

**EFATE ISLAND COURT OF
THE REPUBLIC OF VANUATU
HELD AT PORT VILA
(LAND JURISDICTION)**

LAND CASE No.1 OF 1993

MAROPE LAND

BETWEEN:

FAMILY SOPE IMERE (Mele Village)
(Original land claimant)

AND:

CHIEF NUNU NAPERIK MALA
(Land Claimant No. 1)

AND:

NAFLAK TEUFI - IFIRA
(Land Claimant No.2)

AND:

FAMILY KALSAKAU – IFIRA
(Land Claimant No. 3)

AND:

IFIRA TENUKU COMMUNITY HOLDING LIMITED
(Land Claimant No.4)

AND:

FAMILY NIKARA
(Land Claimant No. 5)

AND:

IFIRA COMMUNITY
(Land Claimant No. 6)

CORAM: MAGISTRATE LUNABEK VINCENT

CUSTOM ADVISER: CHIEF ESROM MANAPANGA

(Island Court Justices): CHIEF URESARI FRANK KALMAIRE
CHIEF METEU MAKAL KALSONG

CLERK: MARLON ARLIE, STEVE BANI

JUDGMENT

DISPUTE

This case involves a land dispute. The land in question is, called the **MAROPE LAND**, is located at the Bauerfield airport and the area behind it, on the Island of Efate.

On the 28th of May 1993, the Efate Island Court announced through Radio Vanuatu, the land claim made by the FAMILY SOPE of Mele Village, whose claim was "custom ownership" of the MAROPE LAND.

The purpose of such announcement was to inform the public, according to the provision of the Island Court Act, Chapter 167, Order 6 (Subsidiary Legislation Amended) and orders made by the Chief Justice of the Republic of Vanuatu, outlining the Procedure of Land Dispute (Order No. I of 1993 R.2). Such orders literally specify that the Court Clerk of the Island Court must inform the public of the date when a land claim case is brought to trial, the grounds the claimant has in support of the claim, and the particulars of the claimant.

The Court Clerk should also invite persons who might have an interest in the land to contest the claim within 30 days after the original claim was lodged.

PARTIES

Six parties lodged claims after the announcement on the radio contesting the original land claim.

Therefore, during the hearing of the case, there were seven (7) interested parties to the MAROPE LAND case.

They are outlined as follows:

-Family SOPE of Mele Village
(Original Land Claimant "O. L. C. ")

-Chief NUNU NAPERIK MALA
(Land Claimant No. 1 -L- C. 1)

-NAFLAK TEUFI - IFIRA
(Land Claimant No. 2 -L. C. 2)

-FAMILY KALSAKAU- IFIRA
(Land Claimant No. 3 - L. C. 3)

-IFIRA TENUKU COMMUNITY HOLDINGS LIMITED
(Land Claimant No.4 - L. C. 4)

-FAMILY NIKARA

(Land Claimant No. 5 - L. C. 5)

-IFIRA COMMUNITY
(Land Claimant No. 6)

LAND COURT PROCEDURE

The hearing of a land case is a difficult issue due to the fact that most of the people involved are not professionals in dealing with such issue and most have never conducted a court case before. Therefore the Court must be able to handle court proceedings, and also apply common sense when explaining such proceedings to parties involved in the case.

Each party was requested by the Court to submit typed or written statements of the claim, any supporting evidence to the land claim, and also a family tree. The parties were asked to choose a main speaker, a practice common through out Vanuatu, to represent them in court.

Members in each party are usually related, usually representing a clan or tribe. The court allows the leaders of each party to cross-examine the speaker, reason being that sometimes statements are difficult to understand because of the lack of experience in handling a court proceeding. The purpose of cross-examination is to clarify issues raised in the claim.

In the proceedings the court clerk reads out the statement of each party and the leaders asked whether they agree to the contents of the statement or not. Once agreed upon by which ever leader, then the other leaders are given the chance to cross-examine the speaker.

After the cross-examination, the leader of the party calls his witnesses. As provided by the Island Court Act (Subsidiary Legislation) CAP 167, (order 18, rules 2). Only five (5) witnesses are required in land cases. The statements of each witness is read out by the court clerk, then the leaders of each party is allowed to cross-examine each witness.

Visit to the land site

Before and somewhere in the middle of the hearing, the court visits the land site (Order 18 R9 - Island Courts Act, CAP 167).

THE BOUNDARIES OF THE DISPUTE LAND

At the beginning of the hearing, the court explains to other parties, the boundary of the disputed land, which were submitted to the court by the original land claimants (O.L.C.), the SOPE family of Mele village. The boundary on the map, marked in red, is annexed by the court as exhibit 1.

The boundary also covers the area of Narrowby TITLE, : 57K, 57L, 3762, 3899, 57N, 128, 1231, 497, 2904, 3760, 2910, 1964. Even though some parties have claimed titles 57I and 57M as being in the boundary of Narrowby title, the court has excluded both areas in this claim because originally, they were not claimed by the original land claimant (O. L.C.), as being part of the disputed land- Marope Land.

The boundary also covers the area of Malarao which includes Titles 534, 111, and 129. It also includes part of the Erromango Title 3922, and the Sawarewo Title 118, 131, 3242, 94, 2757 (31/002), 519 and 378.

THE RIGHT TO APPEAL

Land dispute is a very sensitive issue. The dispute of the Marope Land is not an easy one, therefore whatever decision the court reaches would not satisfy all parties involved.

There would be some who would not be satisfied with the decision of the court. Therefore, it must be clarified that the Magistrate and the Island Court Justices are only performing their constitutional duties, which are protected under the laws of the Republic of Vanuatu.

The court considers it appropriate to let you know now what rights you have, should any dissatisfaction arise from the court decision. The reason being that, some of you might not agree to the court's decision, and if you are told at the end of the hearing, you would not be prepared to listen because you would too emotionally strained, after the judgement.

Under section 22 (4) of the Island Court Act, Chapter 167, if a party is not satisfied with the decision of the court, then the party may lodge an appeal in the Supreme Court within thirty (30) days from the date when such decision was made.

Furthermore, under the same section 22 (5) it provides that the court, on application by an appellant, may grant an extension of thirty (30) days, provided the application is made within sixty (60) days from the date the first appeal was made.

If after a period of sixty (60) days, no appeal have been lodged by any one of the aggrieved parties in the Supreme Court, the Magistrate presiding over the land matter may register the judgement of the Island Court under the Lands Department (Land Jurisdiction) and also the Registry of the Supreme Court.

Once the decision of the Island Court is registered, there can not be an appeal contesting such decision.

THE FACTS EACH PARTY SUBMITTED ON THE MAROPE LAND ISSUE

Before examining any evidence submitted by each party and their witnesses, the court would like to point out that in any proceedings the court shall not apply " technical rules of evidence but shall admit and consider such information as is available ". (See section 25 of the Island Court Act, CAP 167).

THE FAMILY SOPE CASE - ORIGINAL LAND CLAIMANT

It was Rongoana Sope who lodge the land claim on behalf of the Family Sope of Mele village. Due to his old age, he instead elected his grandson, Roro Sope to represent the Sopes' of Mele during the hearing of the case.

As stated by Roro Sope, the family Sope of Mele village have claimed the land on the fact that Narewo, who was chief Manarewo's son, was the original land owner. Bausa and Sawia were two brothers and were cousins with Narewo (Chief Manarewo's son) and had lived in the area. They had originally live in Tabusu (one of the areas claimed), then moved to Ione, and from lone to Ifira. Sope moved to Pango as result of a dispute on Ifira Island.

Sope grew up in Pango, but had occasionally visited his great uncles - Bausa and Sawia, his great aunty - Leisoso, and his great grandmother Toutafkal on Ifira Island.

Roro Sope further stated that, the claim is also based on the sale of lone which was between Sope and Bladiniere (a French plantation owner), which was witnessed by Kano upon request by Sope. At that time Sope was receiving regular payment from Bladiniere, and there was never a dispute from the Ifira Islanders, concerning the sale.

He further claimed that Sope's grandfather, Nareo, sometime earlier, had sold some land in the same area, to Mr William Basset in 1872.

The Family Tree of the Sope Family of Mele village was also presented by Roro Sope.

1 Manarewo

2 Narewo

3 Marik Bausa & Marik Sawia. (Two (2) brothers) - 4 sisters

*Leisoso - *Toutumo - *Toutafkal - *Tountano

Leitakae

Leikalo

Sope

Rongoana Sope

The details of the Sope Family Tree are annexed in this judgement.

The speaker of the Sope Family, from time to time made reference to a book which was opposed to have been written by Sope. The court does not have any knowledge of a such book nor is it part of the evidence produced by the Sope Family to the court.

The disputed land was visited by the court, led by Mr Roro Sope. On the occasion, the court had the opportunity to site the old graves, settlement and nasara or meeting place.

During the visit, the court spent two days visiting the land with the Sope Family. On the first day, they visited the old graves and village sites, and also a custom meeting place (nasara).

In the vicinity of the meeting place was a big banyan (nabanga) tree, and some fruit trees. However the Court noticed that there wasn't a land mark there, (usually a huge rock or a pile of rocks). The court asked if the Sopes could produce evidence of such land mark. However, after the area was scouted by the Sopes, the court was told there wasn't any land mark.

On the second day, the court visited the boundary of the land claimed. It was noticed by the court that the representative of the Sope Family of Mele village hesitated often and were not really sure of the boundary of the land in question.

The Sopes managed to show the court a straight line as being the boundary of the Marope Land-(right at Russet's gate, Tagabe).

The court then compared the area the area shown to them against the original map which was submitted to court by the Sopes, however it was found that the area on the map was not the same as shown to them by the representative of the Sopes.

During the cross – the examination, Roro Sope admitted that the representatives of the Sope family were not sure of the boundary of the disputed land. However, they still claim ownership of land within the boundaries of Marope Land. (The question was raised by Kalpokor Kalsakau, the leader of Ifira Community – L.C.6).

When cross-examined by George Kaltoi Kalsakau, Roro Sope admitted that the land area of Erango Rango does not belong to the Sope Family of Mele. Mr Roro Sope admitted, when questioned by the leader of Naflak Teufi – Ifira (L.C.2), that old Sope had in fact leased Ione but had sold Baganivata. The leader of Naflauk also produced to the court a bill of sale, which showed that Baganivata was sold jointly by Sope and Kano.

When asked about the connection between Sope and Leitakae, Roro Sope explained that Leitakae was Toutafkal’s daughter. Toutafkal was the sister of Bausa and Sawia (please refer to the family tree diagram). Leitakae was the mother of Leikalo who married Savi and their son was Sope.

