

IN THE MALAITA LOCAL COURT

LAND CASE NO: 21 OF 2009



BETWEEN: 1. **JOHN LEFO** of Alarua vge - Plaintiffs
 2. **PETER DAUMAE** "
 3. **ISAAC AGOLA** "
 4. **CHARLES SUAFIMAE** "
Vincent Talauburi Rade vge - Spokesperson

AND: 1. **ANDREW ALIMAESIA** - Defendants
 2. **HAROLD GAIAFUNA** "
 3. **MARTIN FOU MAURI** "
 4. **CHARLES MULEA** "
Martin Suafunua Spokes person
Alfred Gafui Interpreter

IN THE MATTER OF: OWNERSHIP OF SU'UBIRA CUSTOMARY LAND.

HEARING: 1ST JUNE 2010

JUDGEMENT DATE: 11TH JUNE 2010

JUDGEMENT

1. ISSUE BEFORE COURT

The very issue before this court is to prove the ownership of Su'ubira land in accordance with custom.

2. GAINING THE CASE

The probability of gaining the case lies in the evidences tendered by each party for the court to prove. The party whose evidence is more probable to be worthy of believe as to the truth of the facts in custom should have a high probability of gaining the case.

3. CHIEFS SETTLEMENT.

The Chiefs Settlement regarding the Su'ubira Land is put aside. The Court has its own jurisdiction to resolve the said disputed area between the plaintiffs John Lefo and party and the defendants Andrew Alimaesia and party.

4. PLAINTIFFS CLAIMS.

(a). **Discovery.**

The Plaintiffs claim that their line ancestor **Wanelea** once in history has discovered Su'ubira Customary Land.

(b). **Geneology**

The Plaintiffs also claim that their genealogy which, they firmly believe first discovered and occupy the Su'ubira Customary Land until today is as follows:

1. **Wanelea (Lionimae)**
2. Bobokwisi
3. Balaiasi
4. Fotoiau
5. *Tafaniau**
6. Tafanima*
7. Bobokwisi*
8. Mo'ori*
9. Uganias*
10. **Daumae** Akwalifu (Defendant's ancestor)
11. Kwaikwai
12. Waneasi
13. Kwaikwai
14. Daumae
15. Gafui
16. **Farongomaesia**
17. Olofimaes (**Lefo**) - present in court.

(Refer to the Plt's genealogical table - Exhibit Annexure J.L.5).

The plaintiffs believe that under all circumstances their line comes from Daumae, the brother of Akwalifu whom the defendant line has come from. P.W1 + 2 confirm.Su'ubira Customary Land.

(c) **Priestly Line in Worship**

The Plaintiffs also claim that their Priestly line of worship in Su'ubira is as follows:

1. Wanelea (Lionimae) 2. Bobokwisi, 3. Balaiasi, 4. Fotoriau, 5.Tafaniau,
6. Tafanima, 7. Bobokwisi, 8. Moria, 9. Uganias, 10. Daumae, 11. Kwaikwai

12. Waneasi 13. Kwaikwai (ii), 14. Daumae (ii), 15. Gafui, 16. Agola (last pagan priest who died when church arrived).

(d). Boundary

The Plaintiffs also claim that the Su'ubira Customary Land is bounded by Bira River to the North and Eteara River (South) and its tip reaches down to the sea (West). The boundary is also bounded by Aeniuli Land (East). The Su'ubira Portion of land is excluded following Local Court Civil Case No. 12/83. Refer to PLT'S Map - Exhibit No. J.L.F.1

(e). Tabu Sites

The Plaintiffs also claim The following tabu sites in Su'ubira:

1. **Fulanga Iamo** - where Wanelea (Lionimae), Bobokwisi, Balaiasi, Fotoia, Tafaniau Tafanima, Bobokwisi (ii), Uganua and Kwalunamae, offer sacrifice
2. **Su'ubira/Taba'ausubua** - where Daumae offers sacrifice
3. **Boboila** - where Kwaikwai, Waneasi and Kwaikwai (ii) offer sacrifice

(Refer to submission - p.5 + Exhibit - Map. J.L.I.)

