

IN THE MALAITA LOCAL COURT**LAND CASE NO:** 6/2007**JUDGEMENT DATE:** 25th OCTOBER 2007**NAME OF LAND IN DISPUTE:** BUTABO

BETWEEN: 1) Joseph Sulimae of Darimasi village, west Fataleka **Plaintiffs**
2) Primo Ofotalau of Elifolo village, (spokesman)
3) Dick Fulaimalau of Gwaunatafu village
4) Samani Artii of Alakwawane village

AND: 1) Fredrick Talofai of Darimasi village, **Defendants**
2) Timothy Fositau of Darimasi village (spokesman)
3) Casper Onga " " " West Fataleka

JUDGEMENT

COURT FINDINGS

1. The Land dispute Case is over a portion of land within Lagwae Customary Land in West Fataleka Constituency Ward 5.

The portion of land known as Butabo was given for two different reasons and heard by Subea house of chiefs on three (3) occasions on the same date of 11th April 2004.

2. The single piece of land has got two different names. The plaintiff called it Makefe portion of land while the defendant F. Talofai called it BUTABO portion of land. This is a first time this Malaita Local Court has come across such one single piece of land has got two names.
3. The issue before this Court is to prove the payment given for Makefe/Butabo parcel of land.

4.

CLAIMS

- (a) The plaintiff Joseph Sulimae claimed that he purchase the portion of ~~land~~ Makefe ^{to} Fredrick Talofai for 4 red money (tafuliae) and \$200.00. ^{From}
- (b) The defendant Talofai claimed that the BUTABO parcel of land was given to him by Joseph Sulimae for the good thing he had done for him. After the car accident in Honiara Town in 1978. Mr. Talofai gave 4 red money (tafuliae) and \$200.00 cash for Joseph Sulimae to pay for the compensation demanded by Manioru (m).
- (c) Court also find that the DAIDO logging company arrived in West Fataleka late in 2000 but the land purchase or land giving was done in 1978.
- (d) Court finds that defendant (spokesman) Timothy Fosita told Court that defendant Fredrick Talofai claimed the company DAIDO to pay \$10,000.00 for the road access but paid only \$3,000.00 landing fee and shared among the three (3) groups at \$1,000.00 each.
- (1) \$1,000.00 for Gwaunatafu community
 - (2) \$1,000.00 for Fredrick Talofai
 - (3) Late David Kabini representing Elifolo piece of land took another \$1,000.00.

✓ 5.

Court also finds that plaintiff J. Sulimae and F. Talofai made agreement and signed his two brothers' names Duddley Iasuri and Timothy Fosita which they did not share on that very day. Both parties produced their documents concerning the sale agreement.

✓ 6.

Court also finds that the agreement made by both plaintiffs' party and defendants' party for a purchase of a part of Customary Land before the Commissioner of oath was not true. This Court checked David Totorea's signature apart from the signature appeared on the document presented in Court, but it is totally different from the one we have before us.

✓ 7.

Court found that the agreement made was not legally proved by Court because the defendants did not call upon the Commissioner of Oath to give evidence in Court to prove that he had signed the document.

✓ 8.

Court finds that both parties agreed with the refund of 4 red money and \$200.00 cash and \$500.00 good will, was done in a customary way at Elifolo Village on 16/2/07, which eye witnessing by the plaintiffs 5 witnesses. Therefore, the agreement made at the first place, be terminated or nullified.

✓ 9.

Court finds that both plaintiffs Joseph Sulimae and defendant Fredrick Talofai were both license holder of DAIDO Company Ltd. That they should asked the

Company straight away to pay the road access to the defendants not the plaintiffs.

10. Court finds that the contributors of the 4 red money (Tafuliae) and \$200.00 cash compensation payment given by defendant Talofai to J. Sulimae offered him a portion of land known as Makefe. Then when the DAIDO Logging Company arrived in West Fataleka in 2000. That F. Talofai took \$1,000.00 cash for the road access (The compensation damage for Logging road went through his piece of land Makefe/Butabo. Later Talofai's contributors went to ask their four (4) red money and \$200.00 cash collected by F. Talofai and given to Joseph Sulimae for the compensation demanded.
11. Court finds that defendant F. Talofai denied the disputed portion Makafe was not sold to him by Joseph Sulimae but taken as a RANSOM gift. Later Mr. Talofai admitted in Court. The 4 red monies (Tafuliae) and \$200.00 cash was balance to six hundred dollars (\$600.00) cash payment for the road access paid to him by Joseph Sulimae and tribesmen.

12. **BOUNDARY**

The plaintiffs' map of Makefe portion of land starts at mouth of Makefe Stream West goes East direction to Ngalibina goes across in land south to Gwaaufasu down to Darimasi River follows down Stream West to Kware Rii River down to North and meet Makafe Stream again.

The Defendants map is very similar to the plaintiff side that the defendants also claimed the same piece of land but name it Butabo. The disputed piece of land situated between Makafe Stream and Darimasi River (South) goes down to Kware Rii River West. The Eastern boarder it reaches Gwaaufasu (bush hill side).

13. **SURVEY REPORTS**

On 22/10/07 Court party left Auki on a OBM at 9 am for Gwaunatafu and arrived at 10 am and met both parties the actual surveying of the disputed portion of land Makefe/Butabo took place. (See attached survey report).



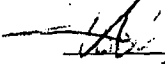

Upon hearing the councils from the plaintiff and defendant and witnesses evidences their supportive and related court documents, that this Court is satisfied and thus delivered its decision.

DECISION

- 1. The Makefe parcel of land now return to Joseph Sulimae the original land owner. As confirmed by the Subea house of chiefs on the first settlement form LC civil 3 dated 11th of April 2004.
- 2. Both parties Joseph Sulimae and clan and Fredrick Talofai and clan may respect your existing properties planted on the Makefe portion of land.
- 3. No Order of cost.

Right Of Appeal Explained (ROAE) 3 Months or 90 days 25/10/07 – 25/01/08.

Court Officials

| | | | |
|------------|---|-------------|---|
| I. Ilimanu | - | VP |  |
| E. Wasi | - | CM |  |
| A. Wale | - | CM |  |
| L. Kebai | - | C/Clerk (M) |  |