Leimok Nganga-the first witness.

Leimok Nganga’s mother was Pastor Sope’s daughter. Leimok Nganga claims she knew Ione plantation well because she used to accompany her grandfather Sope to the plantation to collect payment from Bladiniere-the plantation was then leased by Bladiniere.

During cross-examination, Mrs Nganga stated that everything has been documented in “the book”(the same book referred to earlier by Roro Sope but was never submitted to court).

The witness further stated that pastor Sope was married three times. She said that he had heard about Pastor Sope’s first marriage but did not know to whom. In his second marriage, Pastor Sope married a woman from Ifira and they had a son, by the name of Kalorongoa Kalchichi. He married again the third time to Levapupu. The witness claims that the children (the Sope of Mele) from this third marriage are the rightful owners of the disputed land.

After consultation with the custom advisers (justices), it was told by the court that, the sons of the third marriage are entitled to the land only if there are no sons in the first or the second marriage.

The first witness was honest in her argument but the evidence was not solid enough.

Kalpeau Vatoko -The second witness.

Kalpeau Vatoko stated that he had lived with the Sopes’ of Mele and supports the claim of the full boundary of the disputed land. During cross-examination he made mention of the history book, which was supposed to have been written by old Sope. However, the Court found that there was lack of evidence to support the claim.

Kalvana Sope -The third and the last witness.

The witness was the son of Pastor Sope and was born on January 8th 1953. He claims that he was the witness of what was told to him by his father before his death. His grandfather had in fact, sold some land within the disputed area, which belongs to the Sope Family of Mele. During cross-examination Kalvana Sope re-affirmed the claim on the Marope Land. He also stated that he had knowledge of the lease of Ione and the sale of Baganivate. He further

referred to “the history book”, which he claims, would show the court the ownership of the land by the Sopes.

The testimony of the third witness redresses the issue of ownership of the disputed land, the admission of lease of Ione, the sale of Baganivate, the documentation of sale (exhibit 2) between Sope/Kano and Bladiniere (French plantation owner) on the 31st of May 1909. Furthermore, he admitted that it was old Sope and Kano who sold Baganivate to Bladiniere (the court had not received any documents supporting the sale of Baganivata between Sope and Bladiniere as stated in the claim).

The evidence of the third witness however, as not solid enough to support the claim. Therefore, after consultation with the custom advisers (justices), the court has been informed that custom ownership of land is handed down through the male and is automatically transferred to the first son of the custom owner. Thus this concludes the case of the Sope Family of Mele.

THE CHIEF NUNU NAPERIK MALA CASE-LAND CLAIMANT No.1

Chief Nunu Naperik Mala is the leader of the second party on the Marope land dispute case. His statement is as follows. He claims that he is the Chief of Rango Rango, the chief of the disputed land and the ownership was established down through history.

He also made mention of the names of the areas within the boundaries of the disputed land and they are as follows:

Farea Tapu, Tapusu, Ilopo, Lavetavariki, Metalo, Lakura, Suareo, Tekonei, Telieporo, Tapaiki, Metenairiki, Baganivata, Ione, Marope, Matekapu.

Chief Nunu further claimed that it was " the big " chief Manareo who owned the disputed land ever since the dark ages, and that chief Manareo was the father of chief Nareo Marik Atlangi. It was chief Nareo who sold land to the white man.

The claim is based on the original Deed of Sale of the disputed land. As claimed by him, he and his family are included in the family tree (see annexed document) of Chief Nareo, therefore they are the descendants of the chief.

A map showing the area sold between 1872 and 1887 by Chief Nareo, and a copy of the Deed of Sale of the all the land sold were attached to the third part of Chief Nunu's statement. The details of names of the areas and the Deed of Sale are as follows:

Narowby, Area No. 1 on the Map (exhibit 3). Deed of Sale of Chief Nareo to Mr William Basset on the 22nd of August 1872 (exhibit 4).

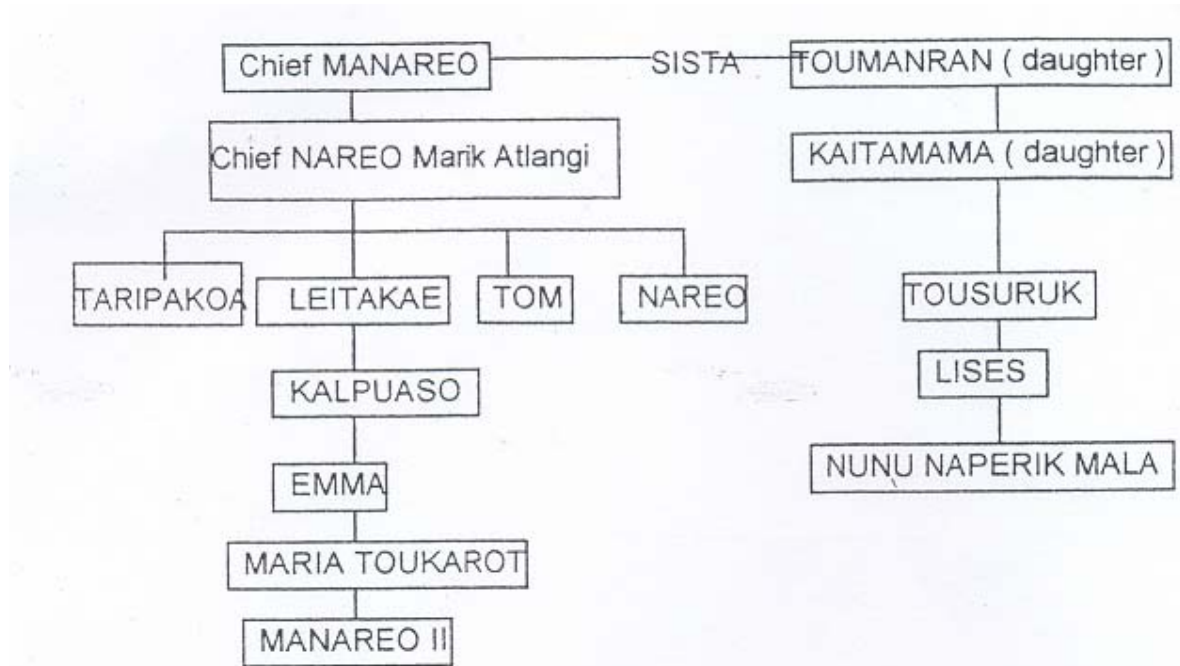
Erango Rang (or Rango Rango), Area 5 on the Map. Deed of Sale of Chief Nareo to Alphonse Bernier on the 24th of November 1884 (exhibit 5).

Malaroua (or Malaroa), Area 5 on the Map. Deed of Sale of Chief Nareo to Alphonse Bernier on the 17th August 1885 (exhibit 6).

Ebooka, Area 4 on the Map (title 378).Deed of Sale of Chief Nareo to Higginson on the 12 of September 1883 (exhibit 7).

Napuana Matapu, Area 3 on the Map (title 519).Deed of Sale of Chief Nareo to Mac Leod on the 12th of September 1883 (exhibit 8).

Diagram The Family Tree:



The leader of L. C. 1 reiterated that after the death of Manareo, Chief Nareo Marik Atlangi succeeded him, which shows that his party are the true custom owners of the disputed land.

In addition, after the death of Chief Nareo Marik Atlangi, his son Tawara became the next chief, which saw him taking on the title name Taripakoa. The speaker went to state that after the death of the Chief Taripakoa, Kalsakau was appointed by Mr Mackenzie to become the next chief because he could read and write. Thus the right to entitlement was taken away from his family and given to another who was not entitled to it (the title of chief) nor the disputed land, which meant that his family lost the right to inherit the land. He made reference to a Book written by George Kaltoi Kalsakau entitled " History of the Three Flags " page 16 which stated that it was Rev. .I. W. Mackenzie who ordered Kalsakau to become chief in 1908 (exhibit 9).

Furthermore, in 1944 his aunty Tussuriki and Laitakae led his party (Nunu Naperik Mala) to the old village site. They visited the old grave site, the communal meeting (nasara) site and also the Farae Malpakoa which was installed there before they moved to Ifira.

He further declared that in 1977, when the land was riverted to the custom owners, his family formed a community /group for the purpose of re-establishing their title as Tribal Chiefs. In 1979 he was chosen as the chief with the blessing of his elders. His purpose as .a chief was to take care of his family and the descendants of Chief Manareo and Nareo. He re-affirmed that he is the chief of their land.

Chief Nunu Naperik Mala went on to state that in 1980, he took some of his family members to visit their land. Again in 1982, he led another group of man and women - this time of forty family members - to the land in question. As stated by him, this was a sign that they were the true custom owners. Whilst there, the team members visited the old village and meeting sites. Kava and pig-killing ceremonies were conducted on each site and seven (7) meeting sites. He told the court that the act was to pay his respect as a new chief to the old chiefs and the old villages.

Chief Nunu Naperick Mala told the court that in 1988, in the Metalo meeting place (nasara), he appointed Patrick Crowby as his assistant with the custom title of Manareo II and George Kalpilelu with the custom title of Munuariki. The ceremony was witnessed by lots of family members.

The leader of L. C. 1 presented to the court a letter written by himself to Chief Willy Bongmatur about the appointment of Patrick Crowby and George Kalpilelu (exhibit 10).

Finally, on the 15th of July 1989, Farea Malpakoia was reconstructed on its original spot to fulfil the wishes of his forefathers. He further stated that, he now lives on Erango Rango with his people. They have gardens and a cattle project - they have more than 200 cattle on that land.

During cross-examination, Chief Nunu Naperik answered all the questions which were directed to him without hesitation. When he was questioned about Leitakae, he told the court that Leitakae was the daughter of Nareo of Erango Rango. George K. S. Kalsakau raised the question of customary ownership of land of Ifira - whether rights of ownership passes to males and females as well. Chief Nunu Naperik Mala said the right of ownership passes to males and females as well.

After consultation with the custom chiefs (justices), it was clarified that on Efate, including Ifira, ownership of land goes first to the males of the family. Ownership then goes to the females if there isn't a male successor. Chief Nunu reiterated that his claims is based on the Original Deed of Sale (Exhibits 4, 5, 6, 7, 8).

The court and the party was led by Chief Nunu to the Farea Malpakoia, Matatekapu (river Tagabe), where Maralapa used to travel and spend nights there. The party was also shown an eel's burrow. The court noticed that the chief showed concern for all the 'taboo' places.

The Court considers that the arguments presented by Chief Nunu Naperik Mala might be good enough to support his claim on Marope Land ownership.

