mo clear position after. Abaot olgeta narafala parti witness ia i talem se hemi no save wether oli gat raet or not long graon blong dispute.

Witness No. 2 blong Ifira Komuniti hemi Jif MANTOI KALSAKAU III. Jif Manto Kalsakau hemi makem wan affidavit or wan written sworn statement. Long statement ia hemi talem history blong Ifira Komuniti i go olsem ia ;:

Ol pipol oli go settle long Ifira ova tri thousand years finis (3,000) olsem study blong Archeology we University blong Hawai i makem taem oli stat dickem mo chearchem traditional "marae" blong Vila Aelan i gat pottery tool blong bifo, seashell we oli indicatem date we i more than 3000 years. Hemi talem se Ifira Island oli usum olsem ples blong hide o strong mo safe ples blong stap taem blong faet bifo o taem bong cannibalism (man istap kaikai man bifo).



Different families oli stap usum olgeta ground ia blong dispute blong mekem garden, collectem fruit, hunting mo catem o takem material blong house. Ol man oli planem kaikai blong olgeta long Ifira. Ino gat different family long different village oli live o wok long graon ia. I gat smol man nomo oli live long No3, long kolosap long SELB area. Faet blong bifo i tek ples wetem olgeta blong Mele long Nort West long Boundary we hemi stap outsaed long urban land area.

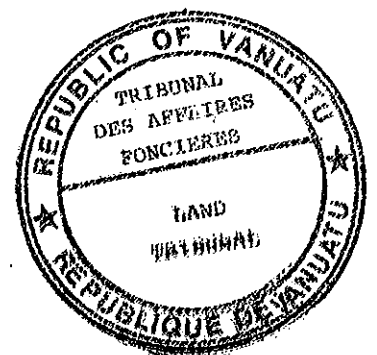
Olgeta European Settlor now oli stoppem kind life ia taem oli stap claimem area mo forcem pipol long Ifira blong go out mo oli start planem coton wetem kon. Missionary tu oli takem ol man from centrol Efate mo Central East blong Efate mo putum olgeta blong short taem long ol graon ia bifo oli go long Erakor Island, Ifira island mo Pango village. Planti long land ia oli pulum aot, oli claimem mo registrarem olgeta olsem freehold title, sam long graon ia oli salem olgeta or leasim (rentem) mo oli mekem i kam freehold title.

Witness Jif Mantoi Kalsakau III hemi go on blong statem se pipol blong Ifira hemi continue blong usum big part blong graon ia kasem midel blong 1920 taem we ol settlor (white man) oli start enforcem freehold title. Faet wetem settlor mo colonial Administration hemi happen. Oli forcem pipol blong Ifira blong go aot long land blong olgeta wetem masket, buluk, wires blong fence mo no gud decision we Administration i bin takem. Conflict ia istap go ahead kasem todei.

Hemi talem tu se i gat gud records blong olgeta conflict ia long record blong Colonial Administration long taem blong 1900 kasem 1930. Mo hemi statem se long 1980 ino gat wan village we i challengem Joint Court or Colonial Administration long occupation blong land ia mo long freehold title we oli mekem long land ia. Ifira nomo i challengem. Jif blong Ifira hemi statem long witness Box.

Hemi talem tu se long taem blong registration blong big part blong land ia i bin gat fraud we i happen. Court i no interest long saed ia because hemi no relevant blong determinem issue blong ownership long land ia we istap long dispute.

Witness ia i talem se whole land we hemi custom land blong Ifira kommuniti taem memory istart oli considerem olsem wan(1) trust blong whole kommuniti togeta. So hemi talem se taem we individual famili we oli part blong komuniti oli gat rael long same peace blong graon ia, graon ia hemi stap oltaem long whole komuniti togeta.



Hemi statem tu se graon ia we oli callem Narrowby, Family kalsakau i bin usum bifo mo oli hollem long Trust blong Ifira Kommuniti. Witness ia i talem tu se taem we i gat split between famili olsem hernia we i happen long case blong Sope Family, family we i livim komuniti i livim graon mo graon ia i go back long komuniti o narafala family we oli stap oli usum unda long Trust we komuniti i gat. Long case blong land ia, hemi talem se family sope i bin gat raet blong usum graon ia we Kalsakau i bin usum bifo.

