

TAKAOTO LAND

Held at Borohinaba - 4th May 1990

JUDGEMENT

The land in dispute is the Takaoto Land. The plaintiff Stanley Bopi claim from defendant Polikapu Halaigu that he should be the head or take charge of the land. From the evidence given by the plaintiff. He said that the land in dispute is not a customary land. The land was bought by Silas Kokonga and other relatives. Silas Kokonga was the plaintiff's father. He stated that his father and mother alone put in or contribute one Isa was given by various relatives. The plaintiff also told the court that after his father's death Polikapu has taken 9 (nine) red money belonging to his parents. This was not disputed by defendant. Because of this the plaintiff claim, that he should be head of boss over the land. He also claim that it was his father who has put him there on the land and that he was advise by his father not to leave even if he was threatened with axes or spear. The plaintiff evidence as to payment of the land was supported by PW1. Nester Guta. She stated in cross examination that the power over the land should go down to Bopi because he is Kokonga's son and Kokonga had paid more for the land than other relatives.

The defendant of the land was that everyone agree to pay the land. He did not say how much each has contributed. He claim that nobody should be head or boss over the land, this is a very unlikely position as to ownership according to custom. DW1 in his evidence said that everyone contribute the same amount to pay the land but the court has find it hard to believe this.-

The real issue in here, is not a dispute over boundary of the land. The real issue is a matter of who should be head over the land. It is true in custom that we cannot separate blood brothers (Mavuga). However after consideration all the evidence before the court, the court has decided as follows. The court is satisfied and believe the plaintiff's story. The court believe that it was the plaintiff's father who first started the payment for this land. It also believe that Polikapu has taken 9 red money owned by Bopi's father. The court therefore find that Stanley Bopi should be head or boss over the land. If Silas Kokongo decided to hand over power over the land to someone else other than his son, the whole family should know about it. But there is not evidence to show this. By taking 9 red monies from the plaintiff's father, Polikapu has already taken a big Portion of Silas Kokonga's wealth. Had this land be a customary land it could have been different.

Decision

Stanley Bopi to be head over the land in dispute. Bopi however should not do anything unusual with the land by his own such as selling it to someone else. Polikapu still has right to the land and other relatives. They too have the right to enjoy the land but Stanley Bopi is the head or boss over the land.

Court Clerk E. Kouhota

President Johnvure.