

**IN THE MALEKULA ISLAND COURT
HELD AT ORAP CENTER/ MALEKULA**

Civil Case No. 3 of 2013

(Civil Jurisdiction)

BETWEEN: JEANNOT MALCEKAN
Original Claimant
AND: CHIEF CLAUDE TELUKLUK
Counter Claimant 1
AND: TEILEMB MELTEOUSI ALBERT MARIE
Counter Claimant 2
AND: ISMAEL MALVARU
Counter Claimant 3

**MATTER: DISPUTE OVER LONG JIFLI TAETEL BLONG TONMALVAR
NASARA**

Jastices: Jastis Shema Tasvallie
Jastis Douglas Vandel
Jastis Endie Shem

Clerk: Joel Jacob

JUDGMENT

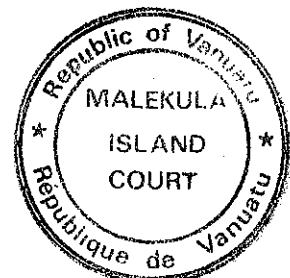
Brief backgraon blong case:

Civil Case # 3/2013 hemi wan customary matter concernem dispute ova long jifli taetel blong Tonmalvar nasara hemia long North East Malekula Vao mein lan. Kes ia hemi bing fael bifo long kot long 08/04/2013 mo tudei 30th blong manis August 2013, kot hemi sitaon blong lukluk long hem.

Issue: who nao hemi raet man blong tekem jifly taetel blong Tonmalvar nasara?

Smol Histri blong wanwan klema:

Original Claimant – OC hemi putum kleim ia bifo long kot from se ikat sam klema oli bing stap misusum raet ia we hem nao hemi stret man folem laen dicenden blong hem bifo long 19 jeneresen blong hem kam kasem 14 jeneresen blong Kalowon long Lamatnamaki nasara. Taem hemi aot long ples ia, iko mekem nasara ia Tonmalvar we tudei hemi stap klemem.



Long olketa ansas blong hem, hemi se Kalowon iminim 'oli no katem hem'. Kalowon ino Jif blong ol woman mo tu ston blong hem istap long saet blong ol man. Kalowon nao hemi faonda blong nasara ia. Hemi aot long smol aelan ikam long mein lan from gud rilesensip blong olketa bifo. Hemi no save eni risen, from wanem nao oli no perem Kalowon long Tonmalvar. Also hemi talemaot se kalowon ikilim Namangi, hemi kakae head blong pig mo hemi kakae yam mekem se tudei hemi still stanap strong blong divendem birth right (blad laen) ia. Lastly hemi se insaet long Tonmalvar inokat nakamal be, ikat Tonmalvar nomo we hemi nasara.

Witness: Jean Baptiste. Witnis ia hemi wantem witnisim OC from every toktok we istap insaet long stetmen blong OC oli tru toktok everyone olsem family tri mo ol narafala samting mo.

Taem kot ikros examinetem hem, hemi se ston ia we ol narafala klema sta tokbaot se istap long saet blong woman hemi no tru. Long ol kakae, hemi se bik faea wetem tambu faea ino save kakae tuketa from ol bikbikfala man be, Smol faea isave kakae wetem woman yes. Hemi konfemem long kot ia se insaet long Tonmalvar, ikat 1 nakamal mo 3 smolsmol nasara pakeken.

Counter Claimant 1: Chief Claude Telukluk hemi stap klemem taetel ia from hemi stret dicenden blong Jif Ulial long Teritori blong Tonmalvar.

Hemi se hem blong Tonmalvar from Ulial nao ikam fastaem long nasara ia. Posisen blong ston blong hem istap long foret. Taem hemi putum kakae, iko kivim blong Betehul fastaem mo Togh-Vanu laswan. Hemi talemaot tu se hemi no blong Tolamb from Tolamb mo Tonmalvar tufala no semak. Also insaet long Tonmalvar, ikat 4 nakamal everyone be ino olsem we OC hemi talem. Ikat sikret identity, memoriel ples, kastom rod, mo ikat pasis long solwota.

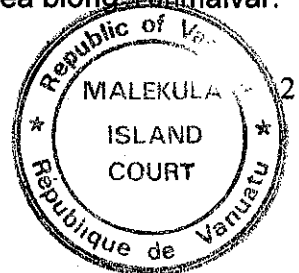
Counter Claimant 2: Teilemb Melteusi Albert Marie hemi talemaot se hemi kam long Tondor. Oli ronwe long Tondor ikam long Tonmalvar from ol bikbikfala faet wetem olketa mo ol nara traeb.

