

JUDGMENT

This is an appeal against the Tangarare Local Court decision on LABUNGASI Customary Land dated 24th August 1983. The sketch map showing LABUNGASI is confirmed by both parties and marked in red as exhibit A in these proceedings.

The Appellants case encompassed 8 points or grounds of appeal. In prosecuting their appeal the Appellants took the points one by one. The Appellants were crossexamined after each point.

On the whole the Appellants' grounds of appeal can be grouped into two sections as they alleged in the main 2 separate subject matter.

Section one - points 1 - 4 - These allege contacts by the Respondents with the Tangarare Court Members during the hearing.

Section two @ points 5 - 8 - These allege insufficient consideration by the Local Court of the evidence adduced before it.

Having heard both parties we find appeal points no 1 to 6 proved. We are not satisfied with points 7 and 8.

COMMENTS ON POINTS

POINT 1:

It has been proved that the members were paid \$10 shell money and a pig. The custom way (~~KATEPOTO~~) mentioned by the Respondents is different. We do not believe the Respondents. Point 1 succeeds.

POINT 2:

This point has also been proved. The Respondents did not deny that the member of Tangarare Local Court were housed fed by them. The sitting also took place at Respondents village. Certainly there was tendency by Court Members to be biased against the Appellants in view of the Respondents support.

POINT 3:

This point was also proved. Although parties argued about the content of the papers. We are satisfied that Maritiariano Piri is supporter of the Respondents and it was very improper for him to hand notes to the Court when in session. Point succeeds.

POINT 4:

Although the Respondents denied having discussions with Court parties we are satisfied that discussions did take place between court parties and Respondents as alleged by the Appellants. This point must also succeed.

POINT 5:

Having considered the record of the Court below we are of the opinion that the court below did not properly consider the evidence adduced before it. This point too must succeed.

POINT 6:

We would make same comment as in point 5.

POINT 7:

This court was not shown the geneologies relied on by the Respondents in both the Custom and Local Courts. This point must therefore fail.

POINT 8:

For this point we are satisfied that the Respondents own Lands at TOMINO and KOLOKAVOA. And we are also sure that the Respondents have established their claim on Labungasi. This point fails.

As most of the points of appeal have succeeded we allow the appeal. Both the Appellants and Respondents are from the same clan the Kakau tribe. On the evidence adduced before us together with the record of the Tangarare Local Court we are satisfied that both sides have substantial claims over Labungasi.

We set aside the decision of the court below and decide as follows:-

DECISION

Both parties (Appellants and Respondents) each have equal rights over Labungasi Land. We order that the parties as we have granted them equal rights to sort out their ownership of the land in custom as both agreed at the hearing before us.

FURTHER ORDER

We order that the Respondents pay the cost of this appeal namely \$100 to the Appellants by February 29.

SIGNED
STANLEY SAHOREHANA President

SIGNED
D. ALEBUA Member

SIGNED
ZACCARIAH CHIPI Member

SIGNED
ROBERT RIA Member

SIGNED
JACK CHAKU Member

SIGNED
B.E.R. NEWYEAR Member/Sec.

Dated at Honiara this 31st day of January 1984.