Bob Kalphabun - The first witness.

In his statement, Bob Kalphabun - the first witness, re-armed the full contents of Chief Nunu's Statement as being true and correct. He further stated that in 1930 (Friday 24th January 1930), an application of Registration to the then Societe Franaise des Nouvelles - Hebrides for the registration of Narrowby was contested by Kalsakau , Sope and Kano before the Joint Court which based its judgement on the Original Deed of Sale between Nareo (or Narrawa) and William Basset in 1872.

During cross-examination, the first witness made no hesitation in answering all the questions from the other party leaders. He further claimed that he was the descendant of chief Nauru Marik Atlangi.

Tongakai Kalpokai - The second witness.

The second witness far Nunu Naperik Mala was Tongakai Kalpokai. He too confirmed everything on Chief Nunu's statement.

During cross-examination, it was noticed by the court that the second witness wasn't really sure of his facts. The witness stated that he was just relating to the facts on the main statement. When questioned by Claimant No.4 about Nareo's relationship to Manareo, he told the court that Nareo was Chief Manareo's son. Furthermore, when questioned by the same party about Leitakae's children, the second witness admitted that he knew nothing about Leitakae. Therefore the court concluded that the second witness wasn't sure of his facts, however he did seem to be honest.

Donald Waiwai - the third witness.

In his statement, Donald Waiwai made further claims confirming the right of ownership of the disputed land. He went on to tell the court that in 1944, when he was only twelve (12) years old, he visited the land with his grandmothers - Tusuriki and Leitakae and his two uncles - Willy Kalmelu and John Kluamo, him being the witness of that fact. His grandmother Tusuriki passed away in 1966.

During cross-examination, he told the court that his father was Denis, and his support of the claim was through his uncle. He further claimed that Chief Nareo was the chief of Farea Malpakoa of Erango Rango before it was transferred to Ifira. in the conclusion of the court, even though the witness did not answer a lot of questions, he seemed honest enough.

Alick Kalmelu -The fourth witness

The witness told the court that on Efate, particularly in his area, males, females or families may acquire ownership of land through the matrilineal system. He further stated that the right to land inheritance can be given to males, females, or families, where as in a lot of villages, these rights automatically go to certain families, normally of the chiefly blood.

He further stated that, there are a lot of different claims arising at this stage, however to really consider this whole situation, these claims must be based on the underlying factor that the disputed land was really acquired through the matrilineal system. He claimed that his party has ample evidence indicating their ownership, which was acquired through the patrilineal and the matrilineal system system. Thus it confirms Chief Nunu Naperik Mala as being the true descendant of Nareo, thus qualifying his as the custom owner.

He continued to tell the court that, Kalsakau's signing of Act of Sale does not entitle him to the ownership of the land.

The witness was questioned for more than (5) hours during cross-examination and answered all question without hesitation. In the view of the court, some answers were true and some were not.

When questioned on customary land ownership of Ifira, the witness answered that originally land was handed down matrilineal system. However during evolution, the acquisition changed to what it is now, as a result, tribal systems were born through the matrilineal system. He further claimed that his party is on either side of this system of land acquisition. The court was advised by the custom advisers that on Efate (the Ifira situation wasn't specified in this instance), land is normally inherited through the male. In order to determine ownership, all direct descendants must be considered. However if there aren't any, only then can the right of ownership be transferred to the eldest son of the sister of the custom owner.

In the court's opinion, this would be acquisition through the "uncle relationship". A woman may acquire ownership only if the custom owner is not succeeded by a direct descendant. This fact has been accepted by the court, and finds it hard to believe the statement of Alick Kalmelu that custom ownership may be either through male or the female descendants, thus such acquisition would only create confusion and conflicts.

Another conflicting factor which disproves acquisition by either males or females, would be the fact that, in Chief Nunu's statement, his claims was based on the original Deed of Sale, which confirms that it was Chief Nareo who sold the disputed land.

The witness was questioned by the court if he had any knowledge of women who had been custom chiefs, by which his answer was negative. Most of the old people present at the court also confirmed that on Efate and especially on Ifira, land ownership is based on the male side. If there are no direct descendants then the right may be transferred to his sister's eldest son. The sister may become the custom owner only if she does not have a son.

Therefore, custom ownership is bestowed upon one person representing the tribe, thus giving members rights to use the land. The court accepted this statement from the witness.

The fifth & the last witness was Patrick Crowby - Manareo II

The witness claimed that he is a descendant of Chief Nareo. The chief had three son and a daughter. The sons never had any children of their own, however their sister Leitakae did have children. He further claimed that he had visited the disputed land and confirmed the position of the nasara meeting place as stated earlier by Chief Nunu.

Furthermore, Chief Nareo was the head chief who controlled several nakamal in the surrounding area namely: Tapuso, Erango Rango, lone, Eaganivata, Marope, Matekapu, Mornapau, Forengameat, and all their sacred places are still at the same spot as they were before.

The court noticed that the witness was honest, and was precise in his answers.

THE NAFLAK TEUFI IFIRA CASE-LAND CLAIMIANT No 2

George Kano Chichirua was the leader of the Land Claimant No.2 - Naflak Teufi of Ifira.

In his statement, George Kano Chichirua claimed the customary ownership on the disputed land on behalf of the Naflak Teufi of Ifira and stated that Naflak Teufi of Ifira is the only owner of Marope Land. He further stated that his party's claim is based on Chief Nareo. Chief

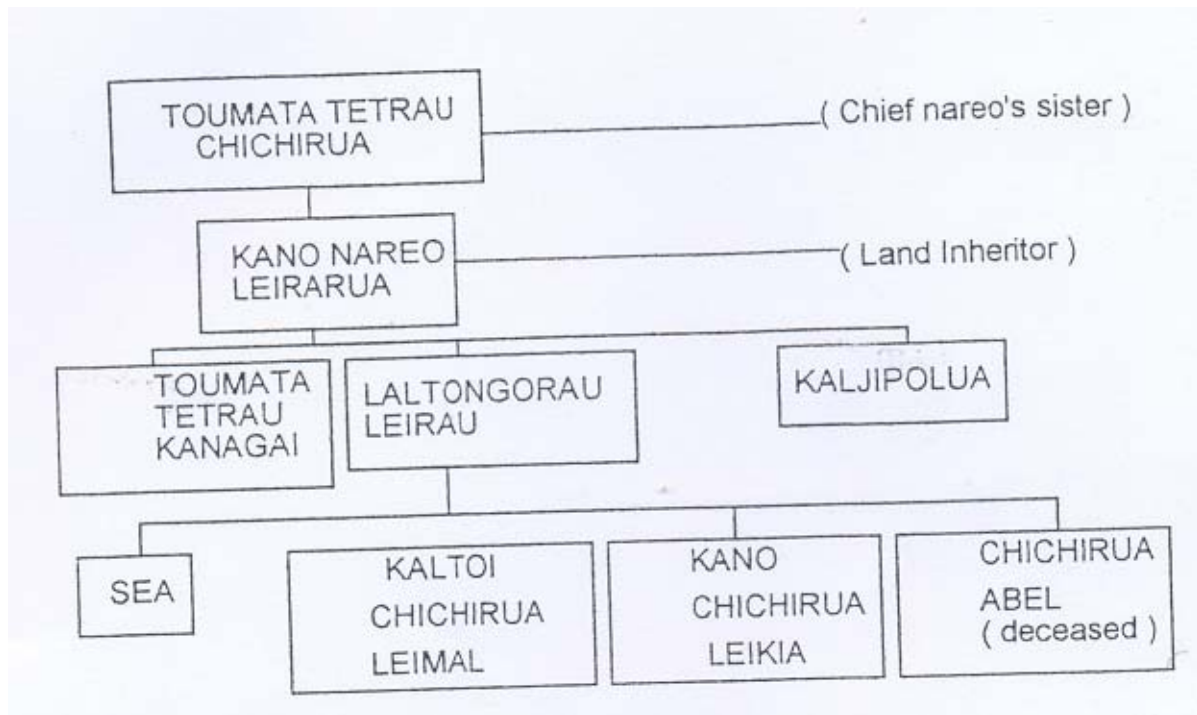
Nareo had sold a big part of the disputed land because he was the custom chief at the time. Furthermore, the leader of the party presented to the court a copy of the Deed of Sale of Narrowby dated 22nd August 1872 (cl Narrowby). George Kano claimed inheritance through Chief Nareo who was a direct descendant of his. He further stated that he (George Kano), was Kano's descendant, who was Nareo's sister's eldest son.

Mr Kano further claimed that Chief Nareo had transferred all lands rights to Kano (his sister's son). He claimed that he was a relative of the Chief Kano.

To support his argument, Mr Kano submitted to the court a document written in French, which identifies the tribal chiefs of Vila.

The document states " Notes sur les chefs de la tribu de Vila " dated 7 January 1923 - the English version " Memorandum on the Chief of Vila Tribe ", (exhibit 12). The document showed the transfer of lands rights from Nareo to Kano because Chief Nareo had no male descendants.

Diagram Family Tree Representation



Under cross- examination, George Kano did not hesitate to answer all the questions raised by each leader. He kept repeating that he was the true descendant of Chief Nareo who was the owner of the disputed land.

George Kano further told the court that he and his family know the area well, and they are using some part of the land to make gardens.

George Kano also submitted to the court two axes (exhibit 13) which he claimed that were the price (consideration) for the land. There were some others too, he claimed. There was corroboration to the Deed of Sale of Narrowby to William Basset 22/08/1872. There were

disputes from the leaders of the other parties about the two axes, however the court accepted the two axes as part of the evidence.

Kalsei Kaltabang - The first witness.

This witness was an old man of 85 years. He stated in his statement that he had no knowledge of any sale or transaction of the land that had taken place in the early years. He told the court that he and his father used to work the land.

When questioned about Leitakae, he stated that he knew Leitakae and that he did bury her. But he further told the Court that he did not know much about her life.

Many times during cross-examination, the witness stated that the land belongs to Naflak Teufi.

Chief Ata Masong Mapula - the second witness.

This witness made one short statement. In the statement it says his aunty was Leinawi, and she was from Ravenga, she later went and lived with Naflak Teufi Ifira in Malapachi village.

Naflak Teufi had been living in Malapachi village for a long time. This village was located in the area claimed.

During cross-examination, the witness admitted having no knowledge of any place in the disputed area, however he only knew that when his aunty Leiwani ran away from home she went and live with Naflak Teufi, who had been living in that area for quite some time already. The court believed what the witness said.

Kaltoi Wabaiat - the third witness.

Kaltoi Wabaiat made a long statement, however part of it was irrelevant to the land case.