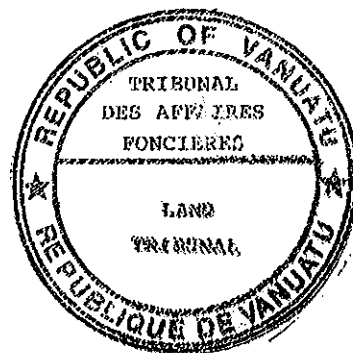
Chief Mantoï kalsakau III i statem tu se graon ia komuniti blong Ifira i salem long 22 August 1872. Narrawah we i man ifira mo hemi wan member blong family kalsakau i salem wetem consent blong komuniti tru long jif Foubuwann long wan white man nem blong hem William Basset. Witness ia hemi refer long toktok blong Kalpokor Kalsakau we istap long Affidavit blong hem.

Hemi pointem out se land hemi kustom land blong Ifira Komuniti bifo kasem todei, even though graon ia family Kalsakau i lukaotem long behalf blong komuniti. Witness ia is statem agen se Sope blong Mele village oli no gat customary raet long land ia. Hemi talem se oli bin kat bifo but naoia oli livim raet ia kasem taem we oli joinem back agan komuniti blong Ifira mo hemi specifim se raet ia hemi stap long nem blong komuniti. Hemi talem tu se olgeta family Sope 3,000 ya i pass nao oli no mekem any claim long land we dispute i stap long hem, oli neva live long land ia. Oli neva plant (or mekem garden) long land ia o oli neva stap long hem (land).

Jif ia i talem se big part blong land blong dispute hemi public land mo hemi talem se hemi allegem application ia hemi wan oppotuniti (chance) long saed blong graon blong receivim compensation we oli no entitle long hem. Jif ia tu hemi specifim rule blong custom we hemi talem se Court ia hemi shud follem. Hemi talem olsem se long Ifira :

- Komuniti hemi ownem custom graon blong Ifira komuniti.
- Jif blong Ifira komuniti hemi mas defendem oltaem custom graon blong Ifira.
- Olgeta wan wan family oli gat raet blong takem mo usum peace blong land we hemi custom land blong komuniti bat hemi talem se graon ia hemi custom land blong whole komuniti we oli no save dividem (indivisible). mo we oli no save cancellem o mekem ikam nil or (indifeasible).

Mo hemi talem tu se sipos wan family we hemi part blong komuniti hemi split, olgeta memba blong family ia we oli livim komuniti, oli lego olgeta raet blong use we oli gat long graon long family blong olgeta we oli stap long komuniti kasem taem we oli joinem back again komuniti.



Hemi talem tu se i sem mak nomo sapos wan man i livim komuniti hemi no gat claim o no save gat compensation. Witness Jif Mantoï Kalsakau hemi talem again long Court se Sope blong Mele oli no gat claim long land we dispute istap long hem. Mo witness ia i askem se Court hemi affirmem se land blong dispute hemi custom land blong Ifira even though family Kalsakau oli bin usum. Jif Mantoï kalsakau III hemi wan witness we hemi spendem planti taem blong ansarem questions blong lida blong olgeta narafala parti long land case ia.

Under long cross-examination, witness ia hemi answerem questions blong lida blong ol narafala parti without hesitation. Plante long olgeta answers blong hem oli confirmem toktok blong hem we istap long Affidavit mo hemi mekem blong saportem main statement we kalpokor Kalsakau i mekem long behalf blong Ifira Komuniti.

Long wan question blong Representative blong Sope blong Imere about raet we olgeta parti oli gat long disputed land, Jif M. Kalsakau III i talem se olgeta parties oli gat raet blong use anda long control blong jif wetem council blong hem mo komuniti. But hemi precisem se family Nikara wetem famili Sope blong Imere (Mele) tufala ino gat raet. I gat boundary finis we istap between Mele/Ifira. Mo famili Sope blong Imere oli out finis long Ifira komuniti. So oli lusum raet blong olgeta mo raet ia istap naoia long hand blong Sope long Ifira anda long Ifira komuniti.

Witness Jif Mantoï kalsakau i precisem se boundary we istap between Mele/Ifira i catem blood laen ia blong olgeta parti long case we oli kam long Mele, particularly Sope famili Imere, mo Nikara famili. Long answer blong wan narafala question we Sope (Imere) hemi askem about who nao i gat raet blong claimem wan graon, witness ia hemi admittimse Taem we wan custom ona i wandem claimem wan (1) graon i mas pas tru long jif mo council blong hem.

Mo anda long cross-examination blong Pastor George kano, witness jif Mantoï kalsakau hemi admittim se i gat graon blong individual custom ona istap. Mo witness ia i talem tu se jif i just protectem nomo custom raet ia long custom ona. Witness ia i talem tu se i gat case we individual custom owna hemi lukaotem hem wan nomo graon blong hem.

