

IN THE MALAITA LOCAL COURT.**LAND CASE NO: MLC 20 OF 2009****DATE OF HEARING: 5th NOVEMBERBER 2012.****GTR NO: B1339303.****LAND IN DISPUTE: HAUMAEHUNU.**

BETWEEN: 1) JOHN WASIRARO **PLAINTIFFS**
 2) SAMUEL HOUASIA & TRIBAL PARTY
 REPRESENTING HAUMAEHUNU TRIBE

AND: 1) SAVINO URAHORA & TRIBAL PARTY **DEFENDANTS**
 REPRESENTING RAPUSIA TRIBE

JUDGMENT.

1. This is a claim between John Wasiraro and tribal party -V- Savino Urahora and Rapusia tribal party (def) over Haumaehunu land (Arata) in west Areare in the Malaita Province. The matter was sought before the Arahamimane council of chiefs at Hauhui Village on the 27th and 28th of April 2009 and the decision was in favor of the Rapusia tribe (Arata). John Wasiraro and party are not happy, with the settlement so he registered this case – civil case no: 20 of 2009 in the Local Court.

The Court as a neutral body takes on board this case because it has already been referred to the chiefs and because of such the Court has the power of jurisdiction to continue on with fair treatments of both Haumaehunu tribal party and the Rapusia tribal party to solve the long outstanding dispute. The standard of proof in this case. Civil case No. 20 of 2009 depends entirely of whose tribes evidences are worthy of believe as to the truth of the facts in custom should have a chance of winning the case.

2. **ISSUES**

- (a) Whether the plaintiff owns Haumaehunu customary land (Arata) with its boundaries
- (b) Whether the Defendants own Rapusia customary land (Arata).
With its boundaries

3. **CUSTOM LAW**

In accordance to Malaita custom for ownership over any customary land, plaintiff or defendant must prove beyond possible doubts to Court his/her genealogy, principal tabu site, shrines, tabu sites and fire sites/settlement, properties and boundary (ries).

4. **PLAINTIFF CLAIM**

- 1. **DISCOVERY:** The plaintiffs namely (1) John Wasiraro (m) (2) Alfred Aihunu (f) and (3) Joel Tom (f) representing Haumaehunu tribe (Arata) believe that Haumaehunu land is first discovered by their tribal ancestor Maehunukahu, the Rionimae.

2. **MAP BOUNDARY**

It is exhibited on Plt's map – Exhibit no. 1. The Haumaehunu land boundary starts with the passage Wairia (sea) between two Islands to Aaroro point to Mariuhia coast, then follow the coast south through Ratanihato River to Hauprora junction up the Wainapua stream to join Hurai stream. From here it goes north to join Wairokai River into the Wairokai Bay at the sea. Then it goes to Haupora and thence it turns to join the Wairia passage where it first starts.

3. **GENEALOGY**

The Rionimae Maehunukahu has three sons namely:

- (1) Oikeni (m)
- (2) Oiaro (m)

(3) Raroaroka (with no children)

The first born son Oikeni's clan (teetee) or Huta'ahu (male line of Haumaehunu) ends down on John Wasiraro (m) with thirteen generations. Oiaro (m) the second born line ends down at Poiharu (f). Her generation ends down at Alfred Aihunu (m) (sitting in Court). Alfred Aihunu is representing teetee 2 or Torosina sub clan. The sub clan will always be a female line to Haumaehunu tribal land.

These two te'ete'es (sub clan) constitute the Haumaehunu tribe (Arata). Refer to plaintiff's genealogy Exhibits No. 1 & 2.

4. **TABU SITES**

- (a)
1. Poeheniara
 2. Torosina
 3. Erenatauba
 4. Momoetaha
 5. Tawarakira

- (b) **SHARKS**
1. Osu is Paewa Asi
 2. Okemae is Paewa Osi
 3. Oikeni is Arikana

(c) It is the belief of Haumaehunu men has transformed into sharks as in 4(b).

5. **LAND HISTORICAL EVENTS**

Alfred Aihunu expresses the following events happenings in Haumaehunu.

- 1) In 1956 a plantation was made at Tawanimae Island was being stopped because there was no compensation paid to the line of Huroania of Haumaehunu who was get killed by a fallen tree.
- 2) The headman David Hoasihau did not declare that Javelet Kousuna and Sam Houasia new comers when a fight over a pig broke out between them.

- 3) In 1971 Willie Naomauri showed the boundary of Haumaehunu to Alfred Aihunu and others.
- 4) In 1972 Haumaehunu tribe discussed the idea of giving a portion of land Purauhu in Haumaehunu to Surahau's family.