In one part of his statement, the witness claimed the disputed land as being part of Naflak Teufi. Certain members of the clan, namely Kalman and Tagkaroa were strong warriors who fought on the area claimed.

During cross-examination, the court concluded that the witness did not know well the area.

Mrs Agness Kiri Leitaumewiwi - The fourth witness.

In her statement, the witness stated that she was relating to the court only what was told to her by her aunty Leimas. They were not from Ifira Tenuku (Vila Island) originally, but were from the inland area - the disputed land. She further stated that her grandparents, Kalman and Leisel were from Naflak Teufi, they then moved to Ifira Island.

The witness answered all the questions without hesitation. She knew some areas well. She further stated that she used to make gardens in Tangaroa, the area between the old Control Tower and the Airport. Mrs Kiri's statement had authority.

The witness also submitted to the court some old photos of her family house which was built on the disputed area. The house was destroyed by the Mele Trust. Some of the photos showed caves in the area where she used to make her gardens (exhibit 14).

She also tendered to the court some shells which were collected in her garden, (exhibit 15).

Mahit Kalourai - The last witness.

In his statement, the witness claimed that the disputed land belonged to his uncle, George Kano Chichirua, reason being that George Kano was the custom chief of Naflak Teufi.

The witness went on to state that, in the olden days on the Island of Efate, people live by themselves in the bushes. The people of Efate, had to live in tribal groups (Naflak) because they were always tribal fights.

The witness also claimed that Naflak Teufi, ruled the disputed area. Furthermore, Chief Nareo sold the disputed land because he was the big custom chief of their tribe.

"In the olden days, a person cannot own land by himself because it was dangerous ", he stated. One tribe may own a big land area as chief Nareo did.

Under cross- examination, the witness told the court that George Kano was of chiefly blood connected to the land, because Kano was the direct descendant of Narewo.

The witness re-affirmed that in olden days individuals did not own land, instead a chief would own land on behalf of his tribe. After Christianity individual ownership came into existence on Efate, particularly in the disputed area.

The witness was a middle aged person, whose presentation was honest, and had authority.

Naflak Teufi presented a serious and strong case concerning customary ownership of Marope land, despite dispute from leaders of the other parties regarding some areas of the land or names of the old village that were shown to the court by their leader George Kano.

THE FAMILY KALSAKAU CASE - LAND CLAIMANT No.3

George Kaltoi Singari Kalsakau is the representative of the family Kalsakau (Land Claimant No. 3).

Mr Kalsakau made a very lengthy statement and in the statement he claimed that the disputed land was owned by Paramount Chief Tarimata Kalsakau and his children and the people of Ifira.

His argument was based on these particular points:

- Chief of Ifira or any other chief of Efate owns land.
- Rights to land ownership follows the patrilineal system. Uncles also play an important role in the family.

- Chief Kalsakau was the one who the main spokes person of the land on Vila Island since 1900s. The old generation (his generation) are still speaking on their behalf about their land rights.

He further stated that his father was the Paramount Chief Tarimata Kalsakau who was the descendant of the custom chief of Rango Rango, Paunapokasi, Malapoa and Ifira. They are the true custom owners of the Marope Land. He went on to say his father was the chief Kalpokor Makaurei, and he was married Kaitamama who was the sister of the chief of the disputed land.

During cross-examination, George Kalsakau made further claims of the ownership of the Marope Land. He claimed the land as belonging to his father who was the chief of Paunapolasi, and he also had relatives as far as North Efate and the Sheperd Islands. He told the court that his father, Graham Kalsakau, used to tell him about Marope Land when he was small. Furthermore, he said that Kalpokor Makaori did not sell any land except Malapoa College (outside the boundary).

When one of the parties raised a question about Kalsakau's place of origin, George Kalsakau stated that the person was from the same place as Kaitamama, Tousurik *(Warolua downwards).*

Under Cross-examination, George Kalsakau answered all the questions forwarded to him. He also submitted a lot of documents as evidence in support of his claim. (The documents have been attached to the judgement - exhibit 16). However, Mr Kalsakau failed to show to the court, as sign of ownership, any land marks on the disputed land.

Kalbeau Naru Kalsakau - The first witness.

He too based his claim on the fact that it was Chief Kalsakau who was the main spokes person of the land rights issues, others were only witnesses.

In the gone days, according to the Ifira custom, a chief was the land owner, and the Chief Kalsakau is the chief of the land. There have been eight (8) generations of the Kalsakau family who were originally from Paunapokasi, Rango Rango, Sawareo and had moved to Vila Island (Ifira).(The family tree has been attached to the judgement).

During cross-examination, the witness answered all the questions that were forwarded to him with hesitation. When one of the party leaders questioned the fact that chief Kalsakau might have been speaking on behalf of his people regarding land rights. In his reply Kalbeau Naru stated that Chief Kalsakau was then fighting for his land rights as a custom owner.

The court concluded that Kalbeau Naru was honest in his presentation, however it was a bit difficult to believe every word said, because one cannot be a custom chief if he does not have any land marks on the land.

Kalwat Thomas Kalondak - The second witness.

The witness made a written statement, and the contents of the statement was very similar to one presented by the first witness. This is the basis of his statement: Chief Kalsakau was the chief of the land. He was the only one who spoke for customary land rights on Vila Island (

Ifira). His family were originally from the bush area of Paunapokasi, Rango Rango, and Tangaroa.

During cross-examination, Kalwat claimed that he was the witness of family Kalsakau because old Kalsakau was the one who fought for customary land rights a long time ago.

When Nunu Mala questioned the witness if Kalsakau had any special sacred place in the area of the disputed land, the witness stated that the reason he supported the claim was because Kalsakau was a chief and he was the one who outlined the boundary of the land.

The court found it hard to believe the presentation, because the witness wasn't sure of some of his answers, further George Kalsakau (leader) had failed to show the court any land marks (sacred places) in the area claimed.

Kaltoi Lulu - The third witness.

He made a written statement which was very similar to the previous ones.

During cross-examination, the witness answered all the question. It was difficult to keep track of what the witness was saying. However, he claimed that according to the custom, the disputed land belongs to Chief Kalsakau because he was the one who was fighting for customary ownership.

He further stated that it was the duty of the chief to speak on behalf of his people for land rights, and not because he was a custom owner. Before independence, land dispute was between the white planters and the indigenous people, however, now a days customary land dispute is between the indigenous ni-Vanuatu.

Petro Kalman - The fourth witness.

The contents of his statement was very similar to those of the other witness. In his statement, he stated that it was Chief Kalsakau whose name was on paper and land title because he was the only one who spoke in favour of customary land rights when he was still alive. According to Efate custom, the custom chief was the land owner.

After consultation with the custom advisers, it was confirmed to the court that a chief was the chief of the land. It also confirmed that chief Kalsakau was a chief of the land because he had sacred places /land marks on the disputed area.

However, the witness and particularly the representative of the Family Kalsakau failed to show the court any old sacred places or land marks on the disputed land.

Dr John Ita Kauine Kalsakau - The fifth witness.

The witness made a very short statement. In his statement, he claimed that he was a direct descendant of Kalsakau and fully supported his father's (George Kalsakau) statement.

The witness answered all questions under cross-examination. All his answers were simple, clear and fully supportive of his father's claim.

When answering one question regarding the boundary between Ifira and Imere (Mele), which is claimed (by some parties) to be unstable his answer was that his grandfather Kalsakau was the chief who laid out the boundary of the area.

When questioned by some party leaders if people from Mele (village) had any rights to claim Marope Land, the witness replied that there is a mark dividing Mele and Ifira which begins at Taunono and ends at Paunapokasi Hill. The people of Mele don't have any rights to claim. The court will make assertion on this point later.

IFIRA TENUKU COMMUNITY HOLDINGS LIMITED - LAND CLAIMANT NO 4

Henden Singari Malupalapa Kalsakau was the representative of Land Claimant No.4 - FICH Ltd.

A statement submitted by Henden Singari, which contained names of 27 families of the Ifira Tenuku Community Holdings Limited. The names of the 27 families were on a Memorandum and Articles of Association of I. T. C. H Ltd.

He also claimed in the statement that the disputed land was owned by the 27 families. Furthermore, Narrowby was part of the disputed land and it was Nareo who sold it.

In his statement, his claim was based on the fact that the 27 families he represented were the true descendants of the tribe of Maululapa. The court had no corroboration to that claim.

He further told the court that custom ownership follows the patrilineal system and not matrilineal system. However, if there aren't any male inheritors, then the right is then transferred to the women, therefore, there can be acquisition through the matrilineal system.

The statement was confirmed by custom advisers.

In the former days, a chief was usually the spokes person on behalf of his people regarding land issues, he was the custom owner on behalf of his people.

The court accepted what was stated, however it does not support the basis of the claim. Documents of ITCHL and a map of Narrowby, re-annexed (already submitted by the other parties were submitted by the leader of ITCH Ltd.) The party had no witnesses.

Henden Kalsakau was cross-examined and the court noted that his answer were simple and clear, and he did his best to answer all the questions. However, he failed to show the court any sacred places of the 27 families he represented. None of the members of the 27 families witnessed the claim.

Henden Kalsakau presented to the court a family tree which was very similar to those Teufi Ifira and the Family Kalsakau. It wasn't a surprise to the court because George Kalsakau's Henden Kalsakau's father. Who is also the chairman of ITCH Ltd, and is a representative of a different group for the same claim.

Pastor George Kano, who is the vice chairman of ITCH Ltd but is the leader of Teu Ifira, a different land claimant.

Henden Kalsakau had failed to call any witness to support his claim.

The court wasn't satisfied with the family tree representation because the claimant was still completing the family tree whilst in court (he had added and corrected some names on the family tree).

The court is not satisfied with the family tree and furthermore, it found it hard to believe that the land claimed was based on customary ownership. ITCH Ltd was a company of name.

NIKARA FAMILY CASE - LAND CLAIMANT NO.5

Pastor Pierre is the representative of Nikara Family of Mele Village whose claim is based on the name " Nikara Paunareo ".

Pierre Nikara made a short written statement. In the statement, he claimed that Nikara was the first person to have settled in the disputed area. He further claimed that there are custom proof of the ownership of the Marope Land by Nikara, and not as claimed by the other claimants.

He based his claim on the acquisition of land through the Patrilineal system.