Long sem tingting yet, Pastor George Kano, lida blong Naflak Teufi Ifira i putum long witness se bifo 1872, olfala bubu blong olgeta oli gat custom onaship mo custom ownaship ia i base long straight blood laen blong graon blong dispute. Witness hemi admittim mo hemi talem se George Kano hemi shud claimem blood blong man, blood blong ehichirua.



Witness ia tu hemi admittim se ol custom owna blong graon we dispute istap long hem oli stap long Ifira. Witness ia tu hemi recognisem se sipos papa ino gat pikinini boy hemi save givim graon blong hem long gel blong hem.

FACTS WE COURT HEMI FAENEM LONG MAROPE LAND CASE MO

STATEMENT BLONG LAW ABAOT CASE IA.

Long case ia, yufala parti i askem long Court ia blong determinem who nao o who olgeta nao oli custom ona blong MAROPE land.

Kot hemi listen long evidence mo hemi observem carefully behaviour o ^{demeanour} blong witness mo hemi finally decide sipos witness hemi givim tru toktok long witness box or no.

Problem we Kot hemi fesem hemi problem o question blong belief. Plante witness oli givim evidence long kot, mo long opinion blong kot, hemi faenem se hemi hard blong believim se toktok blong olgeta i true. Sam narafala witness we oli givim toktok blong olgeta long witness Box, kot hemi luk mo hemi bilivim se witness ia oli talem samting we oli talem long olgeta blong talem long witness Box.

Blong faenem aot true custom owna, kot hemi mas go back behind as far as hemi save go, blong faenem out long saed blong custom blong eria blong claim, how oli ownem graon, how oli posessem graon, how oli obtainem ownaship long graon, how oli obtainem possession long graon, how oli live long graon (individually o long group) mo who nao hemi gat pawa blong exercisem olgeta rael ia long custom.

Bambae olsem nomo nao kot ia hemi save go kolosap long truth blong faenem aot custom owna.

Follem Section 25, Island Courts Act Cap 167 :

"Island kot hemi no gat obligation blong applyem technical rule blong evidence but hemi mas admittim mo considerem information we hemi available long hem."

Yumi save understandem from we long olgeta case blong custom dispute blong land, olgeta evidence we oli kam aot long kot, oli hearsay evidence o toktok we hemi kam aot from mouth to mouth from we olgeta witness oli storry long wanem we papa mo bubu blong olgeta oli talem long olgeta.



Problem we bambae hemi rise up long ples ia hemi problem blong examinatem carefully olgeta orol evidence ia. Mo which wan nao hemi tru.

Hemi helpful sipos kot hemi save refer long wan legal principal we some kot i bin follem long sam land case bifo we oli involvem similar matters.

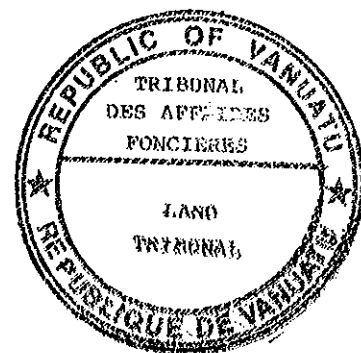
So long ples ia, kot hemi refer long Land Appeal Case Judgment No. 1 of 1985 between MALAS FAMILY -v- SONGORIKI FAMILI we Supreme Court blong Vanuatu i givim long 8 October 1986. Long case ia, Supreme kot hemi acceptem blong follem one legal principal we hemi wan useful test blong solvem conflict bitween olgeta "Traditional evidence".

Principal ia hemi go olsem :

"Taem we i gat conflict blong Tradition, custom story about land, one saed story o narafala saed story i mas mistake (o wrong). Hemia ino minim se tufala tugeta ino honest long belif blong tufala. No, tufala i save honest long beliv blong tufala, long case olsem ia, behaviour o way we witness i givim evidence long kot i save help blong go kasem truth. So best way blong testem custom history, tradition i blong refer long olgeta facts we i happen long recent year olsem we istap long evidence mo blong luk which wan long olgeta history ia we oli talem long kot hemi more probable (go kolosap truth)"

Kot hemi aware se i gat wan(1) legal truth we hemi se every claimant oli mas succeed long claim blong olgeta long pawa blong title we olgeta i gat. But olgeta oli no save succeed long weakness blong opponent blong olgeta. Olsem sam parti long case oli bin occupyem sam graon insaed long boundary blong disputed land plante year i pas pretended title we oli gat hemi strong agensem world but hemi no strong enough agensem tru custom ownna.

However, Constitution hemi statem clearly se everi land long Republic hemi kam bak long olgeta indegenous custom ownna mo decendent blong olgeta (Article 73, 1988 Revised Edition blong laws of the Republic of Vanuatu). Mo olgeta rule blong custom oli formem basis blong ownaship mo use blong land long Republic.



