

JUDGEMENT

Land Case No: 01 of 1987 is a remitted case from the Western Customary Land Appeal Court, dated 14/01/92, for a different constituted Local Court to hear and determined. In that, Vella la Vella Local Court was warranted to take the responsibility, for that matter.

The issue before this court was in two-fold;

- Chieftainship of Karivara Land; and
- Ownership of Bope/Indigore Land.

Evidences

Chieftainship of Karivara Land.

Plaintiff:

In his short submission, the plaintiff remains in his belief to prove his chieftainship of Sunga existed from Varukukea to Sunga to Zalo and to him Bato today.

He further reiterated that Chief Sunga came from the main tribe of Karivara, (could not mention the particular tribe), but that the subjects of Sunga came from other places during headhunting raids.

In cross-examination by the defendant, the plaintiff stated that his party does not need any witness to support the chieftainship of Sunga, because they don't need any legend to give false evidences. Their presence in that land already proves Sunga's chieftainship.

The chieftainship of Sunga was known by Lodurade family but who were not called to support Sunga's chieftainship in court, because it was the case of Isaac Hong. The status of Sunga then, was known to all the people in Simbo, except Samae and his family.

Ngaburu, who is still alive, is the current appointed chief of Sunga's tribe, inherited from his grandfather Zalo. However, he could not attend to prove chieftainship of Sunga. Otherwise, he is the current chief of Karivara Land, and the defendant was Sunga's subject. After all, the plaintiff has no relationship with the defendant.

During the survey, the plaintiff had indicated a number of old sites to be that of the foundations of Sunga's subjects; especially at Rorokubo, we were shown the stonewall, was the foundation of houses where Chief Sunga located his subjects. Further on at Rokama, (said to be headquarter of Karivara), we were shown the "Dai" shrine where head skulls of chiefs were stored. However, most of the stones were removed by culprits trying to find custom shells to sell. Graves of Chiefs and remains of houses of priests who looked after the graves were also indicated.

JUDGEMENT

Sitting on the shrine were 3 cone-shells, said to have different sounds and signals; shell 1 – calls the people (by the priest); shell 2 – warn the people of expected trouble and enemy; shell 3 – used by the chief to call the people for certain or special meeting.

Fifteen minutes walk from the shrine was the “Bou”; a four long and straight stones that represents four waves if they are removed.

Still in Rokama, “Bone” Temple located in Isaac Hong’s coconut plantation and bordered by a line wall stones, was shown with indication, that it was used to perform custom ceremony by Karivara warriors when preparing to go on raid. While in Rokama, we were shown that, there was also site of the old foundation of houses where Sunga settled. It was bounded by a line wall of stones where chiefs must always stay within its tambu sites.

Betasise had been staying close to the Chiefs where foundations of Sunga’s subject were bounded by the boundary of Chiefs. Sunga awarded it to the people and owned by the Karivara people.

Nevertheless, the chieftainship of Sunga was further proved by the plaintiff, in reliance to the Land Case 02 of 1980, of 13th May 1980; in the Simbo/Ranogga Local Court; from which Sunga was the rightful owner and Chief of Karivara Land; and further awarded Bangara Land belongs to Isaac Hong and Vote Hong and line.

These are proof of probability to prove the Chieftaincy of Chief Sunga.

Defendant:

In his lengthy submission, the defendant claim his proof the chieftainship of Bolana, was the true chief of Karivara and not Sunga who did not even lived in Karivara. The chieftainship of Bolana was indicated in the past and still adopted today.

There was a special induction ceremony performed according to Simbo custom, when Bolana was ordained Chief. The ceremony involving custom money, killing pigs and end up with feasting was attended and witnessed by respective chiefs of different tribes, in Simbo. This process was done when the chieftainship was handed to Hana, Qora and Jiru.

Chief Jiru was recognized Chief who usually receiving compensation when someone from Narovo, Ove or Nusa Simbo, done wrong things in his/her tribe. With other Chiefs, Jiru always examine and resolve custom matters arise between tribes. This process was never performed to prove chieftainship of Sunga.

These are evidences which could prove chieftainship of Bolana with power and authority:-

JUDGEMENT

Chief Bolana had a fleet of war-canoes called Karivara fleet and his owned war-canoes called "Eoro Pa Pesi". It was a "haharo" of Karivara warriors. Only chiefs owned war-canoes, a fleet of war-canoes, as well as warriors. This proves Bolana was the paramount chief of Karivara.