The Family Tree

NIKARA I

NIKARA II (2)

TARIPAKOA

KALOKAIRE (Kalokis / Ovatusa)

KALMAN

PASTOR PIERRE NIKARA

During cross-examination Pierre Nikara spent lots of time to answer all the questions that were forwarded to him. When questioned by leader of Sope family regarding his relationship to Nareo, because the other family claimed that they were the descendants of Nareo. In reply, Pierre Nikara said that he was the leader of Nareo. Nikara's father was a Namarai (eel) and his name was Marik Nareo. When asked who Nikara's mother was, Pierre Nikara, in reply stated that he was basing his claim on the Patrilineal system. Not on Matrilineal system.

He further stated that he acquired the name of Nikara at the age of ten (10). His claim is based on his birth right. He claimed the full boundary because he has proof of Nikara's old village.

The court will form its opinion on this point later - whether Pierre Nikara has any customary evidence.

Pierre Nikara stated that Nikara moved from Sawareo down to Somalopa, and later to Ide Way Island (Mele Island).

His definition of " Nikara " means boundary.

He stated that he had not based his claim on the Deed of Sale, and furthermore, had not made any research into matter. His claim is based on his inheritance as customary owner of Marope Land.

A lot of questions were raised regarding names of customary places Pierre Nikara did not hesitate to answer all questions raised, and demonstrated to the court knowledge of all the areas claimed as well as giving all their names.

When questioned about the boundary between Mele and Ifira, he told the court that he wasn't defending Mele Village but he was defending his heritage. The boundary between Mele and Ifira does not interfere with his land claim, he said.

He stated that Taripakoa was Nikara's son. He had been living on the land by himself, he then moved to Malapoa, and later to Mele Island. This Taripakoa is not the same Taripakoa (who died in 1908) referred to by the other parties.

He claimed that the person whom he was referring to lived around the 1600s. Taripakoa, whom the other parties referred to was the chief of Christianity and died in 1908.

Pierre Nikara answered almost all the questions.

The leader of ITCH Ltd asked Pierre Nikara if he knew Leitakae, Nareo's daughter. In reply Pierre Nikara stated that it was true that Leitakae was Narewo's daughter - in fact Narewo had many wives, but he does not know who was Leitakae's mother.

He claimed that he knows the Narewo Family who are in court but can't identify there. He did not give any explanation.

When questioned by Kalpokor Kalsakau during cross-examination, about Paunareo, in answer to that, Pierre Nikara stated that Paunareo was not Nareo nor was he Manareo, he was a chief. He further stated that he does not have any knowledge of Paunareo's relatives. He said that Paunareo's wife was Leiriki who bore him a son - Taripakoa, down to his generation (refer to family tree).

He further stated that there was a lot of movement by different people in the area claimed in the former days. However Mikara was the true custom owner. Others may claim land however birth rights don't change.

Kalpokor Kalsakau pointed out to Pierre Nikara that it was his (Pierre Nikara) grandfather who outlined the boundary between Mele and Ifira, hence decisions about the boundary have already been made, it therefore shows that the disputed land belongs to the Ifira Community.

The court noted the admission of the leader of the Ifira Community which indicated that Pierre Nikara has some interest in the land.

In reply Pierre Nikara stated that his main objective is to regain ownership of Marope Land. He then took the court and the other party leaders to the disputed area and showed them custom places.

Before taking the party out, the leader of Nikara family admitted that he agreed with what Chief Nunu Naperik Mala said about the movement of Maralapa (eel / Namarai) between Matatekapu, Lukuno hill on Rango Rango and Matekapu (Tagabe River).

On the 8th October 1993, Pierre Nikara showed the court and the other party leaders an old village. The village he claimed belonged to Malokusa, it was Malagiuta village. The foundation of the village could still be seen. The Sope family of Mele called it Tapusu, but Pierre claimed it was Malagiuta village.

On the same day, the party was taken to another village, its foundation still could be seen. Pierre Nikara called it Napuana village. Malokusa used to live there, he stated. In that village there was a high flat rock, which Pierre claimed, indicated that something was left on the rock. When questioned by the court about the rock, Mr Nikara stated that it was Nikara who, stood on it. Pierre firstly was talking about Malokusa, he then mentioned Nikara, however the court will form its opinion later.

There were three graves about ten (10) metres outside Napuona village, however Pierre Nikara admitted not having any knowledge of the graves. The land Claimant No. 1 stated that he knows about the graves.

The party went on to visit a cave called Maropilo, a river runs out of the cave.

Pierre said that it was the place where Malokusa made a speech during a tribal war, when he was transformed to Nikara - Nikara means a tree (particular type) or nagalat - Pierre showed the tree stump outside the cave entrance. He further stated that Malokusa used to drink water at that place during tribal wars. Pierre Nikara went on to show the court Saraana station which was a women refuge. He further stated that Malokusa was a strong warrior who used to kill other warriors and then took their women to Saraana station. Malokusa had a lot of wives. On that station were supposed to be three nut (Natafoa) trees in a triangle. He commented that the tree nuts were red like Maralapa, the red eel (Namarai). Pastor Pierre only managed to show two trees, he couldn't locate the third one.

Pierre Nikara claimed that Malokusa, Nikara and Maralapa (the red eel) were the names of just one person.

Malokusa (or Nikara, or Maralapa the red eel) was a warrior and a chief too (the court will form its opinion later). Pierre Nikara stated that Saraana station was at Lakura where coffee was planted by Ballande. Coffee was seen growing in the bushes. Their road was Sentier Bernier which could still be seen on the map.

He also showed the court the old Sawareo village close to Mr Bourdet's house. There was no real evidence. He then led the court to Matnairiki creed which was a big area, Talieporo and some other places on Marope Land.

Furthermore, he led the court to a hill called Leopau, he claimed there was a village there too.

He went on to say that Nikara whom he was basing his claim on originally is not from Mele. His background was not from Mele. He moved from, place to place within the area claimed. He also showed to the court the Malapoa area (Malapoa Football Field) as part of his claim - this area was not part of the original land claim. Pierre Nikara explained that Matevaka (which means water or Lagoon) was the old name for Tebakor. He further stated that, Iririki used to be part of the Efate Island which was originally called Sandwich Island. It was Nikara who pushed Iririki Island into form to what it is now. Iririki was known as Leiriki then (this was confirmed by the other parties). He claimed that the evidence of Nikara's footprints can still be seen just behind the new Bon Marche Supermarket (Tebakor). This was to show his strength as the great warrior of Efate.

Kaltarick Ova Nikara - The first witness.

This witness made a short statement. The contents of this statement re-affirmed Pierre Nikara's claim of the disputed land. He particularly mentioned block 118c, which is Sano Ranch, and it is known to them as Maloguita. Sawareo area is included too.

He also included block 93c in his statement, however that block is outside the boundary of the land claimed.

The witness answered all questions without hesitation and the answers given regarding customary places were related to what their representative had presented. The court noticed that the witness knew what he was talking about because he seemed to know all the areas well. When questioned about the definition of a "rightful custom owner", his reply was "a person who is born where the disputed area is located grew up there, has property, originated there and has proof there ". The court accepted this definition.

Questioned whether the Nikara family was included within the boundary of Mele or Ifira, the witness simply stated that those of Mele and Ifira had already layed lined the boundary. However their claim is based on the names of the past generation who were originally from the area where the people of Ifira are claiming as theirs.

The witness confirmed that Maralapa was a huge red eel (Namarai). It then changed into a person and made war against the neighbouring villages, the story is connected to that of Pierre Nikara, he states. Nikara was chief of some people and they also called him Paunareo (he wasn't sure on this point).

He also stated that Chief Nikara was also Paunareo who was Leitakae's father.

There seem to be some connection to the claim of chief Nunu Naperik Mala. The witness said that he does not know about Manareo and Nareo but he knew about Marik Atlangi.

The witness stated that Taripakoa was never a chief, nor was his son Kalokis, (both were of chiefly descent).

The witness was honest, even though on a few occasions he hesitated when giving answers.

Simon Ova Taripakoa - The second witness.

The witness made a short statement. The first part of his statement was about Malapoa (Sumalapa), and claimed that Nikara had a nasara there (sacred place). But this is outside the boundary of Marope Land. In the second part of his statement, he made reference to Maralapa. Maralapa was Nikara's sacred place but Marolopa was his great grandfather who lives along the River Tekapu and he was chief Nikara and the story is a true one, he claimed.

He confirmed support of the Nikara family claim, and said that his family are the true land owners.

The witness stated that he was born in 1920, and in 73rd year he gave evidence in the witness box. He knew Taripakoa referred to by Pierre Nikara, however he was not the same person as the one referred to by the other parties. He stated that he knew Taripakoa of Mele, he was his grandfather and he used to play with when he was little.

His statement was a bit inconsistent with the evidence given by Pierre Nikara about the story of Taripakoa who lived around 1600s. The first witness had mentioned the guy living between 1400 - 1500, whilst the second witness mentioned 1920s. The witness answered other questions without hesitation. The witness went on to say that Nikara was only chief of the family. The court accepted that particular point. Furthermore, the witness stated that he worked around the area of Sawareo up to where the Abattoir is now located. He didn't go past the golf course.

When questioned that he should be regarded as from Ifira and not from Mele. In his answer the witness stated that he had considered that fact. He was honest when answering questions, but skipped answers when he did not know them.

John Nikara Melo. - The third witness.

There wasn't a written statement submitted by this witness. The Court accepted this, under request from Nikara family because a witness did not show up. Oral evidence was given instead.

Under cross-examination, the witness demonstrated that he was knowledgeable of the disputed area. He stated that Nikara was the chief of the tribe, whereas Taripakoa was the chief of the Malapoa tribe.

It was confusing when the witness said that Nikara's first station was at Enam and then his second station was at Malapoa. He later said the Nikara was working at Sawareo and also was building a canoe on the disputed land.

The witness stated that his story was the correct one and that Pierre Nikara lied to the court.

The court found this claim contrary to that of the representative of Nikara family. There were evidence that shown to the court, and thus confirmed the claim of Pierre Nikara. The witness does not know some areas of the disputed land.

Kaltalo Kone Taurongoa - The fourth witness.

He stated that when he was eight (8) years old, he knew about the disputed land. He further stated that Nikara was from up the bush of Sawareo and moved down to Henant, Buffa, Rango Rango, and then to Malapoa (Sumalapa).

The witness confirmed that Nikara was only a family chief. He claimed that Nikara has rights to the full boundary because he travelled extensively through out the area claimed.

This witness said there is a Teufi Ifira Family of Mele village. He said that Kalokis (or Kalokaire or Ovatusa) and Lairarua (who is Kano Narewo's wife), were great grand parents (Kano Narewo was the great grand father of George Kano - Land Claimant No.2 of Naflak Teufi Ifira).

