

**IN THE MALEKULA ISLAND COURT
HELD AT LAKATORO/ MALEKULA**

Civil Case No. 7 of 2013

(Civil Jurisdiction)

BETWEEN: RENE DENNY
(Original Claimant)
AND: PAUL ROBERT DENNY
(Counter Claimant 1)
AND: ROBERT TOAME
(Counter Claimant 2)

MATTER: Dispiut ova long kastom nem ia Denny.

Jastices: Jastis Shema Tasvallie
Jastis Douglas Vandel
Jastis Endie Shem

Clerk: Joel Jacob

JUDGMENT

Brief backgraon blong case:

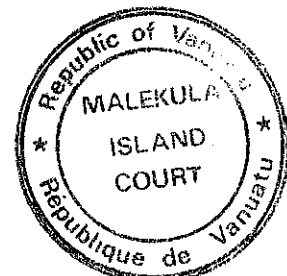
Civil Case # 7/2013 hemi wan kastomary matter concernem dispute ova long kastom nem ia Denny. Dispiut ia hemi blong Tautu village we Rene Denny hemi putum akensem ol family Robert Toame mo especeli nao long Paul Robert Denny. Keis hemi bing brought bifo long kot long 27/06/2013 mo hemi ko long trial long 26/08/2013 blong sotemaot issue ia.

Issue:

Who nao long olketa parties ia hemi kat raet blong usum nem ia Denny?

Smol Histri blong case:

Original Claimant – OC hemi talemaot long kot ia se every toktok we istap insaet long stetmen hemi blong hem. Raet ia nao we papa blong hem ikivim long hem mekem se tudei hemi stanap strong blong tekem bak. Long olketa kros examinesen, hemi se fes woman blong Denny, Letagstunamel hemi no ded yet taem we seken woman blong hem, Constance ikam stap wetem hem. Hemi talemaot tu se ol fes kot long 1980's ikam, Robert Toame nao istap spokes man blong diventem ol raets ia from hemi stap smol yet. Hemi mensenem tu se taem we Denny ided, sista blong hem nao oli mekem



kastom ceremony mo pem bak every kaon blong papa blong olketa. Hemi talemaot nems blong ol man, ples, nasara mo woman blong olketa we istap insaet long family tri blong hem. Lastly hemi talemaot se Toame mo Denny hemi ol divren man mo Sela Toame nao hemi wan adopted man we Robert I adoptem hem.

Witness :

Cyprian Serake. Hemi konfemem long kot ia se ol bikfala kraon nao oli on by Rene mo Denny. Hemi talemaot pakeken se long 1984, Robert nao hemi kot long biaf blong Denny. Hemi talemaot tu se Robert hemi adoptem Sela Toame mo hem nao hemi bon fastaem long Rene.

Kalran Ati. Kot hemi no tekem note long every toktok blong witnis ia from kot ifaenemaot se OC nao hemi raetem mo mekem stetmen ia mekem se kot hemi widrowem hem.

Counter Claimant 1- Paul hemi talemaot se Denny nao hemi bonem OC mo ikivim raet ia long Robert, mo raet ia nao bae istap wetem hem (CC1).

Taem kot ikwistinim hem, italemaot se Robert nao hemi fes bon mo hemi no save abaot adopsen ia we OC hemi bing talem be, hemi jes faenemaot adopsen ia long suprim kot. Kwistin hemi raes pakeken se, from wanem you usum Denny afta ol naralafala brata blong you oli usum Toame? Hemi ansarem olsemia, 'from mi usum longtaem finis long ol fes kot kasem tete we mi still usum'. Lastly hemi talemaot se papa blong hem iusum Robert Toame nomo be hemi no usum Denny olsem we hemi usum.

Witness:

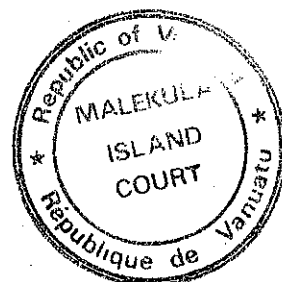
Anatol Lingtamat. Witnis ia italemaot se raet ia isud ko long Robert from Robert nao hemi fes bon from tufala 1 blad laen nomo mo raet ia isud pass iko long Paul. Hemi konfemem tu se Denny ikat 2 woman, fes woman I ded mo namba 2 woman blong hem ia nao ibonem Robert.

Jif Jeffery William. Witnis ia hemi talemaot se Robert Denny nao hemi stret pikinini blong Malsei. Hemi se fes woman ided afta seken woman blong Denny ijek kam long aos mo bonem Rene. Robert nao isud karem raet ia from hemi stret pikinini blong Denny.

Counter Claimant 2: - Robert Toame hemi talemaot se fes woman hemi bonem hem mo seken woman ikam afta hemi bonem Rene (OC).