5. **PLAINTIFFS DEFENCE AGAINST CRITICS**

- (a) The plaintiff's witness No., 2 stress that the name Heokeni is his tribal name and is not the name of Aihiru the father of Sam Houasia as claimed by the defendants.
- (b) The plaintiffs witness no. 3 defends Sam Houasia is not the line of Heokeni who comes from Marau as claimed by defendants witnesses No. 1, 2 & 3.

5. **DEFENDANT'S CLAIM**

1. **DISCOVERY LAND**

The defendants: 1. Savino Urahora (f) (2) Mathew Kori (3) Jimmy Haimaii (m) (4) Philip Waiihunu (f) (5) Paul Kori (f) and Lazarus Kauhiona (m) representing Rapusia tribe claim Rapusia land as their first discovered land by Porokokoroisu, the Rionimae.

2. **MAP BOUNDARY**

The claimed boundaries of Rapusia land begins at junction of Ratanihato River (South) follows Pia Aimani spare line to Pia E'Eboundary to the junction of Wairokai River (Northeast). Thence it turns to follow Wairokai River down to the mouth of the same River to the sea (West) or into the Wairokai harbor. From Wairokai River the spear line starts (West) to a point at the sea, thence turns (South) to another point at sea, thence turns Southwest through Waiwawa passage to a point at main land called Uperaro to meet at Ratanihato River junction.

Then it follows the River up (Southeast) to the junction of Pia Aimani boundary where it first starts. (Refer to Defs Exhibit – Def Exhibit No. 1 and Exhibit No. 4).

3. GENEALOGY

It is the tradition of Rapusia tribe that the Rionimae – Porokokoroisu marries Poioha of Karina and begets three sons called; 1) Itiititoana (m) the first born (2) Paeke (m) the second born and (3) Manehura (m) the third born and he has no children. The first born son Itiititoana goes down to Poiharu (f) and Savino Urahora (m) (sitting in Court). The first born generates teetee I (sub clan) called Paunawasu. It has fifteen generations. Refer to Exhibit No. 3(a). The second born generation begins with Paeke (m) down to Raruhau the existing generations of twenty one. It forms a second Teetee (sub clan) and is named as Ahuiratoo teetee. It is the male line of Rapusia tribe. (Refer to Exhibit No. 3 (b) the third sub clan (teetee Huu) starts with Urinima the son of Haiania who married Raonanara. Urinima beget Araraa Paina down to Poihani (f) to Savino Urahora is of fourteen generations. Such line branches out to establish Ariaetara/Torosina or Haumaehunu teetee.

4. TABU SITES

1. Hauhonu – Rapusia’s principal tambu site of Porokokoroisu the Rionimae.
2. Graves (Oha) – Refer to DEfs Exhibit Nos. 3 (b) (c) & (d) and the map (Exhibit No. 1)
3. Sharks Caves (Pinupinu)
4. Old settlements (Refer to Defendant’s map exhibit No. 1)

5. LAND HISTORICAL INCIDENTS

- (1) Manehura the tribal member of Rapusia has siri of Marutana of Marasiri and performed the power of attracting fishes for good catches for the people of Marumaru.
- (2) The Rapusia people migrated from the high lands down to the sea coasts.
- (3) The feast of Totoru and Ohika in Rapusia land.
- (4) David Hoasihau has made many properties in the disputed area.

6. CRITIC AGAINST PLAINTIFFS

- 1) The Haumaehunu tribal genealogy presented in Court is different from the genealogies in the chief's settlement. Refer to defendant's exhibit Nos. 2, 2(a) and 2(b).
- 2) The defendants believe that John Wasiraro's grandfather is Heokeni and not Aihiru as in his genealogy presented in the Court. Heokeni come from Marau to Wairokai very recently. The father of Heokeni is Houasia (1) and is buried in Marapa. Refer to defendant's exhibit Nos. 1, 2, and 3.

7. **OTHER RIONIMAE** (gods) (Refer to exhibit No. 3 (c) the other Rapusia's tribal gods beside its main Rionimae –Porokokoroisu are:

- 1) Sharks the power of the sea.
- 2) Eagle –the power of sky (space)
- 3) Snake Ma'a – power of the land.
- 4) Crocodile – Taramae the power over rivers and waters.

8. **DRUMS**

Rapusia tribe has custom wooden drums to send information's to the tribesmen about events happening in their tribes.