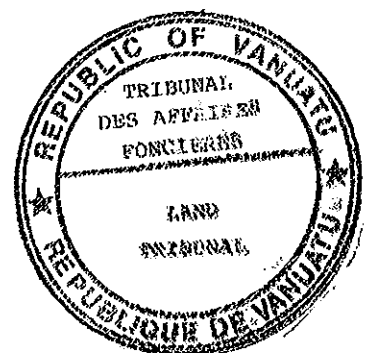
Hemia sam general consideration we kot hemi follem blong definem custom land ownaship mo blong determinem tru custom land owna long Marope Land :

1. Follem custom blong Efate, particularly long aria blong Marope Land, custom land ownaship hemi base long man. Custom land ownaship hemi follem Patrilineal system.
2. Custom land owner hemi wan custom jif. Samtaem i save gat exception se custom land owna hemi no wan custom jif. Custom jif we hemi ownem graon, hemi ownem long behalf blong pipol blong hem we oli live mo work long graon. Custom jif ia hemi takem ownaship blong land long nem blong pipol blong hem we oli occupaem graon.

Custom land ownaship ia hemi long saed blong representation. Custom chief hemi representem custom boundry blong land we hem, wetem ol pipol blong hem oli live mo wok o occupaem. (custom land blong jif). Custom jif ia hemi custom owna blong custom land blong olgeta wetem pipol blong hem. Custom land ownaship ia hemi different long individual ownaship of land. Long saed blong individual ownaship of land, land owna hemi save disposem land blong hem olsem hemi wantem.

Long side blong custom ownaship, custom jif we hemi custom land owna hemi no save disposem o salem land long free will blong hem.

3. Olgeta pipol we oli stap anda long authority blong custom jif oli gat custom interest, o custom raet long land ia. Custom raet ia hemi wan perpetual right blong occupaem o usum custom land we custom jif blong olgeta nao hemi owna blong hem.
4. Follem system blong custom land tenure ia, jif we hemi custom owna blong big baondry, hem tu hemi gat olsem olgeta pipol blong hem, sam graon insaed long big custom graon. Mo jif ia hemi gat wan(1) Petetual raet long olgeta graon ia nao we hem wetem family blong hem oli usum o occupaem.
5. Custom chif ia hemi chief blong wan tribe mo samtaem tribe blong jif ia i lidim diferent tribe mo i mekem se custom jif ia hemi jif blong diferent smol smol tribe tu.



6. Custom land ownaship hemi transfer from father to son. (bubu kam long papa kam long pikinini) Custom land ownaship hemi wan birth raet.
7. Sipos custom owna hemi ded, custom land ownaship hemi transfer igo long second brata blong hem. Sipos custom owna hemi no gat wan brata we hemi laef istap, ownaship i save transfer i go long first (1st) born son (boy) blong senior sista blong custom land owna. Long ples ia land ownaship hemi transfer tru long uncle relationship.
8. Long situation blong poligamy, wan man we hemi maretem plante woman, land ownaship i go long first (1st) bon son bong sinior wife blong hem.
9. Long saed blong wan man we hemi maret mo long wan (1) taem from we first (1st) wife hemi ded, custom land ownaship hemi folem 1st born son blong 1st wife, no mata we man ia hemi maret bagagen mo hemi gat son tu long 2nd marriage blong hem.
10. Criteria blong 1st occupant blong land blong dispute. Land claimant we hemi claim se bubu blong hemi occupaem land ia bifo any man i kam long land ia, hemi mas satisfyem kot se bubu blong hem hemi occupaem customarily land ia. Hemia i mean se bubu blong hem i gat custom nasara wetem Stones; Nabanga tri mo special tri (olsem fruit tri) namele, Nakamal mo tabu ples (Title o Deed of Sale sipos i gat oli save helpem hem).

Kot hemi tekem olgeta Custom consideration ia, hemi bin skellem wetem story, toktok o evidence blong wan wan parti mo kot hemi skellem tu wetem position blong each parti long case mo hemia nao findings blong kot :

Marope Land dispute hemi wan big mo difficult case. Seven (7) parti everiwan oli disputim customary ownaship ova long land ia. Olgeta parti ia oli kam wetem different custom story. Wetem different family tri blong olgeta. Sam long olgeta parti ia oli askem long kot blong declarem se Marope land hemi 1 custom land blong communiti. Ol narafa parti oli askem long this kot blong declarem se Marope land hemi blong group o naflak (tribe) blong olgeta. Sam long ol parti ia oli requestem long kot blong hemi declarem se Marope land hemi blong olgeta wetem family blong olgeta.