Taem kwistin emi reis abaot adopsen, Robert Toame hemi konfemem se yes, hemi tru, olfala Sela nao hemi adoptem hem. Lastly hemi talemaot se long stret kastom we hemi stap long hem naia, hemi stap long adopsen mo blad mo Paul (CC1), hemi sud usum Toame nomo.

Witnis blong hem tu, Albert hemi talemaot se Sela ibing adoptem aot Robert finis long Denny iko long wan divren nasara we oli kolem, Potnator.



Afta long toktok blong ol paties mo ol witiniss blong olketa, kot hemi kam long olketa findings ia;

1. Ikat 3 divren family tri. OC hemi kleim Denny stat long pupu blong hem Malturvanu kam kasem Denny. CC1 hemi kleim Denny stat long pupu blong hem Malse kam kasem Robert Toame. CC2 hemi kleim Denny stat long pupu blong hem kam kasem Robert Toame.
2. Denny itekem 2 woman nem blong tufala hemi Letagstunamel mo Lenale.
3. Long tuketa saet family tri Denny mo woman blong hem Letagstunamel, tufala ikat 1 boe nem blong hem Penore be hemi ded taem hemi kat 5 years.
4. Long sam long ol pass kot, Paul Robert wetem papa blong hem Robert Toame tufala I stap usum nem blong Denny long family tri blong tufala.
5. Tufala woman ia I laef yet wetem Denny kasem taem we Robert Toame I bon.
6. Rene Denny ino save toktok long ol pass kot from hemi young yet long ol taems ia.
7. Robert Toame ikonfemem long kot se 'yes, itru mo mi luk long eyes blong mi we Sela Toame I bing Adoptem mi'.
8. Robert Toame I talemaot long kot se Sela Toame imekem wan kastom adopsen blong adoptem hem aot long Denny long 1 pik wetem 10 paon.
9. Albert Selnagy I konfemem long kot abaot kastom adopsen ya se yes itru, Sela Toame ibing adoptem Robert Toame aot long Denny long wan kastom ceremony blong 1 pik wetem 10 paon.
10. Wetem tufala konfemesen abaot kastom adopsen we Sela Toame Imekem iko long Denny, mo tekemaot Robert Toame olsem pikinini boe blong hem, kot ikam blong talemaot se stetmen blong OC, (Rene Denny) abaot kastom adopsen ia hemi tru.

Law we Court I applaem:

CAP 167 (s.10) – Application of customary law

Subject to the provisions of this Act, an island court shall administer the customary law prevailing within the territorial jurisdiction of the court so far as the same is not in conflict with any written law and is not contrary to justice, morality and good order.

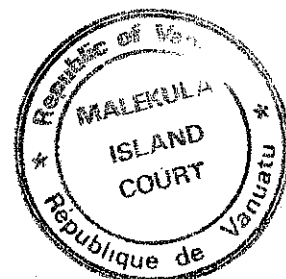
Translate:

CAP 167 (s.10) – Kot hemi mas applaem kastom

Subject long seksen blong Act ia, aelan kot hemi mas aplaem kastom we istap insaed long eria mo paoa blong hem, spos oli no gat conflict wetem eni loa we oli stap raetem, mo no gat konflik tu wetem jastis, morality mo gudfala orda.

Apply Law igo long fact:

Kot emi tekem decision follem customary system blong titlelism long each eria customary way mo applyem folem ol toktok blong youmi ol parties.



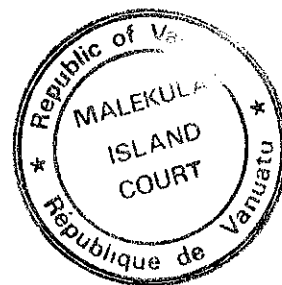
DIKLEREISEN ORDER

Wetem every toktok mo ol findings blong kot, kot hemi rule mo mekem dikleresen order ia se;

1. Rene Denny (OC) wetem brata blong hem Joseph Denny mo ol pikinini blong tufala oli kat raet ia blong usum nem ia Denny stat from tudei Thursday 5th blong manis September 2013 kasem ol nara jeneresen we bae ikam.
2. Family Robert mo ol dicenden blong hem, oli nomo alao blong usum kastom nem ia Denny long family tri mo long eni kastom dispute we bae ikam.
3. Family Robert Toame mo Dicenten bae oli konteniu blong usum kastom nem ia Toame long eni keises mo long ol jeneresen we bae ikam.

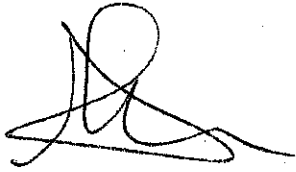
Anyone long olketa paties ino akri long dicisen ia, hemi kat 30 deis blong Apil stat from tudei 5/09/2013 kasem long 5/10/2013.

Dikleresen order ia kot imekem tudei Tesdei 5th blong manis Septemba 2013.




Dated at Lakatoro this 5th day of September 2013.

BY THE COURT



.....
Justice Shema Tasvallie



.....
Justice Douglas Vandel

Endie Shem
.....
Justice Endie Shem