"Haharo" was a shout of celebration for power specially used by warriors before leaving for raid. The tribe of Karivara "haharo" was "Eoro Pa Pesi" which was also named on Bolana's war-canoes.

Bolana had a power to order headhunting raids. On one mission, he ordered and organized a combine alliance with Chief Muke of Nusa Simbo and Hana of Karivara, and raided Gerasi in North New Georgia where Hana took a woman named Qulateko who was later his wife. This was the last raid because British Government arrived in Solomon Islands.

Chiefs have special servants called "Buko. These attendees did various work in their specialized areas. Sunga was one of them. He was the devil priest of Bolana. Some of these servants, taken from other islands during headhunting raids, were trained to become professional servant. One of them was Pule from Isabel. In Simbo Custom, only chiefs have servants (Buko).

There were ladies who were professionals in their field of work, called "Tugele". They served in the chiefs business affairs, in sexual activities to entertain strangers and special guests for wealth purposes. They (Prostitutes) were usually paid from different tribes or islands. Bolana had two Tugele; one from Ranogga and one from Simbo, names not known.

Chieftainship must always come from a chiefly line; So Bolana got that status from his father and mother as shown continued down his genealogical ladder. Chief Jiru is currently holding Bolana's status.

A chief cannot be chief if there is no tribe. Therefore, Bolana was known throughout Simbo as Chief of Karivara Tribe.

Chiefs are custodians of tribal land; in this case, Bolana was responsible in sharing the land to individuals and sub-tribes in Karivara Land. No one stands in this court as witness to testify that Sunga had shared land in Karivara.

During headhunting, devil was the power for the people, when they need for direction and strength. It was also needed or protection and healing, Because of this, chiefs engaged priests to perform this service. Sunga was high in the priest work by ordaining priest and servant hood services for Chief Bolana.

DW1 confirmed the characteristic of Sunga who was chased by Chief Bolana from Karivara Land, because of his adulterine conduct. Sunga fled to Riguru and looked after by DW1's tribe, the Katapana Tribe. When he died, he was burned at Teqorara just like any ordinary person.

JUDGEMENT

In the survey, the defendant denied the old foundations were not Chief Sunga's settlement, but Chief Bolana and his tribe. There are also coconut trees there.

The 3 cone shells were also denied by the defendant to have been recently placed on the shrine at Rokama. The stones around the shrine are newly placed stones from the sea. It was a "Sabukae" looked after by priests. However, the Bone Temple was not in Rokama but in Rorokubo.

The four stones called "Bou" is in a common place at Rokama and it represents the four waves as rightly explained by the plaintiff. These were brought in by Chief Bolana and looked after by Varukukea from Katapana Tribe. The shrine is a sacrilege and not a temple as mentioned by plaintiff. It was where warriors celebrate their victory, but sad to see it was recently reshaped by the plaintiff and party.

Rokama was the settlement of subjects, exactly, where coconut plantation was planted by Isaac Hong, without the permission of Liva, when he retired by the Solomon Islands Government in 19...

The defendant supports the settlement of Chief Sunga, is where he lives and looked after the shrine and sacrilege. The stone wall that runs along the settlement of Sunga was the boundary that bordered Rorokubo and Betasise. Betasise was the sub-tribe of Chief Bolana.

The defendant also tendered in court, as evidence to prove Bolana's chieftainship, a document called; The Cult of the Dead in Eddystone of the Solomons. Marked "DE3".

Ownership of Bope/Indigore Land

Plaintiff:

Karivara Land is the land of his birthright inherits from ancestors thirteen generations ago. It has been in court several times where legal bindings were obtained. Bangara Land which was in favour of Isaac Hong in 1980 Ranogga/Simbo Local Court decision had included Bope/Indigore Land.

People used Sam Liva as tool to obtain ownership, especially, by third party because they lost in previous courts.

Bope was used by ancestors to build canoes and Indigore was used to plant food for chiefs. The development of coconut plantation area witnessed the ownership of land.

Dispute happened by a key witness trying to acquire its development. Maleli Unusu when he likes to continue his development in Talise Ovia to extend to Indigore and to get people in Simbo for support. The plaintiff used Indigore because it is theirs and Bope as hatchery.