Land claimant No.6, Ifira Kommunity hemi askem long this kot blong declarem se marope land hemi custom land blong komuniti blong Ifira. Mo hemi submittim long kot wan big bundle blong documents we hemi talem se hemi pruv or evidence blong case blong hem (Exhibit 17...)(Insaed long bundle blong documents ia i gat wan (1) Joint Kot Judgment dated 24 January 1930.

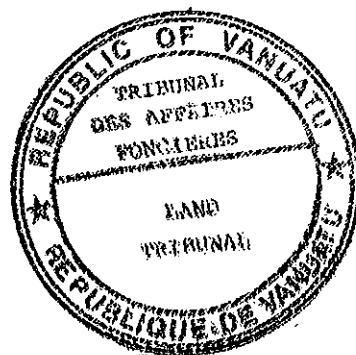
Kot hemi wantem mekem i clear se Joint kot judgment ia about registration blong land long area blong land claim hemi no bindem kot ia nating. Joint kot decision ia hemi wan long olgeta decision we oli constitutim legal basis blong land ownaship blong olgeta settlers (white man) bifo. Mo olgeta decision ia nao oli takem aot raet (right) blong natives. Joint kot decision ia hemi happen bifo from we long taem ia Condominium Government blong New Hebrides hemi no ting ting nating long custom owna.

Long Novemba 1979 nomo taem we oli stap draftem Constitution blong Vanuatu we i bin kam clear long pipol blong Vanuatu se olgeta land ia i mas kam back long olgeta indigenous custom owna mo decendant blong olgeta. Hemia nao basic principle blong custom land ownaship we section 73 blong Constitution (1988 Revised Edition of the laws of the Republic of vanuatu) hemi establishim.

Mo since 30 July 1980, custom land ownaship dispute hemi stap exclusively between ol indigenous Ni-Vanuatu. Blong determinem custom land ownaship, mo use of land, Court hemi follem rule blong custom olsem section 74 blong Constitution hemi statem. Kot hemi no satisfy se Ifira komuniti hemi custom owna blong Marope land. Long Ifira komuniti i gat plante man we oli part blong kommuniti blong Ifira but oli no gat any custom raet long Marope land.

Wan narafa parti, hemi land claimant No. 4 wan company (I.T.C. H. Ltd), hemi claimem custom ownaship blong Marope land long behalf blong olgeta share holders blong hem. Court hemi faenem i hard se wan company hemi save become wan custom owna blong wan custom land. Olgeta olfala we oli live long bush antap long aria blong claim oli no save abaot 1 kampani bifo we hemi custom land owna. Therefore Court hemi no satisfy se ITCH Ltd hemi custom owna blong Marope Land.

Land claimant No.3 family kalsakau we George kaltoi Singari Kalsakau hemi lidim hem basem claim blong hem long papa blong hem Kalsakau we hem nao jif blong Ifira mo hem nao hemi stap faet from graon ia bifo againsem ol white settlers mo againsem condominium government. Kot hemi acceptem evidence se family Kalsakau oli wok long land we dispute istap long hem bifo. But kot hemi faenem se family Kalsakau oli nostrait custom owna blong Marope land. Wan book we George Kaltoi Singari Kalsakau hemi raetem "History of the Three Flags" (EXH 4) long page 16, Paragraph 2, lida blong family Kalsakau i raetem olsem : "Rev. J. W. Mackenzie nao i ordeinem Tiza Kalsakau i kam Jif long 1908.....". So chief ia hemi no wan (1) custom chief ia.



Wan documents dated 7 January 1923 we oli adressed long Director blong Societe Françoise de Nouvelle Hebrides, company we hemi involve big wan long transaction long olgeta graon ia bifo mo document ia oli attachem wetem olgeta pepa (o document) blong graon ia bifo, mo kot hemi acceptem, hemi confirmem se ol Presbyterian missionary blong taem ia oli makem Kalsakau i kam jif. "Note sur les chefs de la tribu de Vila" (o Memorandum about chiefs of Vila Tribes. Insaed long document ia tu, oli talem se Kalsakau hemi wan ordinary native mo hemi no owna blong wan graon. Kalsakau hemi no custom jif long land blong dispute. So kot hemi acceptem se family Kalsakau oli gat sam custom interest o raet long land blong disput but hem no satisfy long claim blong family Kalsakau (Land Claim 3) se hemi custom owna blong Marope Land.

