

**IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU
HELD AT LAKATORO/ MALEKULA**

(Civil Jurisdiction)

Civil Case #. 17/06
Judg. #

**BETWEEN : DADEE LAPENMAL
PASCAL LAPENMAL
(Claimant)**

**AND: SERILO LAPENMAL
LUI MARIE
(Defendant)**

IN THE MATTER OF: DISPUTE OVER JIFLY TITLE

**Coram: Jastis Frederick David
Jastis Lorna Bongvivi
Jastis Pierre Kai**

Clerk: Wendy W. Raptigh

JUDGMENT

Brief backgraon blong case:

Case ia antap hemi dispute ova long whu ia nao long ol family Lapenmal ishud karem title blong Jif. Claimant ibin karem case ikam long Court mo registerem long 8th February, 2006.

Olgeta parti long case ia oli ol step brothers nomo, minim wan papa be tu mama we imekem up family blong Lapenmal.

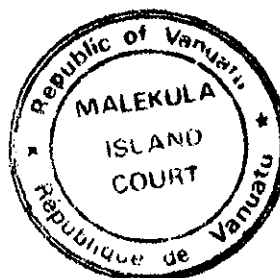
Trial blong case istat long 21st November, 2006.

History blong case:

Case blong Plaintiff igo olsem;

Trufala toktok o statement blong Jif Daddee Lapenmal mo Pascal Lapenmal:

1. Mitufala, Jif Dadee Lapenmal mo Pascal Lapenmal blong Worelip village Rano, mainland istap mekem wan trufala statement blong mitufala.
2. Mitufala ifes pikinini blong Malsing Lapenmal mo mitufala ibon long fes mama we nem blong emi Mariejean.

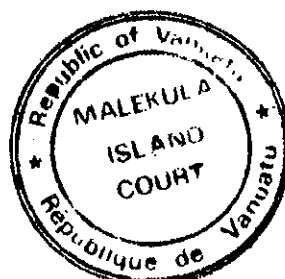


3. Wan long mitufala isave karem position blong jif o kam olsem leader blong family Lapenmal folem nomo kastom o law blong save inheritem birth raet blong papa Malsling Lapenmal.
4. Followem wan village court decision blong 7th March, 2005 long Rano village Anex "A" village court ikivim wan decision we ikivem wan faen blong Pascal Lapenmal mo Serilo Lapenmal mo kivim aot wan taetol o birth raet iko long Ferna Lapenmal, Pikinini blong Serilo Lapenmal.
5. Mr. Serilo Lapenmal (Defendant) mo pikinini blong em Ferna Serilo Lapenmal ino save karem raet blong inheritem taetol o position blong Jif, from ibon long wan mama we ino registered o married long full kastom. Mama blong Serilo ino woman blong papa Malsling Lapenmal from ino pem hem long kastom.
6. Followem witness statement blong Lui Marie long 7th March, 2006 long Rano village kot, se transfer blong payment blong mama blong Serilo Lapenmal ino wan tru toktok mo tu ino wan tru kastom.
7. Long taem we olfala Malsling Papa blong mitufala ilaef yet mo tu mama blong Serilo olfala woman "Matil" tufala italemaot se Serilo Lapenmal istret pikinini blong Robert Sekenmal blong Rano mainland.
8. Ino kat eni ceremony long adoption blong tekem Serilo Lapenmal olsem stret pikinini blong olfala papa Malsling Lapenmal.
9. Mitufala, Jif Dadee Lapenmal mo Pascal Lapenmal istret pikinini blong olfala Malsling, mo long stret kastom fasin mo law, mitufala ikat ful raet blong karem position blong Jif mo tu inheritem ol raets blong property.
10. Mitufala istap producum tu olsem Anex "B" wan tru mo stret family tree blong Malsling Lapenmal blong kot ilukluk long em.
11. Mitufala ia, Jif Dadee Lapenmal mo Pascal Lapenmal istap apply iko long Malekula Island Court blong lukluk long case ia kwick taem mo stretem raorao ia.
12. Statement blong mifala ia, iwan tru statement mo mitufala I mekem witem wan tru mo stret tingting.