JUDGEMENT

In 1976, defendants Uncle Ben Liva took plaintiff's cousin **brother** and brother in-law to court claiming they were trespassing and stealing, Plaintiff approached Ben and told him to attend chiefs hearing of claiming ownership of Bope. But Ben declared publicly that he had no ownership of Bope. Only Kevu told him to look after but not owned it. Surprisingly, Ben's Nephew (defendant) claim ownership when his Uncle knows better than him.

In cross-examination, plaintiff defended that Bope/Indigore is not a jungle or forest but garden areas to Indigore. There was no customary ceremony when acquiring these lands, because it was an inheritance.

When the two trees were cut own in Bope, Isaac Hong was concern but because envy of land, he did not bother. Thus the permission granted from Sam Live to cut the trees, was not valid because envy of properties and land, people don't listen.

Defendant:

"Niu" and Indigore lands became one parcel of land called "Bope ". When Boland gave certain part of Bope land to Polo, a slave from Isabel, the name Niu was given to that portion of land to identify that Niu belonged to Polo. The remaining part of land block beside Niu was called Indigore to identify that Indigore become a separate block from Niu? The remaining portion of land after the subdivision of Niu and Indigore is still called Bope today.

During the time of Viobele and Tali, Bolana and Naboko Ole settled at Bope. There, bored to Viobele and Tali a girl named Naboko Anu. She grew up at Bope and married to Beso of Ove. During their settlement at Bope they planned the coconut plantation which can be seen today.

Ta and Anusode were born to them. Ta married Belapitu of Narovo and moved to Narovo. Anusode remained at Bope where she married Sam Liva of Bougainville. There born to them; Ben Liva, Emeli, Joseph Liva and Airine Lie.

When Naboko Anu Lavata was alive, people from Nusa Simbo, Karivara and Narovo asked permission from her to remove egg at Bope hatchery. When she died, her daughter Anusode took the responsibility on these two blocks of land and continued the same process.

After Anusode died, Ben Liva her son, took the responsibility. In the absence of Ben Liva, my mother, Emeli, took over the responsibility over Bope and Indigore, People from Nusa Simbo, Karivara and Narovo had to ask permission from her to remove egg and collecting coconuts at Bope.

After Ben Liva died, Joseph Liva took over the responsibility to continue on the process. It was during this time when Timothy Eddy and Maleli Unusu obtained permission from Joseph to cut down two goliti trees for canoes. Isaac Hong was there, Agnes Vote was there, but did not object the permission given by Joseph.

JUDGEMENT

However, in 1979, Isaac Hong and Agnes Vote began to enter Indigore not in 1975 as he stated in his evidence.

In 1973, Ben Liva displayed a 3 months public notice, concerning Bope Land after certain family groups from Lilo enter to clear Bope area. The Notice was purposely to seek probable objections from anybody to his right of ownership over Bope Land. However, Isaac Hong and his sister Agnes Vote were there; Lodurade and her son Mundu were there; Ngaburu, who appointed Isaac Hong, was also there at Lale Village; but none of them disputed the notice until its expiry date lapsed.

Findings

Upon hearing the evidence of the disputing parties, the court concluded its examination from the following views to prove their probability.

The evidences of the plaintiff could not be considered true in custom, because he did not need any witnesses to support his claim, though Ngaburu is in Lale Village, still alive. But he insisted that their presence in that land already proves Sunga's chieftainship.

In his submission, the plaintiff did reference the Simbo/Ranogga Local Court decision of 13th May 1980 in Land Case 02 of 1980, involving Bangara Land. It was from this decision that he took his stand to prove chieftainship of Sunga. The decision was awarded to Isaac Hong and Agnes vote.

Extracted from page 40 of the Local Court Record Book is the decision;

"1) Court now fully believed that /Sunga was a landowner and Chief of Karivara and therefore Isaac Hong is the present rightful owner and chief of Karivara."..... etc.

Hence, in this decision, Sunga was already awarded landowner and chief of Karivara at which it was awarded to Isaac Hong, is the rightful owner and chief of Karivara Land.

Nevertheless, that was not the case, in this court, as the court believes Sunga was the chief, not of Karivara but of his own tribe, because he performs the chiefly duties for Chief Bolana, as a priest performing sacrilege duties for Karivara Tribe.