(f) Tau (Tabu Houses)

The Plaintiffs also claim they have three (3) Taus or tabu houses in Su'ubira

(g) Graves

The Plaintiffs also claim the following grave sites in Su'ubira:

1. Aikwanga - where their Lionimae Wanelea, and ancestors Bobokwisi, Balaiasi, Fo'otoia, Tafaniau and Kwalunamae are buried
2. Fafanga - where their ancestors Tafalima, Bobokwisi(ii) and Uganua are buried
3. Sualae - where Daumae is buried
4. Taba'asubua - where Kwaikwai, Waneasi and Kwaikwai (ii) are buried
5. Ailakwa - where Gafui is buried
6. Alarua - where Farongomaesia is buried

Refer to submission - p.5 & Plaintiff Exhibit - Map J.L.1

(h) Old Settlements

The plaintiffs claim that their old settlement sites in Su'ubira are:

1. O'oioro, 2. Aenauri, 3. Su'ubira, 4. Tolabo, 5. Na'aru, 6. Tofutori.

(i) Streams

The plaintiffs also claim that they use the following streams in Su'ubira:

1. Aenauri, 2. Dalisua Stream, 3. Kwainaligi, 4. Daliakwa Stream.

(j). Land Sales.

The Plaintiffs also claim that among the signatories to the 25th Aril 1929 land sale namely, Kwailifu, Lafari, Ofuofu, Anomia, Halilaina, Tarangai and Gaifari are also their ancestors who signed for or on behalf of Su'ubira land/tribe.

(Refer to Plt. Annexure J.L.2 + plan attach for details of the 1929 land sale).

(k). Previous Court Decisions

The Plaintiffs also claim that Secundo Farongomaesia, John Lefo's father once defended and has been awarded ownership rights over the Su'ubira Customary Land through the past cases:

(1). L/C Civil Case No. 12/83: Foai/Su'ubira Land.

(2). CLAC Case No. 10/84: Foai/Su'ubira.
Jared Tafia -vs- Secundo Farongo Maesia.

(Refer Plaintiff Annexure J.L.3+ 4).

5. DEFENDANTS CLAIMS**(a) Founder**

The four defendants namely Andrew Alimaesia, Harold Gaiafuna, Martin Foumauri and Charles Mulea claim that their ancestor **Tafaniau** has found Su'ubira Customary Land. Tafaniau is their **Rioanimae**.

(b). Geneology

The Defendants also claim that their genealogy of Su'ubira is as follows:

1. Tafaniau (Rionimae)

2. Tafanima

3. Boboakwisi

4. Molia

5. Uganiamae.....

6. Akwalifu Daumae (Plaintiff's ancestor)

7. Agiai

8. Maniania No children
 9. Iilabena
 10. Foetalau.....
 11. Kwalafiru / *Oritaimae* * (Wanetafoa/paid to join the line)
 12. Andrew **Alimaesia** (present in court)

Refer to Defendant Exhibit No. 2.

Critics

The defendants strongly deny that **Daumae** the brother of **Akwalifu** and the grandfather of the plaintiffs has ~~no~~ children. He is one of the big-man of Su'ubira and when he died the defendant tribe makes a big feast/maoma in remembrance of his death.

(c) **Priestly Line**

The Defendants also claim that their Priestly line in Su'ubira is as follows:

1. Tafaniau (Rioanimae)
2. Tafanima (1st priest),
3. Boboakwisi,
4. Molia,
5. Ugania
6. Akwalifu,
7. Agiai,
8. Maniania,
9. Foetalau,
10. Kwalafiru,
11. Lafari,
12. Oasifu,
13. Abuitau,
14. Isikona (is of Su'ubira female line and is still alive today).

Defendant Witness 1,2 and 3 confirms.

(d). **Boundary**

The Defendants also claim that the disputed Su'ubira Customary Land is bounded by Eteara River at South and Bira River at North; at the East it has a common border with Aeniuli Land and it runs down to the sea coast in the Westward direction. Refer to defendant map - Exhibit No. 3.