Land claimant No.5 family Nikara, oli basem claim blong olgeta long Nikara Paunareo, wan big mo strong warrior bifo taem blong jif Nareo, kot hemi no satisfy se family Nikara i custom owna long part blong graon we jif Nareo hemi salem olgeta bifo. But kot hemi faenem mo hemi satisfy se Pierre Nikara wetem family Nikara olgeta oli custom owna blong graon we Title blong olgeta i go olsem : 118, 131, 2757 (31/002), 94, 3242.

Family Sope blong Mele (OLC), Nunu Naperik Mala (LC1), mo Naflak Teufi Ifira (LC2), trifala party ia oli claimem Marope Land mo oli claim se olgeta i descendant blong custom Chief NAREO we hemi bin salem bifo big part blong graon we dispute istap long hem. (Part ia hemi blue colour long map annexed to the Judgment).

Family Sope wetem Nunu Naperik Mala, tufala i refer long wan (1) woman we nem blong hem LEITAKAE.

George KANO, lida blong naflak Teufi Ifira, hemi refer long wan (1) woman tu, we nem blong hem TOUMATA TETRAU. Mo hemi talem se hemi first sista blong custom Chief NAREO, mo KANO we i lida blong Teufi Ifira i kamaot long hem, hemi first son blong TOUMATA TETRAU.

Court hemi mas faenemaot nao bitwin trifala party ia, se who nao hemi stret mo immediate related i go long custom Chief NAREO.

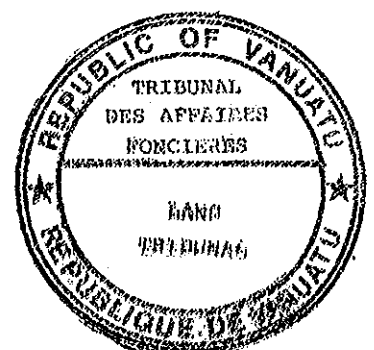
Family Sope blong Mele i talem se LEITAKAE hemi daughter blong TOUTAFKAL mo TOUTAFKAL hemi wan (1) long olgeta 4 sisters blong BAUSA mo SAWIA we tufala i brata (cousin) blong Chief NAREO. (see Family Tree blong family Sope, Mele Village above).

Nunu Naperik Mala hemi talem se LEITAKAE hemi daughter blong custom Chief NAREO.

Court hemi faenem se igat conflict bitwin Family Sope (Mele) wetem Nunu Naperik Mala abaot LEITAKAE.

Conflict ia hemi abaot generation blong Leitakae, mo conflict ia hemi abaot whether Leitakae hemi daughter blong custom Chief NAREO o not.

Court hemi no bilivim tufala Party ia.



Court hemi bilivim George KANO Chichirua se custom Chief NAREO hemi no gat pikinini, mo olgeta brata blong custom Chief ia oli no gat pikinini tu.

Court hemi faenem se i gat mo probability se toktok blong George KANO igo kolosap long truth.

Document we Court hemi bin refer long hem finis "Notes sur les Chefs de la Tribu de Vila", dated 7 January 1923 (Memorandum about the Chiefs of Vila Tribes) (Exhibit 12) hemi showem klia toktok ia blong George KANO.

So Court hemi faenem se George KANO Chichirua nao hemi mo immediate descendant blong custom Chief Nareo, **tru long uncle relationship**. George KANO i kamaot tru long blood laen blong Senior Sister blong NAREO we oli kolehem hem TOUMATA TETRAU.

Folem custom blong eria blong land blong dispute George KANO hemi entitled blong tekem custom ownership blong graon ia. (Blue Part long Map).

So Court hemi satisfy se George KANO nao hemi descendant blong TOUMATA TETRAU mo George KANO nao hemi custom owner blong olgeta land ia :

Narrowby Titles : 57J, 57K, 57L, 57N, 497, 2904, 1964, 1231, 2910, 3760, 128, 3762, 3899,

Maleroa Titles : 534, 129

EBOOKA Title : 378

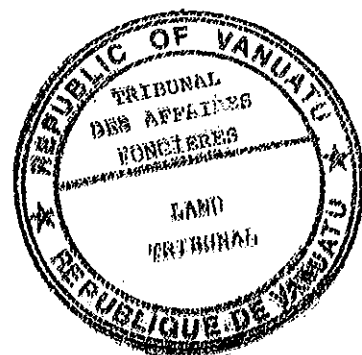
Maruana Natapu Title : 519

Half blong Erangorango Title : 3922

Document we hemi intitule "Notes sur les chefs de la Tribu de Vila" Memorandum about the chiefs of Vila Tribe) dated 7 January 1923. (EXHIBIT 12) Hemi showem i clear se Kano hemi inherit long olgeta pis graon we jif Nareo hemi salem mo oli stap insaed long boundry blong Marope land.