The adulterine Sunga committed with his cousin sister was wrong in custom and so he was thrown out of the tribe and had demoralized his chieftainship. Chief Bolana then removed Sunga from the tribe who fled to Katapana Village, where he lived until his burial at Teqorara. This again proves that Sunga was no longer a Chief. Thus, he has no power to rule over the tribe and land.

Sunga was the devil priest of Bolana, so because of his hard work, Bolana gave a block of land where Sunga settled as his Headquarter at Rokama.

JUDGEMENT

The presence of old grave sites, sacrileges, properties, **priest buildings**, cone shells etc, in Sunga's settlement as HQ at Rokama, proves Sunga was **the mortuary priest** of Karivara Tribe. It was there on Isaac Hong ~~Isaac Hong~~ planted the coconut plantation without permission when Kevu and Lema died.

In his submission, the defendant also rely on the document called, "The Cult of the Dead in Eddystone of the Solomons," by A.M. Hocart -(1908 - 09). It was accepted in court as supporting evidence to prove chieftainship and ownership of Chief Bolana.

In page 106 of the document, para. 5;

"Sunga, who ordained Lepo, put on him a girdle of "love-mbagea"; took scrapings of "vasara" in both hands and passed them down the sides from the face to the chest four times. This process of "ngula", as it is called, was accompanied by words not known to Lepo",.....end.

It is obvious here that Sunga was known for his priestly duties and not chiefly duties.

Further down in page 77, (para 3 & 4);

"Erovo was regarded as a great "mbanara"..... though, "complete agreement did not exist as to the status of certain chiefs. Those universally acknowledged were: Rembo and Sogaviri for Narovo; Laiti and Kave for Ove; Mbolana and the late Naturu for Karivara; Nimu and Rondi for Simbo".

Further up in page 79, (para 1);

"Since Muke's death Mbolana of Karivara is the leading Chief. Muke was higher, but now that he is dead Mbolana has taken his place which he owes to his age and the high rank of both his father and mother".

Evidences of defendant in his submission, is true to say Bolana was paramount Chief of Karivara Land. It is also true that Viobebe, Ta, Bolana and Naboko Ole were the first to work and settled in Bope and Indigore Land.

Though, Sunga was awarded chieftainship and ownership over Karivara Land and Tribe, by the Simbo/Ranogga Local Court in Land Case 02 of 1980, this court is not in the position to allow such hasty decision that could prejudice the custom, to be entertained in this case, because such decision could jeopardize the true custom belief that could create division amongst the people of Karivara Land.

In custom, tribal land supposes to be owned by the tribe and not by an individual or a chief. Chiefs should be custodians of tribal lands who shared portion of lands to respective clans of that tribal land. In this case, Chief Bolana was the paramount Chief of Karivara Tribe who shared portion lands to his people. Bolana suppose to be the rightful chief and owner of Karivara Land.

By that, this court must reserve its agreement to the decision of Simbo/Ranogga Local Court of Land Case 02 of 1980, and stand not to involve with that decision.

JUDGEMENT

It was Naboko Anu ~~who~~ and Beso who planted the coconut plantation which can be seen today at Bope. There, Ta and Anusode were born to them. Anusode remained at Bope where she married Sam Liva of Bougainville. There born to them, Ben Liva, Emeli, Joseph Liva and Airine Lie.

This proves the ownership of Bope/Indigore.

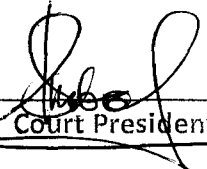
Decision

Bolana was the paramount Chief of Karivara and the rightful custodian of Karivara Land, therefore, he owns Bope and Indigore Lands.

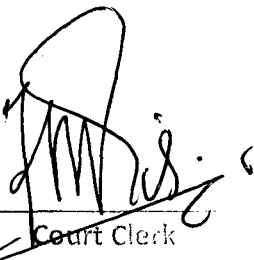
Samae Liva and his line is the rightful owner of Bope/Indigore Land.

Any intended development within Bope/Indigore Land **must be permitted** by Samae Liva and Line.

Dated this 10th day of August 2009 at Gizo Court House.



Court President



Court Clerk

Appeal within 3 months from the date of this decision through Clerk to Customary Land Appeal Court.