

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Judicial Review Case No. 02 of 2012

BETWEEN: MACKENZIE HAGA as representative of Family Mwando
Claimant

AND: AMBAE ISLAND LAND TRIBUNAL
Defendant

Conference: 22 November 2012

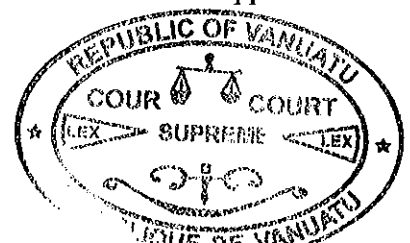
Before: Justice Robert Spear

In attendance: James Tari for the Claimant

Jason Pakoasongi for the Defendant (State Law Office)

CONSENT ORDERS

1. This is a claim for the judicial review of the decision of the *Ambae Island Land Tribunal* dated 12 June 2012 in respect of custom land on which Longana Airport on Ambae is situated. That decision was on appeal from the decision of the *Lugei Tagaro mo Vatubulei Tagaro Joint Area land Tribunal*.
2. In a decision given on 12 June 2012, the *Ambae Island Land Tribunal* declared that the land in question should be considered as broken down into 4 separate blocks. It then purported to determine custom ownership of each of the 4 blocks.
3. Family Mwando, a party to that land tribunal proceedings, not only objected to the composition of the tribunal, it is also dissatisfied with the decision. Be that as it may, it is unnecessary to address those matters.
4. A consent position has been reached which acknowledges that the initial land tribunal proceeding, before the *Lugei Tagaro mo Vatubulei Tagaro Joint Area land Tribunal*, despite the best of intentions, was unlawful. The custom ownership claims were initially commenced in this joint area land tribunal whose decision was then taken on appeal to the



Ambae Island Land Tribunal. State counsel accepts the claimant's assertion that the first hearing was before a joint area land tribunal. Of course, the first hearing had to be before (in this case) a joint village land tribunal. The case would only reach a joint area land tribunal on appeal from the decision of a joint village land tribunal. The parties here accept that there has not been a hearing before a joint village tribunal which should have been the case.

5. That causes the proceedings before both the *Lugei Tagaro mo Vatubulei Tagaro Joint Area land Tribunal* and necessarily the *Ambae Island Land Tribunal* to be accepted as irregular and unlawful. That is unfortunate but this irregularity cannot be overlooked.
6. The consent position reached is that the decisions of the *Lugei Tagaro mo Vatubulei Tagaro Joint Area land Tribunal* and the *Ambae Island Land Tribunal* must be quashed so that the customary land ownership issues can be determined afresh and in accordance with the Customary Land Tribunal Act [CAP 271].
7. **ORDER** The decisions (1) of the *Lugei Tagaro mo Vatubulei Tagaro Joint Area land Tribunal* and on appeal (2) of the *Ambae Island Land Tribunal*, both relating to the custom ownership of the land on which Longana Airport is situated, are quashed.
8. It is now left for anyone interested in the custom ownership of the land in question to given the appropriate notice of claim to the principal chiefs of the villages involved pursuant to s. 7 of the Act and for a joint village land tribunal then to be convened.
9. Mr Pakoasongi is to arrange for a copy of this decision is to be prominently displayed in the foyer of Longana Airport.
10. Each party will bear their own costs.

BY THE COURT