Kot hemi satisfy se land claimant 1 jif Nunu Naperik Mala wetem family blong hem olgeta oli gat custom right blong usum o occupaem sam pis graon tu insaed long boundray blong graon we jif Nareo hemi salem.

Kot hemi satisfy se original land claimant, family Sope blong Mele village olgeta tu, oli gat sam custom raet blong usum o occupaem sam pis graon long area blong land we jif Nareo hemi salem mo we istap long land ia blong dispute.



Kot hemi wantem mekem i clear se family Sope, original land claimant oli kam o oli live long Mele village sipos i gat any boundry between Ifira mo Mele long Marope land, Boundry ia hemi no save katem aot custom raet blong olgeta blong usem o occupaem o enjoyem sam pis graon we Nareo hemi salem bifo mo we hemi part blong Marope land.

Anda Section 13, Island Court Act, CAP 167 Island Court hemi gat pawa blong mekem order. Follem Section 10, Island Court Acts, Island kot hemi applyem custom law we hemi exist mo we hemi prevail long island (o ples) we kot hemi gat jurisdiction blong hem. But Island kot hemi no save applyem custom law ia sipos hemi luk se custom law ia hemi conflict wetem written law mo oli go againsem justice, moraliti mo gud order.

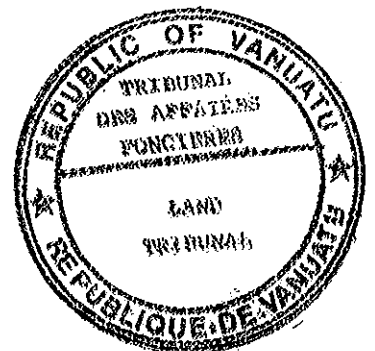
So long case blong family Sope blong Mele village, Follem custom, custom raet we oli gat i shud go long family Sope we oli kam aot long 1st maret blong Family Sope, olgeta ia oli no wan parti long land case ia. So custom right ia i shud go long family Sope Ifira we oli kam aot long 2nd maret blong Sope. But kot hemi faenem se family Sope blong Ifira hemi no wan parti long Marope land dispute, olgeta oli just witnessem nomo case blong Ifira komuniti.

Therefore blong respectem mo applyem justice long case ia, family Sope blong Mele village oli gat custom right blong occupaem o usum o enjoyem sam pis graon long area blong claim we oli entitled long hem.

DECISION MO ORDER BLONG KOT

Afta we Kot hemi harem full case blong Marope Land Dispute we i stap long wan Map we hemi annexed long Judgment ia, hemia nao decision mo order we kot hemi mekem :

1. Court hemi satisfy se i gat two (2) different custom owners long Marope Land. Wan (1) Map we hemi annexed long Judgment ia hemi showem two (2) different part blong Marope Land we i showem se i gat two (2) different custom owner.
 - (a) First (1st) part hemi green colour long Map mo hemi coverem up Title: 118, 131, 2757 (31/002), 3242, 94 ;
 - (b) Second (2nd) part hemi blue colour long Map mo hemi coverem up olgeta eria mo Titles ia: we custom Chief Nareo i bin salem olgeta bifo: (1872-1886)



* Narrowby Land Title: 57J, 57K, 57L, 57N, 497, 2904, 1964, 1231, 3/760, 3762, 3899, 128, 2910.

* Malaroa Land - Title: 534, 111, 129 ;

* Ebooka Land - Title: 378 ;

* Mapuana Natapu Land Title: 519 ;

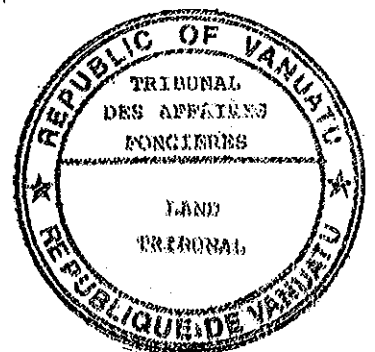
* 1 Part blong Erango Rango Land - Title: 3922 ;

2. Kot hemi satisfy mo declarem se Pastor Pierre Nikara blong Mele village, hemi tru custom owna blong area blong SAWAREO LAND we i stap insaed long boundry blong Marope Land, mo we hemi cavarem up olgeta title ia : 118, 131, 2757 (31/002), 3242, 94. Mo long Map colour hemi green. Map ia hemi annexed long Judgment ia.