(e). **Tabu Sites**

The Defendants also claim that their tabu sites at Su'ubira are:

- (1). Anotoli (immovable shrine - Umuni Fuanialo)
- (2). Olo'olofa (moveable shrine - Umu ni fafaialo)
- (3). Kwai Qwasuifau (immoveable shrine - Umu ni Su'ubonga)
- (4). Fauai (movable shrine, Unu ni Waluda)
- (5). Alaeau (moveable shrine, Umu ni fafinga).

(f). **Tabu House**

The Defendants also claim that their tau or tabu house at Su'ubira is Fulungaramo*

(g). Graves

That Defendant also claims that their graves at Su'ubira are:

1. Akwaula, 2. Aikwanga*, 3. Fafanga*, 4. Ngalilafutea, 5. Maomaoa (snake worship), 6. Sualae*, 7. Faunabo, 8. Eelo, 9. Malasu'u, 10. Ofaabu, 11. Kakalabae, 12. Alarua.

(h). Old Settlements

The Defendants also claim the following old settlement sites in Su'ubira:

1. Kwaingiu, 2. Anoanikolokolo, 3. Nasifu, 4. Tolabo, 5. Tofutoli, 6. Nafota, 7. Boelao.

(i). Streams

The Defendants also claim that they use the following streams in Su'ubira:

1. Kwainaura Stream, 2. Ogealasina Stream, 3. Kwainaligi Stream.

COURT FINDINGS

1. Discovery

While the plaintiff's party claims that Wanelea (their Lionimae) is the first founder of Su'ubira Land, the defendant's party also claims that Tafaniau (their Rionimae) is the first discoverer of Su'ubira Customary Land. The Court however, believes that Wanelea is the original founder or discoverer of Su'ubira because his line has occupied and established itself in Su'ubira for four (4) generations before Tafaniau discovers Su'ubira later. (compare Plaintiff's and Defendant's genealogies). This is confirmed by the defendants in the cross-examinations. When questioned about where Tafaniau originated from, the defendants state that he originated in Su'ubira. If Tafaniau really has not originated from somewhere else other than Su'ubira, then he must have originated from Wanelea, the original founder of Su'ubira land.

Furthermore, the Court believes that the Tafaniau claimed by the defendants is the same Tafaniau claimed by the plaintiffs. The Court therefore, believes that both the plaintiff and defendant parties have a common origin or ancestor who is Wanelea, the original founder or discoverer and Rionimae of Su'ubira land.

2. **Boundary Maps**

The Court has found that although the defendant boundary map also covers the boundary of the Su'ubira portion of land that has already been decreed in the L/C Civil Case No. 12/83, their (plaintiff and defendant) boundary maps are similar in nature and have many features in common. (Refer to Plaintiffs annexure J.L.I. in comparison with the Defendant's map in Exhibit No.3).

3. **Genealogies**

(a). The plaintiff's genealogy that comes down from Wanelea to John Lefo at present is seventeen (17) generations. On the other hand the defendant's genealogy from Tafaniau to Andrew Alimaesia is eleven (11) generations. This affirms the courts finding that Wanelea is the founder of Su'ubira land.

(b). The plaintiff's generation starting from Wanelea begets Bobokwisi begets Balaiasi begets Fotoiaua is stressed as the **pre-historical** genealogy of Su'ubira Land and of both the plaintiff and the defendant parties. (Refer to PLT'S genealogy table).

(c). The plaintiff's genealogy starting as Tafaniau begets Tafanima begets Bobokisi begets Mooraa begets Uganua are the **common ancestors** of both parties. (Refer to the plaintiff's and defendants genealogical tables in comparison).

(d). Both the plaintiffs and defendants agree that Uganua begets two brothers namely, Daumaa and Akwalifu. The plaintiffs believe that Daumaa generates their line. That is, Daumaa begets Kwakwai (1) begets Waneasi begets Kwakwai (2) begets Daumaa ((2) begets Gafui begets Farongomaesia begets John Olifimaa Lefo (present plaintiff).