He stated that Nikara was only tribal chief. Nikara Family's claim is based on the fact that Nikara was the first person who lived in the disputed area.

During cross-examination, when questioned by the leader of the Ifira Community, the witness stated that Narewo was Nikara's title name. Paunareo was Nikara's title name and Nikara was the custom name of the owner of the disputed land.

He also stated that Narewo whom he is referring to, is a different person from the one that has been mentioned by the other parties (he was the one who sold the land which is now being disputed).

The statement of this witness showed that Nikara lived a long time ago, and Nareo who sold land, lived much later. Nikara was a person who moved around extensively, within the disputed area and outside the disputed area. The evidence given was solid and had authority.

Kaltabang Tafuralapa - The fifth witness.

This witness made a short statement. He re-affirmed ownership of dispute land. He said he was the witness of a title 571, Tepokoi - Wariki - the area from the airport to the Tunaune (Tagabe Agriculture Station).

During cross-examination, the witness stated that Ova was a sight, a spirit. Nikara was a name of one of their relatives, and the party decided to use it when the land dispute issue arose.

He also claimed Nikara's Movement throughout the disputed land. There were people living in those areas, however Nikara was the leader of these people.

He confirmed that according to custom there are high chiefs and low chiefs.

He also stated that Narewo was another name for Nikara. Nareo was a different person and he was the one who sold the land. Narewo lived before Nareo.

The witness told the court it was a customary right for a chief to have warriors, clairvoyants and a doctor.

The witness stated that a lot of people moved from the hills down to the coast, some to Mele and some to Ifira.

Some of the contents of the witness's statement were true and some were confusing. The court concluded that the Nikara family claim for customary ownership of Marope Land was a strong case.

THE IFIRA COMMUNITY CASE - LAND CLAIMANT NO.6

The main representative of the Ifira Community was Kalpokor Kalsakau.

Mr Kalsakau presented a very lengthy affidavit and the contents are as follows:

He stated that he knows well the history of the disputed land and the decision of the condominium court about that land.

He also stated that he is a member of the Ifira community and that the Sope family of Mele do not have any rights to claim Narrowby, he made reference to the map on chief Mantoï Kalsakau's statement (map annexed in the judgement).

He pointed out that the disputed land has always been the property of the Ifira Community. According to custom, Ifira Community owns all customary land, and the people of the community only have rights to use the land.

He claimed that if a person chooses to withdraw from the community, the land would always be the property of community.

The Sope of Mele chose to leave the Community, therefore they lost all their customary land rights. The Sopes of Mele do not have any claim to the disputed land.

He expressed that the land was always the Ifira Community's. The right of use of the land belongs to the Kalsakau family. The Kalsakau family and other close relatives have been using Narrowby, land up until 22 August 1872, when Narrawah (chief Fubuwana's spokes person), with the chiefs consent sold the land.

He presented the court the "first agreement" with William Basset. He stated that the Ifira Community had been using the land up until 1930, when they were chased from the land. He tendered to the court a map of Narrowby (annexed in the judgement).

He went on stating that between 1910 and 1920 the land got registered under the condominium, and those who had any interest in the land were to air their views, and were also given the opportunity to file court proceedings.

In 1928, his grandfather, Chief Kalsakau filed a caveat on behalf of the Ira Community, however at that time no person, family, group or village contested the claim. The Sope family of Mele do not have any rights to claim the land. To strengthen his agreement, presented to the court these following particulars:

- Application
- Confirmation of Caveat
- Demand for defence
- Notice of Opposition

- judgement (exhibit 17)

A copy of the letter sent by his grandfather to Mr Bladiniere when he still owned Narrowby. (He stated that Chief Kalsakau had sent the letter on behalf of the Ifira Community).

He stated that, during the court hearing there was conflict between the "Native advocate" and the "land owners" (White man) because he did not contest the claim. At that time he (Kalpokor Kalsakau) agreed to the claim of the white land owners, and requested that a different area be used as a reserve land. The Ifira community lost all rights to the Narrowby land.

He said that he is aware that under the Constitution, the Ifira Community had regained control of the land.

He stated that he believes the Sopes of Mele are trying to regain the land as if it is still 1872 and the 1930s. He therefore, urges the court to acknowledge that the land still belongs to the Ifira community.

Kalpokor Kalsakau said that he was told everything by his uncle, chief Kalsakau II, and furthermore proof of everything has been recorded. He also stated that his grandfather had cried during the court session back then, because of some wrong decisions. Therefore, he is depending on this court to reverse such decisions. Furthermore, he stated that any decisions that do not follow the community's request, would indicate that successful decisions are made through customary laws.

At the end of the affidavit, Kalpokor Kalsakau told the court that the boundary of Mele land begins on the plain of La Colle River. It finishes on the Ifira boundary up the hill, which used the battle ground for the warriors of Mele and Ifira, who fought for land in that area. He said that, that would be the only land the Sopes of Mele should be claiming.

Finally, Kalpokor Kalsakau stated that between 1981/82, the Ifira and Mele communities agreed that the land on the left of La Colle River would be Meles and on the right of the river would go to the Ifira Community - this includes Narrowby land.

The representative of Ifira Community was cross-examined for quite some time. Kalpokor Kalsakau defended his claim and answered most question and answers would be very lengthy, therefore only the main questions would be discussed. When questioned about his position, in reply Kalpokor Kalsakau stated that, it was agreed by the Ifira Community that he would over see the affairs of alienated land which were returned to the Ifira Community during independence. His position was confirmed in a meeting at the Farea (chiefs Nakamal).

When questioned by the leader of the Sopes whether everybody in the Ifira Community was entitled to own land, Kalpokor Kalsakau stated that customary ownership belongs to the community, the people have the right of use of the land. Their grandparents have already decided that at the Chiefs Nakamal.

He went on to state that the land is owned by the community which is under one (1) high chief and within the community there are other lessor chiefs. The chief had the right to move people to different areas.

A statement is given to the lessor chiefs by the high chief, and the chief is given a payment at the end of the licensing year. It is called Sautonga (Nasautonga - North Efate). When Kalpokor Kalsakau was asked as to what he would do if a person from Mele proves that the land is his, in answer he stated that if a person decides to move out of the community, he loses his land rights, and if he wants to come back, he must buy back his birth rights.

When Kalpokor Kalsakau was asked to what he would do if a person from Mele proves that the land is his, in answer he stated that if a person decides to move out of the community, he loses his land rights, and if he wants to come back, he must buy back his birth rights.

When questioned if a community has the right to challenge an individual claim, he stated that the land goes back to the custom owner, a community may be a custom owner, and this is shown by the spirit of the land Act, which is compensation.

On the part of the Sope family of Mele, the original land claimants, Kalpokor Kalsakau pointed out that Sope (of Mele) was born on Ifira, then moved to Pango, that fact cannot be disputed he said. However Sope of Ifira was the first born therefore he has rights to the land, but Sope of Mele was the second born and does not have any land rights. Hence, if he wants in, then he has to pass through Sope of Ifira.

Another question raised by Sope of Mele is that, if there is a customary boundary (first) which was set up by two chiefs, and if a person in a different boundary (second) has land interest in the first boundary, would he still be entitled to claim interest within that boundary, or would he be unfit to do so. In answer to that, Kalpokor Kalsakau stated that once a person was not entitled to claim interest inside a different boundary, however this custom has changed since.

Therefore, the Sopes of Mele do not have any rights to claim the disputed land, the right belongs to the Ifira Community, he claimed. Sope of Mele is the second born and he has no agreement with the Sope of Ifira.

Kalpokor Kalsakau stated that, the disputed land which was given by the Chief to the Community from generation to generation. It means rights of the use of land was given.

When a leader of one of the parties commented that it was Narewo who sold the land and therefore should be Narewo's heritage, Kalpokor Kalsakau claimed that Narewo had sold Marope but Marope is only a small area. He admitted that there were lots of Narewos at that time, and further stated that the Narewo of Ifira had a sister whose name was Leionga but he was different Narewo. He claimed that chief Kalsakau had told her that Narewo family had ceased because there were no males to carry on the generation.

Kalpokor Kalsakau demonstrated knowledge of all the areas of the land claimed. When asked about the location of Sawareo by Chief Nunu Naperik Mala, he stated that Sawareo is part of the Marope Land because it is situated behind the river Sano (see attached map). He further stated that he was told by the Chief of Ifira that Ova (Nikara) had land rights to Sawareo and upwards.

When asked by the representative of Nikara if he knew about one of Molokusa's children, Kalpokor replied in the affirmative. He stated that Molokusa had a son by the name of Ova,

who moved from the inland area down to Mele. There were some others who did that too. He also said that the representative of Nikara must have descended from Ova, he came to know about Nikara only at the court hearing.

The last issue Kalpokor Kalsakau address, was to define the meaning of community. This is his definition; "Chief tribes, clans which are under one chief and other lesser chiefs, thus have existed through history up until today. Descendants of the chief inherit land but the community has to agree to it, he claimed.

This particular issue was disputed by a part, it claims that long ago, a community does not agree. There is an understanding that those of chiefly blood take up the responsibility of chiefs.

Barak Tame Sope - The first witness.

This witness also presented an affidavit. He stated in the affidavit that he and his family are the members of Ifira Community.

He stated that he had read the statements of Chief Manto Kalsakau III, Kalpokor Kalsakau and Tapangkai Sope and confirm that the contents of the statements are true and correct. He also told the Court that the land which the Sopes of Mele are claiming does not belong to them it belongs to the Ifira Community. Since 1872 the land had belonged to the Ifira Community and the Kalsakau family had been using it.

Furthermore he said that according to the Ifira custom, if a person leaves a community, he loses all rights to the use of land. Sope of Mele is a bit distant in relation to him and his family. He said that long ago they all made up the community of Ifira, those who stay together as a community had the right to use the land shown on the map.

He stated that all members of the Ifira Community, including his immediate family, have equal rights to the use of the land.

He claimed that the Sopes of Mele left the Ifira Community in 1800s, therefore they lost all rights to the land because they became part of the Mele Community.

His presentation of the Sope family is as follows:

Kalmatalu Sope was born on Plau, Ifira island. His father was Sawi and his mother was Leikalo. Sope then married Leinamus of Ifira and they had a son by the name of Rogoatalo. His wife died during the time Sope was doing mission work on Aulua, Malekula. He then came back to Ifira and then was posted to Mele to continue work there.

Sope then married Levapupu from Mele and they had nine (9) children. Sope live in Mele until his death. On the other hand, Rogoatalo Sope live on Ifira, he married Salome and they had three (3) sons. Tapangkai was one of the sons and he is the father of the witness.

