

JUDGMENT

The Tangarare Local Court by variation warrant dated 5.2.82 (gazetted No 46/82) heard and decided TIRONE Land case on 30 May 1982. That decision was in favour of Amuel Voginia the present Respondent. It is against that decision that the Appellant, Christian Sosopa now appeals.

The judgment and decision of the court below is surprisingly brief and abrupt giving no reasons for its decision. The judgment and decision are set out below for ease of reference.

Judgment: "Court after a long discuss finds she believes the story of the defendant's side and did not believe story of the plaintiff"

Decision: "Court say that TIRONE belongs to the Lakuili line the Defendant. Court sees that TIRONE is under Matanaso area his land. Matanaso to Tirone is spearline".

On appeal both the Appellant and Respondent represented their own interest other than their respective clan or tribe (KAKAU and LAKUILI tribes).

The Appellant's case covers 5 points of appeal. Points 3 and 4 were taken together as they relate to one aspect of the decision. The rest of the points were taken separately.

The Respondent elected to make a single statement which he expects to cover all of the appeal points.

With the calling of witnesses, we refused to allow them either because the witnesses had already given evidence in the court below or because it was possible to call such witnesses but no attempt, as we found was made.

At the outset of the appeal, the parties each produced a sketch-map of the area but on closer observation both sketch maps were rejected on the basis that the maps failed to accurately identify Tirone Land. The parties then accepted the sketch map of the court below. We then defined Tirone as the land bounded by Koloituru river, Talisene, the range of hills to the South and then to Mao. For our purpose we make the area as A, B, C and D on exhibit N.

At the hearing we found the following facts not disputed.

- 1) That the Respondent had bben working at Tirone since 1947.
- 2) That the Respondent has 5 acres of coconuts at Tirone.
- 3) That the land is still tribal land.

It seems therefore that the Respondent has the right of occupation. On the record of the court below we are surprised that it was able to make its decision the same day it heard the evidence. We would have hoped, with respect to the court below that land matters being of cumbersome and protracted nature ought to be given due consideration.

On further examination of the Local Court record, particularly the statements of the Appellants witnesses as against the Respondent's side we came to the conclusion that the facts given were not properly considered.

The decision itself is not clear on the terms used. For example the Respondent in this case represented himself and not the interest of his line the LAKUILI. Also there is no spearline as we found running from Matanaso to Tirone, the 2 places are a long distance away from each other.

In assessing the record of the court below and the evidence on appeal we find that points 3, 4 and 5 of the appeal succeed on the ground that the Court below erred in considering Matanaso together with TIRONE land. Points 1 and 2 are dismissed.

DECISION:

As the appeal succeeds, we order that Tirone land case be put back to another Local Court possibly the East Talise Local Court to rehear the evidence and carry out a survey to define clearly the Tirone land boundary.

Dated at Honiara this 3rd day of October, 1983.

Stanley Sagoregana
Stanley Sagoregana V/President

D. Alebua
Dominic Alebua Member

Robert Ria
Robert Ria Member

Savino Laugana
Savino Laugana Member

Benjamin E. Rakafia
Benjamin E. Rakafia Secretary