Long ol ansas blong hem, hemi se ikam long Tondor mo iko stret long smol aelan. Hemi klemem jifly taetel blong Tonmalvar nasara from blad laen blong Tonmalvar ifinis. taem imuf long Tondor ikam, Tonmalvar istap finis. Fes man we Tonmalvar irisivim hemi ol family blong CC1. Insaet long nasara ia, ikat 2 nakamal mo tufala ston blong Toronbabaru ia nao we hemi stap klemem.

Witness: Leonard Teilemb. Hemi witnisim se CC2 hemi stret man Tondor blong smol faea. Brata baondri blong Tondor nao hemi Tonmalvar we hemi klemem.

Hemi talemaot se insaet long nasara Tonmalvar, ikat 2 nakamal be bikfala nakamal nao hemi Aime.

Counter Claimant 3: Ismael Malvaru hemi stap klem jifly taetel blong Tonmalvar from se Valeh mo Batun Tonmalvar nao istret blad (faonda) blong bik faea blong Tonmalvar.



Oi narafala nakamal oli jes kam biaen nomo be first existing nakamal nao hemi Laghamb Navot.

Long olketa kros examinesen kwistin, hemi talemaot se hemi kam long smol aelan we Patun Tonmalvar nao ikam long hem. Ikat 3 smolsmol nakamal mo 2 nasara we istap insaet long baondry. Hemi no save tu se who nao long olketa bae itekem taetel ia. Hemi save nomo se hem ikakae head bong pig, yam blong Tonmalvar mo hem nao hemi fes bon from Valeh mo Patun Tonmalvar nao tufala ifes blad. Hemi konfemem long kot ia se hem nao iklemem smol nakamal be ino save se laef blad blong bik nakamal hemi who?

Witness: Gregory Barthelemy hemi talemaot long kot ia se yes, olketa nao oli transit long smol aelan mo kam klemem nasara ia long mein land from oli folem blad laen. Hemi konfemem tu se Patun Tonmalvar nao hemi stret brata blong Valeh mo olketa nao oli stret laen blong hem tudei.

Afta long toktok blong every parties, kot hemi faenemaot se;

1. Ikat Dispiut ova long
 - a) Kastom nem ia Valihe, Toronbabaru mo Holovon.
 - b) Nakamal ia Labanqrimetine.

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:

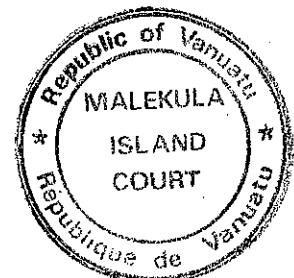
CAP 167 (s.10) – Kot hemi mas applaem kastom

Subject long seksen blong Act ia, aelan kot hemi mas aplaem kastom we istap insaet 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:

Court emi tekem decision follem customary system blong titelism long each eria customary way.

Long this fala case Court ifinem se eria in dispute blong Jifly taetol emi base long customary bladline system, hemi minim se taetol blong Jif emi inherited tru long laef blad.



Decision:

Wetem every toktok mo ol findings blong kot, kot hemi rule se;

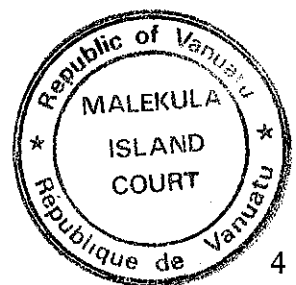
1. Jifly taetel blong Tonmalvar Nasara bae hemi transfere ikobak long Vao Village Counsel of Jifs blong hemi lukluk long keis ia.

Issue blong keis ia bifo long North East Area Counsel of Jifs hemi;

- a) Onasip blong kastom nem ia Valihe, Holovon mo Toronbabaru. Faenemaot who nao long olketa paties hemi stret blad laen blong trifala man ia?
- b) Who nao hemi stret onasip blong kastom nakamal ia Labanqimetine?

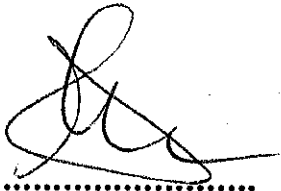
Keis ia mbae hemi added long kastom nems dispute long issue blong Mulei. Hearing mbae hemi mas stap long namba 14th blong manis Oktomba 2013.

2. Kleim blong jifly taetel blong Tonmalvar nasara mbae hemi sitaon tuketa wetem Togh-Vanu nasara long namba 17th February 2014 tru long okonaesesan blong Vao Village Counsel of Jivs.
3. Anyone long olketa parties ino akri long dicisen ia, hemi kat 30 deis blong apil. 30 deis blong apil hemi stat tudei 5/09/13 kasem long 5/10/13.



Dated at Lakatoro this 5th day of September 2013.

BY THE COURT



Justice Shema Tasvallie



Justice Douglas Vandel

E.ndy.Shem
Justice Endie Shem