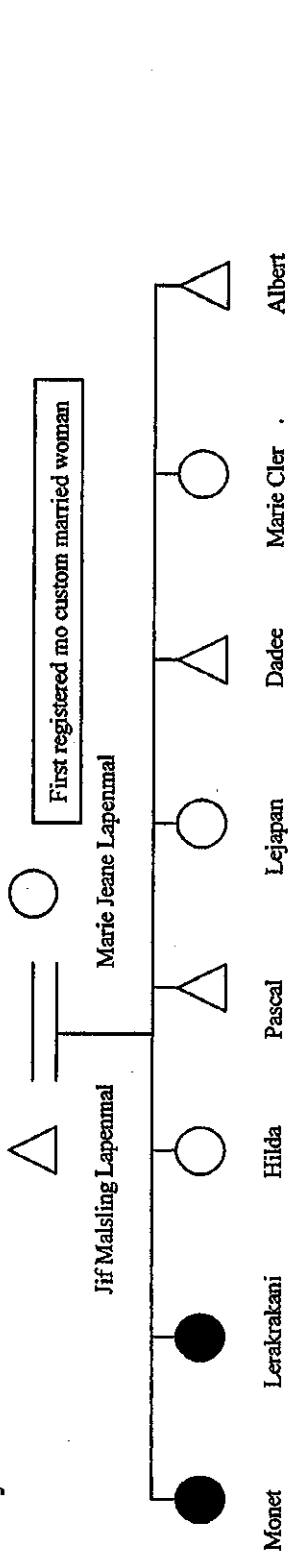
Dadee Lapenmal
(Signed)

Pascal Lapenmal
(Signed)

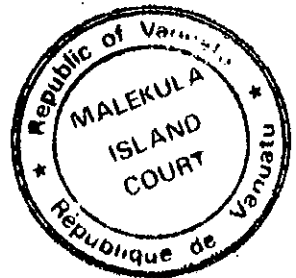
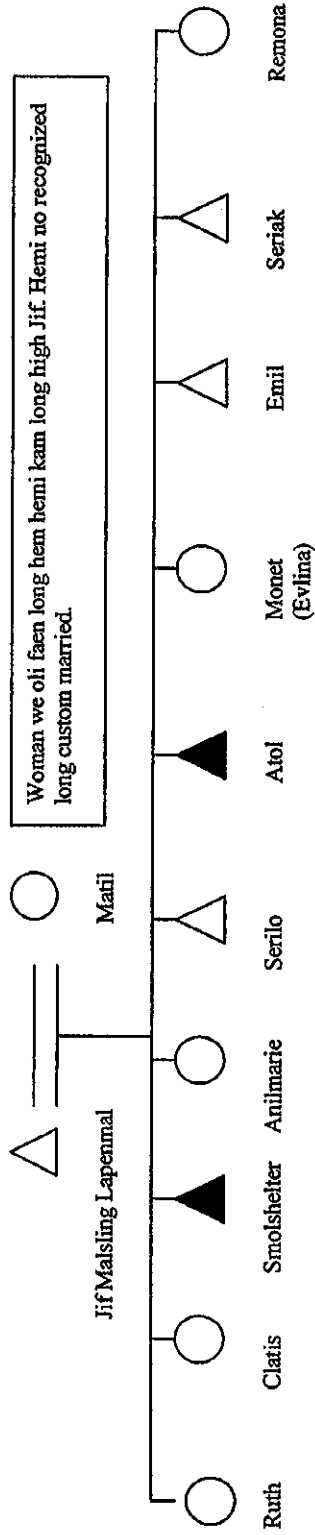
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Family tree