On the other hand, the defendants claimed that Akwalifu generates their line. That is, Uganua begets Akwalifu begets Agiai begets Maniania begets Iilabena begets Foetalau begets Kwailafiru (Akwalifu's line ends here). Oritaimaa is bought by Foetalau and Aliia (wife) to become the brother of Kwailafiru in custom (Tafoa). Oritaimaa begets Alimaesia begets Andrew Alimaesia (present defendant).

However, the defendants critically and strongly deny that Daumaa, who is claimed by the plaintiffs as their blood link to Su'ubira Land, has any children hereafter. They further stated that according to their oral history Daumaa has no generation.

On the other hand, the plaintiffs strongly insist that their line generates from Daumaa the brother of Akwalifu, the two sons of Uganua. Under all circumstances, the plaintiffs always maintain their claim that they are the present living generation of Daumaa.

The Court doubts the claim or critics by the defendants that Daumaa died without having children. There is no substantial evidence and corroborative (or independent witness) evidence to prove this claim. The Court however, accepts the plaintiffs claim to Su'ubira land through their ancestor Daumaa.

Furthermore, since they have common ancestors from Tafaniau to Uganía, the Court believes that both the plaintiffs and defendant parties are brothers who originate from the same founding ancestor Wanelea (in the pre-historical genealogy)

4. **Ancestral Worship (Pagan Priests).**

(a). According to their ancestral worship, Agola, the plaintiff's last pagan priest is believed to have offered sacrifices through line to Uganía (Daumae's father) to Tafaniau and then to Wanelea, the Lionimae of Su'ubira Land.

(b). On the other hand, Charles Isikona, the defendant's last pagan priest has offered sacrifices through their line to Uganía (Akwalifu's father) to Tafaniau (Rionimae) of Su'ubira Land.

The Court believes that even if their line worship is different, (that is, the plaintiffs sacrifice through Daumae and the defendants through Akwalifu), they both call their common ancestors in worship namely, Uganía, Moria (or Molia), Bobokwisi (ii), Tafanima and Tafaniau.

5. **Tabu Sites**

Although the branch lines of Daumae and Akwalifu have worshipped at different minor branch tabu sites, the two lines would have worshipped at Uganía's, Tafaniau and Wanelea Tabu Sites. Such tabu sites should be common tabu sites of sacrifice before. The common sites are: (1) Fulunga Lamo, (2) Sulae, (3) Aikwa'aga, (4) Fafanga.

6. **Previous Court Decisions**

The Local Court in Civil Case No. 12/83 states in its decision in page 13 and we quote as follows:

"Jared Tafia is the owner of Foi Land see map. He has 160 people for this Land. Ha'anonomaesi has no right over Foi Land. Su'ubira land which join Foi land being sold to Roman Catholic. Su'ubira is his Land."

The CLAC Civil Case No. 10/84 upholds the Local Court Decision. The Court confirms.

Having considered all the evidence adduced before court by the plaintiffs and defendants, and their respective witnesses and the judgment in previous court records the court is satisfied to deliver its Judgment.

DECISION

- (1). The Court upholds the Local Court Civil Case No. 12/83.
- (2). The defendants Andrew Alimaesia and party and their clan have the secondary right of ownership over Su'ubira Customary Land.
- (3). Plaintiff Map is accepted.
- (4). Any Alienated Land within Su'ubira be excluded from this Judgment.
- (5). Both parties clans to respect each other as brothers and not to harm each other or damage each others property.
- (6). Property owners within Su'ubira are to own and use their properties without interference by either party..
- (7). Any future developments within Su'ubira Customary Land must be consented to by both parties or clans.
- (8). Both parties clans are to reconcile.
- (9). Either party is not satisfied can appeal within 90 days with effect from 11th/June/2010 to 8th/Sept/2010.
- (10). No order of cost.

COURT OFFICIALS

- 1. Rinaldo Talo *R Talo*President
- 2. Alphonses Wale..... *Alphonses Wale*Court Justice
- 3. Solo Nene *Solo Nene* Court Justice
- 4. Hillary Fioru..... *Hillary Fioru*Clerk

Dated this 11th day of 2010 at the Malaita Local Court at Auki