In his affidavit the witness stated that the land right was theirs, it has always been Rogoatalo Sope's, who was his grandfather.

He further claimed that the Sopes of Pango and Mele do own some land in their respective villages. Therefore, the Sopes of Pango and Mele do not have any rights whatsoever to claim Ifira land. Finally the witness asked the court to declare that Ifira Community is the rightful custom owner of the disputed land.

The witness went through a long cross-examination process.

The witness is one of the leaders of Vanuatu and therefore, knew how to answer the questions. During cross-examination he re-affirmed what was on his affidavit in support of the leader of the community, Kalpokor Kalsakau.

The court believed what the witness said about the history of the Sope family of Mele, that they were originally of Ifira.

The court would make assertions later regarding the right of ownership of the Ifira community. The court will also give its view on the claim made by the witness that the Sopes of Mele do not have any rights to the disputed land. Regarding the claim of the other parties, the witness claimed that they do not have any rights to claim the Marope land.

Chief Mantoi Kalsakau III - The second witness.

This witness also presented to the court an affidavit. The contents included the history of the Ifira Community which is as follows:

People went to settle on Ifira over three thousand (3000) years ago, as confirmed by Archaeological findings of the University of Hawaii when the old nakamal site on Vila Island was dug up. There was evidence of pottery tools and sea shells which were more than 3000 years old. Ifira was used as a refuge during the cannibalism era.

Different families have been using the disputed land to make gardens, for collecting fruits and obtaining material for building houses. People grew their food on Ifira. There wasn't a different family from a different village living and working on the disputed area. There were few people living around the SELBs' area at No.3. Battles against the Mele people, used to take place North west of the boundary outside the urban land area.

It was the European settlers who stopped this kind of life, when they were claiming land in that area. They drove people away from their land, and grew cotton and corn instead. Missionaries also took people from the Central Efate and Central east Efate and placed them on the disputed land for a short period, before they moved to Erakor Island, Ifira Island and Pango village. Most of the land was claimed and registered as freehold title, other parts were leased and turned into free hold title.

Witness Mantoi Kalsakau III went on to state that the people of Ifira continued to use a big part of the land until mid 1920s, when the white settlers started enforcing the freehold title. Fights between the white settlers and the Administration broke out, and the Ifira people were driven from their land with guns, cattle and fences, and by bad decisions of the administration. Conflict is still going on today.

He stated that the past disputes were recorded by the Colonial Administration from 1900 up until 1930. He told the court that in 1980, Ifira community was the only group which challenged the Joint Court on land occupation and freehold title regarding land.

He also told the court that there was fraud involve when the disputed land was registered. However, the court regarded that information to be irrelevant to the issue of ownership of the disputed land.

The witness reiterated that the disputed land has been owned by the Ifira community since the dawn of memory, the land remains the trust of the community. Families in the community have rights to use parts of the land, but the land would always be the community's.

The witness also stated that Narrowby land has been used by the Kalsakau family, it is in the trust of the Ifira Community. When there is a division in the family, as in the case of the Sope family of Mele village - when a family leaves the community, the land goes back to the community or the other families who have been using the land, therefore as a result, the Sopes of Mele lost such rights.

Chief Mantoï stated that the Ifira Community sold the land on the 22 August 1872. Narrowby was from Ifira, and a member of the Kalsakau family - he sold the land with the consent of the chief Foubuwann of Ifira to William Basset (Reference made to the affidavit of Kalpokor Kalsakau).

He stressed the point that the land has always been the Ifira Community's, and that the Sopes of Mele do not have any customary rights to the land. Chief Mantoï stated that the Sopes left the over 3000 year ago - they have never lived on the land nor have they ever used it for gardening.

The witness said that a large part of the disputed land is public land and that this case might create an opportunity for compensation to be paid to those who are not entitled to it. He also specified the customary rules that (he thinks) the court should consider when making decisions. He pointed out that on Ifira.

- The Ifira Community owns the customary land.
- The chief of the Ifira Community should always defend customary land.
- Each individual families have rights to use the land which belongs to the Community. He stressed that the land always belongs to the community and thus cannot be divisible or obliterated.

He also stated that if a family left or withdrew from the Community, it thus forfeits their land rights until they rejoin the community. Only members of their family who remain in the community retain such land rights.

This situation would also apply to the person who leaves the community, he would not be entitled to claim compensation. Chief Mantoï reiterated to the court that the Sopes of Mele are not entitled to the land claimed, and requested that the court should affirm that the land belongs to the Ifira Community, even though it has been used by the Kalsakau family. Chief Mantoï spent quite some time answering the questions of the other party leaders.

Under cross-examination, the witness answered questions without hesitation, and a lot of his answers confirmed what was on his affidavit and in support of Kalpokor Kalsakau's affidavit.

When questioned by the representative of the Sopes of Mele about the rights of the different land claimants, chief Mantoï stated that the other parties have the right to use the land which is under the control of the council and community. However, he expressed that the Sope and the Nikara families of Mele do not have any rights to the disputed land, there already is a boundary between Mele and Ifira. Furthermore, the Sopes of Mele left Ifira a long time ago, hence all land rights belong to the Sope of Ifira (who are members of Ifira Community).

Chief Mantoï further expressed the boundary between Mele and Ifira separates blood relations, particularly the Sopes and the Nikaras of Mele. In answer to a question raised by Sope of Mele about the procedure of claiming land, the witness admitted that the claim must be reviewed by the chief and his council.

In his answer to a question raised by pastor George Kano, Chief Mantoï admitted that there are instances that an individual is a custom owner, and the chief acts to protect the rights of such the custom owner. He admitted that there are cases where the individual custom owner takes care of his own land.

Pastor George Kano (leader of Naflak Teufi Ifira) pointed out to chief Mantoï that before 1872, their (Naflak Teufi Ifira) forefathers had custom ownership of the land, and such ownership was acquired through inheritance (blood, relative) who owned the disputed land. The witness admitted George Kano should claim the land through his descendant Chichirua.

This witness also re-armed that the true custom owners of the disputed land are from Ifira. He also stated that if the land owner does not have any sons, then the land may go to his eldest daughter.

THE FINDINGS OF THE COURT ON THE MAROPE LAND CASE

LAW STATEMENT ON THE CASE.

In this case each party has requested the court to determine the rightful custom owner or owners of the **MAROPE LAND**.

The court hear all the evidence and observes carefully the behaviour or demeanour of each witness and then decides whether the witnesses presented the correct information or not.

Question the court faces is the question of belief. A lot of witnesses give evidence, in the opinion of the court, it would be difficult to believe all evidence given. Even in this case, the Court noted and believed that some witnesses stated what had been told to say in the witness box.

ind ouz- who the true custom owner is, the court must go back through history to who first owned the land, how the people lived on the land (individually or in groups) and who had the power to exercise the right of ownership. It is only through process, can the court decide the true custom owner.

According to section 25, Island Court Act CAP 167:

“In any proceedings before it, an island court shall not apply technical rules of evidence but shall admit and consider such information as is available.”

It must be understood that, regarding customary land disputes, evidence that is given in court is only " hearsay " evidence. The witnesses usually relate what they had been told by their relatives.

The difficulty that would rise in this situation, would be the examination of the oral evidence given - the question of which is true and which is not.

It is helpful if the court refers to some Authority or cases that have been dealt with solving past cases.

Therefore in this instance, the court will make reference to the Land Appeal Case judgment No. 1 of 1986, MALAS FAMILY -V- SONGORIKI FAMILY, which was given by the Supreme Court of Vanuatu on the 8th October 1986. In this case the Supreme Court applied a legal principle which is a useful test when solving conflicts "Traditional Evidence ".

The Principle is as follows:

" When there is a conflict in tradition, custom story about land, one side of the story must be right and the other side must be wrong. This does not mean that both parties are no honest in their belief, both may be honest in the belief, however in cases like this, the behaviour or the way in which evidence is given in court may help reach the truth. Therefore, the best way to test custom history or tradition is to refer back to the happenings of the recent years as presented in the evidence, and consider one of the history given in court which that would most probably be close to the truth ".

The court is aware of the legal truth, that is, every claimant must. succeed in its claim, through the powers of claim they have. However, they cannot succeed in their opponent's weaknesses. An example would be, a person who has been occupying the land inside the boundary for many years does not have a strong case against a true custom owner.

However the Constitution has made provisions that all land in the Republic belongs to the indigenous citizens, shall have perpetual ownership of their land (Article 73, 1988 Revised Edition of the Laws of the Republic of Vanuatu). Thus the " rules of custom shall form the basis of ownership of the land in the Republic " (article 72, 1988 Revised Laws).

Outline of general consideration applied by the court to define custom land ownership, and to determine the true custom owners of Marope Land.

1. According to Efate custom, particularly the Marope Land area, land ownership passes to the males. Custom Land ownership follows the Patrilineal system.
2. The custom land owner is normally a chief, sometimes there are exceptions when the custom owner is not a chief. The custom chief owns land on behalf of his people, who live and work on the land. The custom chief acquires land on behalf of his people who occupy the land.

Custom ownership is based on representation. The custom chief represents the custom boundary of the land he and his people live and work on. The custom land belongs to the custom chief and his people. Custom land ownership is different from individual ownership. The individual land owner may dispose off / sell land in whatever way he wishes.

On the other hand, a custom chief cannot dispose off or sell custom land at his own free will.

3. Every person under the authority of the custom chief has an interest or custom right, which is a perpetual right of occupying and using land which is owned by the custom chief.

4. According to the system of customary, land tenure, the chief is the custom owner of the whole boundary, and like his people he owns, small portion of land within the whole boundary.

5. The custom chief may observe his own tribe, or he may also have to lead a different tribe, hence it would make him the chief of different little tribes.

6. Custom land ownership is transferred from father to son (grandfather, to father, and then to son). Customary land ownership is a birth right.

7. If a custom owner dies, then customary land ownership transfers to the brother after him. If the custom owner doesn't have a brother, then this right gets transferred to the first son of his eldest sister, in that way land gets transferred through the "uncle relationship".

8. In the case of polygamy, land ownership rights go to the first born of the senior wife.

9. If a person marries more than once, customary land ownership goes to the first son of the first marriage.

10. Criteria of the first occupant of the disputed land. If a land claimant says that the disputed land was occupied by his forefathers, he should prove to the court such claim. The test of proof would be evidence of custom nasara (meeting place) and rocks, a Nambanga (Banyan) or a namele tree (palm tree), Nakamal and taboo places. (A Title or Deed of Sale may be included too).

The court then weights out the customary evidence against the statements given in court when deciding the position of each interested party. These are the findings of the court.