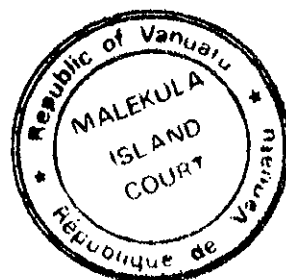
OL PIKININI BLONG MALSING & MATIL



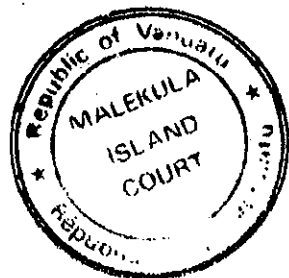
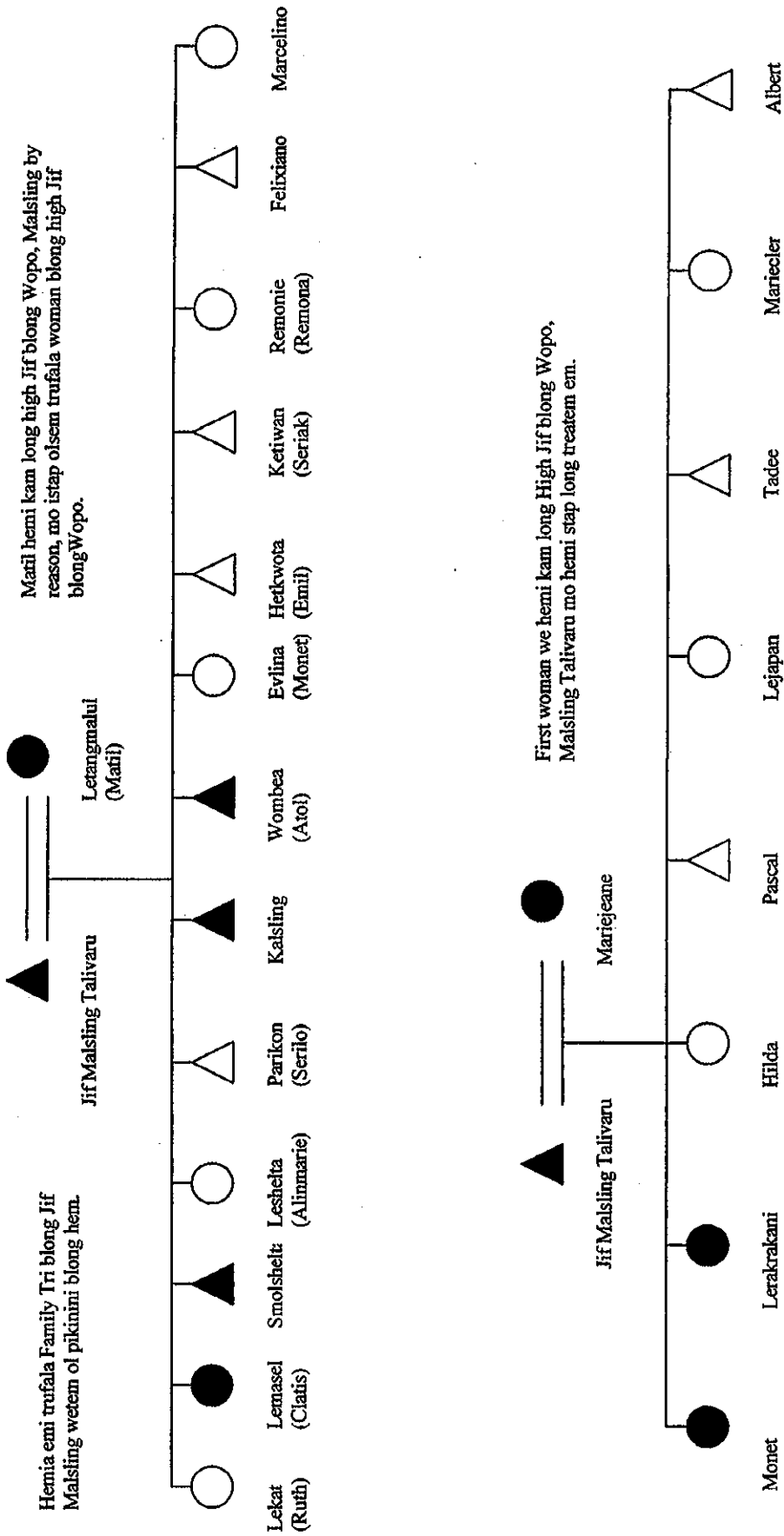
Case blong Defendant:

Hemia hemi shot statement blong mi Bernard Lapenmal abaot taetol blong high Jif blong Wopo Malsling mo reason why Matil hemi kam second waef blong Malsling.

1. Chief Malsling blong Wopo hemi bin gat (2) sista nomo we nem blong tufala Marie Bastiana mo Ency olgeta (3) ia papa blong olgeta nem blong hem Ralenmal mo mama blong olgeta nem blong hem Lelekmalilibakren we hemi womanova long Rano nomo.
2. Marie Jean mo Matil tufala istret sista we tufala ikamaot long wan papa mo wan mama. Papa hemi Combe mo mama hemi Lelekburmen.
3. Marie Jean hemi married festaem igo long high Jif blong wopo Malsling tufala ibin stap gogo tufala ikat one smol gel we nem blong hem Moneth.
4. Long taem ya Jif Malsling mo Ezra mo Malmaln trifala oli gat wan strong relationship mo oli stap wok tugeta blong preparem wan namangki we oli kolem Namankgi Nato.
5. Afta preparation hemi stap go problem hemi kamaot tru long Malmaln we hemi pass biae long tufala ya Malsling mo Ezra nao hemi mekem trabol long woman blong Malsling Marie Jean we hemi fes woman blong Malsling.
6. Tru long problem ia nao imekem se relationship blong Malsling, Ezra mo Malmaln istop. Malsling mo Ezra tufala ironem Malmaln mo papa blong hem Malrum Potamol we tufala iwantem kilim nao tufala iron way.
7. Nao Malsling hemi cross tumas long taem ya hemi olem tugeta leg blong Marie Jean nao hemi pulum leg igo fes taem mo hemi go blong hangem long eye blong tantam. Nao sista blong Malsling hemi sorry long Marie Jean nao hemi blockem brata blong hem Malsling blong no kilim ided woman ya Marie Jean.
8. Nao Malsling hemi girap itekem woman ya Marisang mo hemi go servem insaed long haos until bae oli kilim ided.
9. Nao taem Mariesang hemi harem se Malsling bae ikillim hem ided nao hemi kirap hemi sedem Lecter Buter se yu go talem long papa blong mi Kombey bae hemi putum bak ol pigs blong ol man Potvalim mo tekem smol sista blong mi Matil bae ikam replacem mi sapos no bae mi mas ded.
10. Nao long sem day nomo we hemi namba 4 dei, Lecter Buter mo Kombay mo Louie Marie oli tekem Matil ikam blong livim long Malsling. Nao taem oli kam kasem haos blong Malsling, Kombey mo Louie Marie mo Lecter Buter oli stanap nao Matil hemi go openem doa long haos blong Malsling nao sem taem nomo Mariesang hemi fuldaon long graon nao Lecter Buter hemi pulum bak Mariesang igo antap and Malsling islapem baksaed blong hem (Mariesang) mo Malsling hemi talem long hem se "Vintra" bae yu bornem sam pikinini and bae oli kam slave blong ol man Wopo.
11. Nao Malsling hemi soem (3) katrets long Mariesang mo hemi talem long Mariesang se yu luk trifala katrets ya one hemi blong yu, wan hemi blong papa blong yu Kombay, wan hemi blong brata blong yu.
12. Nao Mariesang hemi stap be Malsling hemi tekem Matil osem prapa woman blong hem mo stret woman blong hem – mo hemi trustem hem.