6. COURT FINDINGS

(a) CONFLICTING ISSUES

The Court is aware and feel sympathizes with the past about Haumaehunu and Rapusia tribal tensional effects of this dispute. The civil case no. 20 of 2009 has caused so many ill feelings between both parties for the last three years. Its side effects enormously affect both tribal harmonious coexistence which has been maintained and sustained by your grandfathers in the past generations in the disputed area.

The Court understands well too that the root causes of this dispute is of custom natures but are only triggered by modern developments such as logging operations, Wairokai seaport and oil palm project which are to take place in and around the area. Such developments give rise to the tribal tensions and should be eased out.

The Court in its proceedings finds that the basic root causes of the dispute are;

1. The plaintiffs and defendants map boundaries are very different in natures. The defendants map boundary is vast and overlaps the plaintiffs map boundary by comparison. (Refer to plaintiff's and defendant's map.)
2. The both Haumaehunu and Rapusia customary lands discoverers are not the same. Haumaehunu customary land is claimed to be first discovered by ancestor Maehunukahu, the Rionimae (discoverer) and Rapusia customary land is claimed to be first discovered by Porokokoroisu the ancestor Rionimae (discoverer).
3. (a) The Haumaehunu tribal genealogy has no male line links with Rapusia tribal male genealogy.
- (b) Although there are no male links between the Haumaehunu tribe and Rapusia tribe it is obviously sensed by Court that

Haumaehunu tribe is related to Rapusia and vice versa on female lines only. It is these inter - tribal female links that keep the two tribes in harmony. Paul Kori and Joachim Raruhau, Savino Urahora, Mathew Kori and Jimmy Haimaei are females of Poihari and Kuhia of Haumaehunu tribe.

- (c) The Court accepts both Haumaehunu and Rapusia genealogies as their sacred traditions.
4. The plaintiff's tabu sites confirmed are;
 - (a) Maikou's tabu site – a grave and a fire site is found.
 - (b) Aohaoaniwaha is where the Rionimae Maehunukahu, discoverer of Haumaehunu is settled.
 - (c) Torosina principal tabu site is where the skulls of Kousuna and Horona, and first born Oikeni of Haumaehunu tribe were found.
 - (d) Poreaniara tabu site is where the female line men's skulls namely: Warahiru and Heokeni Hotoasi were shown. Warahiru and Heokeni Hotoiasi are said to be the line of Poiharu (f) of Haumaehunu.
 5. Defendant's tabu site in Haumaehunu land where Warahiru's (m) skull is found at Poreaniara.
 6. Settlements:
Tau house at Hauhapa is confirmed used by both parties.
 7. According to court finding and plaintiff exhibit on genealogy, Heokeni" is not the father of Sam Houasia (present) but Aihiru instead is the real father of Sam Houasia and not Heokeni as mentioned by defendant.
 8. The boundary between Haumaehunu and Rapusia is separated by two valleys and streams are confirmed by court during survey.

(Refer to plaintiffs map).so as plaintiff sharks shrines and defendant crocodile shrine are confirmed.


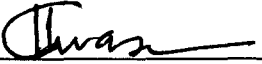


For peace and harmonious co-existence, the Court delivers its determination.

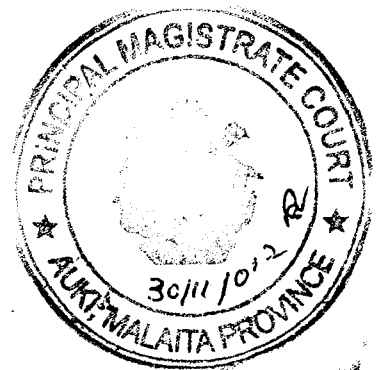
DECISION

1. The plaintiff and defendants are custodians of Haumaehunu tribal land and the power over Haumaehunu land is vested upon plaintiff.
2. Plaintiff's map is accepted.
3. Any further developments in the area the both parties have to be consulted.
4. Both parties should respect each other's properties.
5. Property owners in the area must own their properties.
6. Both parties are to be reconciled.
7. No order of costs.

RIGHT OF APPEAL: Any party is not satisfied with the decision must appeal within three months (90 days) with effect from 30th November 2012 to 27th February 2013.

COURT OFFICIALS

- | | | | |
|----|---------------------|--|-----------------|
| 1. | Rinaldo Talo | <u></u> | Court President |
| 2. | Eddie Wasi | <u></u> | Court Member |
| 3. | Lazarus Geniakwasia | <u></u> | Court Member |
| 4. | Lucian Kebai | <u></u> | Court Clerk (M) |



Dated this 30th of November 2012.