3. Kot hemi satisfy mo declarem se Nikara family wetem decendants blong olgeta, follem custom, oli gat wan (1) Perpetual right blong occupyem, usum mo enjoyem part blong land we colour blong olgeta oli green long map mo oli cavarem up titles ia: 118, 131, 2757, (31/002) 3242, 94.

Olgeta raet ia oli includim tu raet blong planem crops, mekem garden, buildim house, live long hem subject long any restriction we government i save mekem. Raet ia i includim tu raet blong recivim rents o narafala profit we oli kam from land ia. Raet ia hemi no limited nomo long olgeta ia.

4. Kot hemi satisfy mo declarem se pastor George Kano hemi tru custom owna blong land we long map colour hemi blue, land ia hemi cavarem ap olgeta title ia :



Narrowby Title : 57J, 57K, 57L, 57N, 329, 497, 2904, 1964, 1231, 2910, 3760, 128, 3762, 3899;

Malaroa Title : 534,129 ;

Ebooka Title : 378 ;

Mapuana Natapu Title : 519 ;

Part blong Erangorongo Title : 3922 ;

Kot decision ia hemi no affectem Land Title 57I, 57M we i stap insaed long map tu, but aotsaed baondry blong land claimed.

5. Court hemi satisfy mo declarem se :

- (a) Naflak Teufi Ifira (L.C. 2) mo descendant blong olgeta;
- (b) Chief Nunu Naperik Mala wetem Family blong hem (L.C. 1) mo descendant blong olgeta;
- (c) Family Sope blong Mele village (O.L.C.) mo descendant blong olgeta;

Follem custom, oli gat wan(1) Perpetual Right blong occupaem, usum mo enjoyem land long part blong map we i gat blue colour long hem mo part blong map (blue colour) hemi coverem up olgeta area mo title ia:

*Narrowby Land Title: 57J, 57K, 57L, 57N, 497, 2904, 1964, 1231, 3760, 3762, 3899, 128, 2910;

Malaroa Land Title: 534, 111, 129.

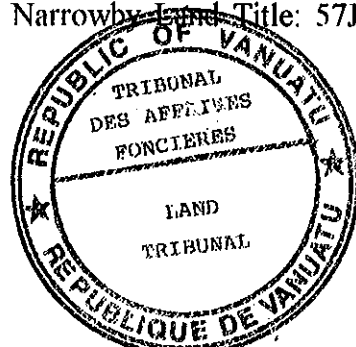
*Ebooka Land Title: 378;

*Mapuana Natapu Land Title: 519;

*Part blong Erango Rango land we hemi stap insaed long Marope Land Dispute Title: 3922.

Custom right ia hemi includim tu right blong planem crops, makem garden, buildim house, live long hem but hemi subject to any restrictions we government i save makem abaot land ia. Right ia hemi includim tu right blong receivim rents o narafala profits we i come aot from land ia.

6. Court hemi satisfy mo declarem se follem custom, Family Kalsakau (L.C.3) mo descendant blong olgeta oli gat same perpetual right blong occupaem, usum o enjoyem Narrowby Land Title: 57J,

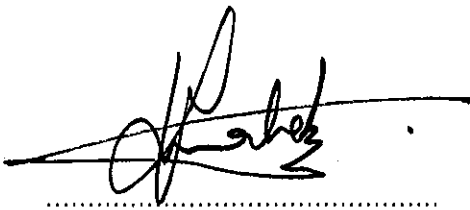


57K, 57L, 57N, 497, 2904, 1964, 1231, 3760, 3762, 3899, 128, 2910, wetem Naflak Teufi Ifira (L.C.2) mo descendant blong olgeta, wetem Chief Nunu Naperik Mala mo descendant blong olgeta, wetem Family Sope - Mele Village mo descendant blong olgeta.

Right ia we Family Kalsakau hemi gat long Narrowby Land hemi includim tu right blong planem crops, makem garden, buildem house, live long hem but hemi subject to any restrictions we government i save makem abaot land ia. Right ia hemi includim tu right blong receivim rents o narafala profits we i come aot from Narrowby Land.

7. Mo Perpetual Right ia blong occupaem, usum o enjoyem land mo olgeta narafala rights we i come out from land ia oli exercisem o enforcem unda long control mo direction blong true custom owna blong land ia.
8. Kot bambae hemi generally acceptem application blong anywan long yufala (parti) blong kam back long kot any taem blong faenem aot o clearem right we yufala i gat from Judgment ia.
9. Right of Appeal (See in the Judgment page 4).

Given under my hands on 25th February, 1994.



VINCENT LUNABEK

Magistrate Presiding over
Land Matters in the Central
& Southern Part of the
Republic of Vanuatu.