The Marope Land dispute is a difficult issue. There were seven parties who disputed the customary ownership of the land. These parties came up with different custom stories and family trees. Some of the parties requested the court to declare that Marope Land belongs to the community, others requested that the court declare the land to belong to a tribe, others to individual families.

The Ifira Community - Land Claimant 6, requested the court to declare the land as the community's. It submitted to the court a big bundle of documents as evidence of ownership (annexed in the judgement, Exhibit 17). Included in the documents was a Joint Court Judgement of 24 January 1930.

The court would like to clarify the fact that Joint Court Judgement on registration of the disputed area, is not binding to the court in any way, Joint Court decisions were based on the legal basis of land ownership of the white settlers. Furthermore, as a result of those decisions, rights of the native land owners were taken away. The Joint Court decisions took place ago, because at that time the Condominium Government of New Hebrides failed to consider the views of the custom owners.

In November 1979, when the Constitution of Vanuatu was being drafted, it became clear to the people of Vanuatu that all land must be reverted to the customary owners and their descendants. This is the basic principle of customary land ownership which has been established by section 73 of the Constitution (1988 Revised Edition of the laws of the Republic of Vanuatu).

Since 30th July 1980, customary land ownership disputes have exclusively been between indigenous ni - Vanuatu. To determine ownership and the use of land, the court applies customary rules as provided in section 74 of the Constitution. Therefore, the court is not satisfied that Ifira Community is the true custom owner of Marope Land. There are a lot of people in the Ifira Community who belong to Ifira Community but don't have any customary rights to Marope Land.

The other party, Land Claimant No.4 (ITCH Ltd) also claimed ownership of Marope Land on behalf of its shareholders. Unfortunately, the court finds it difficult to believe that a company would be a custom land owner. The forefathers who lived way up in the mountains had no knowledge of a company which was a land owner. Therefore the court does not consider ITCH Ltd as a customary land owner.

The Kalsakau family, whose leader was George Kaltai Singari Kalsakau, based their claim on the fact that his father - Kalsakau, was the chief of Ifira and he was the person who fought for customary land rights against the Condominium Government. The court accepted the fact that the Kalsakau family had been using the land for generations. However, in the findings of the court, the Kalsakau Family are not the true custom owners of the disputed land. The book written by George Kaltai Singari Kalsakau on "History of the Three Flags" states that "Rev. J. W. Mackenzie had ordained Tiza Kalsakau as chief in 1908...". Therefore, this chief is not a custom chief.

A document dated 7 January 1923 which was addressed to the Director of Societe Francaise des Nouvelles Hebrides (a company involved in land transaction at that time), was attached to a document about the disputed land, the court accepted them as part of the evidence. This latter document confirmed the ordination of chief Kalsakau by the Presbyterian missionary "Memorandum on the Chief of Vila tribe ". It also states that Kalsakau was an ordinary person and not a land owner. Kalsakau was not a custom chief of the disputed land, however, the court accepts the fact that the Kalsakau family has some interest in the land. It is not satisfied that the family is the custom owner of the Marope Land.

Land Claimant No.5, the Nikara family have based their claim on Nikara Paunareo who was a strong warrior, and lived before chief Nareo. The court is not satisfied that Nikara is the custom owner of the part of the land that was sold by Nareo. However, the court found and is satisfied that Pastor Pierre Nikara and his family are the custom owners of the land title: 118, 131, 2757 (31/002), 94, 3242.

These three parties, namely Family Sope of Mele, (OLC), Nunu Naperik Mala (LC1) and Naflak Teufi Ifira (LC2), have claimed ownership of the disputed land. They also claimed that their descendant was custom chief Nareo, who sold a big part of the disputed land (coloured in blue on the map).

Family Sope and Nunu Naperik Mala kept referring to a woman, namely Leitakae.

George Kano, the leader of Naflak Teufi, also made reference to a woman by the name of Toumata Tetrau. He claimed she was the chief Nareo's eldest sister. And George Kano further claimed that he is the descendant of Toumata Tetrau whose first son was Kano (Nano).

The court must decide between the three families, the immediate relative of Chief Nareo.

The family Sope of Mele stated that Leitakae was the daughter of Toutafkal, who was one of Bausa and Sawia's four sisters ('they were cousins to chief Nareo - See family Tree of the Sopes of Mele).

Nunu Naperik Mala claimed that Leitakae was the daughter of Chief Nareo.

The court finds conflicting interests about Leitakae between the Sopes of Mele and Nunu Naperik Mala.

The conflicting issue is to establish whether Leitakae was actually the daughter of chief Nareo or not.

The court does not believe both parties.

The court believes Kano Chichirua, that Chief Nareo did not have any children, neither did his brothers.

The court finds that there is probably more truth to the statement given by George Kano. The document which confirmed such conclusion was the "Memorandum of the Chiefs of Vila tribe " 7 January 1923.

Therefore according to the courts findings, George Kano Chichirua would be the more immediate relative to Chief Nareo through the "uncle relationship". George Kano was the descendant of Chief Nareo oldest sister, Toumata Tetrau.

According to the customary laws, George Kano is therefore entitled to customary ownership on the disputed land. (Area marked blue on the map).

The court is satisfied that George Kano is the descendant of Toumata Tetrau and is the owner of the disputed land:

Narrowby Titles: 57J, 57K, 57N, 497, 2904, 1964, 1231, 2910, 3760, 128, 3762, 3899.

Malaroa Titles: 534, 129.

Ebooka Title: 378.

Maruana Natapu Title: 519.

Half of Erango Rango Title: 3922.

The document titled "memorandum of the chief of Vila tribe " also shows clearly that Kano inherited all the land that was sold by Chief Nareo, (they were within boundary of Marope Land).

The court is satisfied that Chief Nunu Naperik Mala and his family have customary rights to occupy and use some land sold by chief Nareo.

The court is also satisfied that the original land claimant, the Sope family of Mele have customary rights to occupy and use land that sold by chief Nareo, and also land within the disputed area.

It should be clear that, even though the Sopes had migrated to Mele village, any boundaries between Mele and Ifira does not deter them from occupying and using an Part of the Marope Land sold by the chief Nareo which is their customary heritage.

Under section 13, Island Court Act, CAP. 167, the Island Court has jurisdiction to make a court Order, and under the same Act, the court is required to apply custom laws which exists or prevails on the Island which under its jurisdiction. If custom laws prove contrary to the written laws, then written laws should prevail.

In the case of the Sope family of Mele village, according to custom laws, land rights should revert to the Sopes of Ifira. However, the Sope family of Ifira is not a party to the claim, they were witnesses to the Ifira Community claim.

Therefore with respect to the application of justice in this case, all customary rights to occupy and use land goes to the Sope Family of Mele village.

DECISION AND COURT ORDER

After hearing of each case of the Marope Land Dispute, located on a map which is annexed in the judgement, the decision of the court is as follows:

1. The court is satisfied that there are two different custom owners to Marope land. The map annexed in the judgement shows two different parts of the Marope Land with two different custom owners.

(a) The first part, marked green, covers Title: 118, 131, 2757 (31/002), 3242, 94.

(b) The second part, marked blue covers Title areas which were sold by Chief Nareo (1872 - 1884):

* Narrowby Land Title: 57J, 57K, 57L, 57N, 497, 2904, 1964, 1231/3/760, 3762, 3899, 128, 2910.

- * Malaroa land Title: 534, 111, 129.
- * Ebooka Land Title: 378.
- * Mapuana Nattapu Land Title: 519
- * One part of Erango Rango land Title: 3922.

2. The court is satisfied and declares that Pastor Pierre Nikara of Mele Village is the true custom owner of the Sawareo Land which is in the boundary of the Marope Land - it covers the Titles: 118, 131, 2757 (31/002), 3242, 94. The part are coloured green on the map.

3. The court is satisfied and thus declare that the Nikara family and their descendants, according to the custom are the perpetual custom owners of Land Title: 118, 131, 2757 (31/002), 3242, 94.

These (customary) rights include the right to grow crops, make gardens, build houses, live on the land (occupation of the land) subject to any government restrictions. These rights also include right to receive rents or any profit out of the land. These rights are not limited to these stated above.

4. The court is satisfied and thus declares Pastor George Kano the owner of the land marked blue on the map. The land area covers:

- * Narrowby Land Title: 57J, 57K, 57L, 57N, 497, 2904, 1964, 1231/3/760, 3762, 3899, 128, 2910.
- * Malaroa land Title: 534, 111, 129.
- * Ebooka Land Title: 378.
- * Mapuana Nattapu Land Title: 519
- *One part of Erango Rango Land Title: 519.

The court decision does not affect Land Title 57I, 57M, which are on the map, both areas are outside the boundary claimed.

5. The court is satisfied and declares that:

- (a) Natlak Teufi Ifira (LC.2) and their descendants;
- (b) Chief Nunu Naperik Mala and his family (LC.1) together with their descendants;
- (c) Family Sope of Mele village and their descendants;

According to custom laws, have perpetual rights to occupy, use and enjoy the area on the map marked in blue. These areas cover the Land Titles of:

* Narrowby Land Title: 57J, 57K, 57L, 57N, 497, 2904, 1964, 1231/3/760, 3762, 3899,128, 2910.

* Malaroa land Title: 534, 111, 129.

* Ebooka Land Title: 378.

* Mapuana Nattapu Land Title: 519

* One part of Erango Rango land Title: 3922.

This customary right includes the right to grow crops, make gardens, build houses, and live on the land subject to any government restrictions. This right also includes right to receive rents or any other form of profit.

6. The court is satisfied and declares that the Kalsakau Family (LC.3) and their descendants have the same perpetual rights to occupy, use or enjoy the Narrowby and Title: 57J, 57K, 57L, 57N, 497, 2904, 1964, 1231, 3760, 3762, 3899, 128, 2910, with the Naflak Teufi Ifira and their descendants, Chief Nunu Naperik Mala and his descendants and the Sope family of Mele village and their descendants.

This customary rights which the Kalsakau family have obtain includes the right to grow crops, make gardens, build houses, and live on the land subject to any government restrictions. This right also includes right to receive rents or any other form of profit.

7. Perpetual right to occupy, use or enjoy the land and the other entitlement is to be instated under the control and direction of the custom land owner.

8. The court would generally accept application by any party to clarify the rights issued from the judgement of this Court.

9. Right of Appeal (see the Judgment pg 4).

Giver under my hands on 25th February, 1994.

VINCENT LUNABEK.

**Magistrate Presiding Over
Land Matters in the central
Southern Part of the Republic
of Vanuatu.**