Family tree



Ol findings blong Court:

First wan Kot ilukluk long case blong Plaintiff we hemi Pascal Lapenaml mo Dadee Lapenmal. Court inotem se long taem blong cross examination Plaintiff igat fulap difficulties blong ansarem ol questions long saed blong history, for example "hamas tribe insaed long nasara? Ans: tri, (how tri tribes mo wan Jif)" wan more example "tri tribes ya be hamas Nakamal? Ans: wan – Jindejer." " Jindejer istap whea? Ans: Mi no save." Question long saed se nem blong ol tamtam insaed long Nasara, Plaintiff ise ino save.

Long saed blong famili tree plaintiff hemi statem clearly se Serilo hemi part blong famili Lapenmal from hemi drawem istap, so tingting ya se Serilo ino pikinini blong Malsling Court ino agri wetem.

Long saed blong woman we hemi talem se oli usum olsem slave or faen nomo, Kot hemi no considerem hemia. Follem ol custom tugeta woman Mariejean mo Matil tugeta istret woman blong Jif Malsling.

Witness Desire Clement hemi kam witesim long Kot se ol family Lapenmal oli grow up wetem hem long Nakamal blong hem. Hemi confirmem se long taem ikam ineva gat raorao between ol pikinini blong tufala mama ia – Mariejean mo Matil. Evri wan ibin cooperate gud be raorao blong title blong Jif ya ijies stat nomo long generation blong nao ia. All nara trifala witness – Abel Muluan, Damino Kilictere mo Timothy Maltock Court ino considerem toktok we oli talem se Serilo ino pikinini blong Malsling, from Malsling ino even talem tu long mouth blong hem se Serilo I pikinini blong Robert.

Long case blong Defendant:

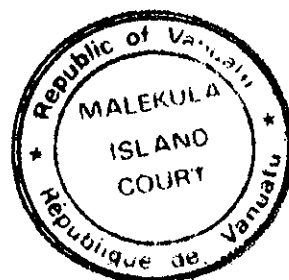
Defendant hemi prufum hem wan se hemi save custom from hemi ansarem evri question long taem blong cross examination wetem confidence. Long saed blong family tri Defendant ibin statem clearly se Dadee hemi part insaed long family tri from hemi bin drawem istap. So tingting behaen se Dadee ino pikinini blong Malsling Court ia ino agri wetem.

Only Witness blong Defendant Rarua Simbolo hemi kam blong witnessim nomo wan minit blong village Kot we oli holem long Rano be Kot ia ino considerem tumas ol toktok blong hem from hemi wan decision blong several Jifs. Nara witness Louis Marie hemi no bin kam long taem blong Kot but hemi putum statement blong hem nomo, Kot ino considerem from Kot iwantem presence blong witness blong mekem eni cross examination.

Law we Court I applaem:

CAP 167 (s.10) – Application of customary law

Subject to the provisions of this Act, an Island Court shall administer the customary law prevailing within the territorial jurisdiction of the Court so far as the same is not in conflict with any written law and is not contrary to justice, morality and good order.



Translate:

CAP 167 (s.10) – Kot hemi mas applaem kastom

Subject long seksen blong Act ia, aelan kot hemi mas applaem kastom we istap insaed long area blong paoa blong hem, spos oli no gat conflict wetem eni loa we oli stap raetem, mo no gat konflik tu wetem jastis, morality mo gudfala orda.

Apply Law igo long fact:

Law ya antap hemi givim paoa blong Kot ia iharem case ia mo applaem custom blong area ia. Common practice mo custom long this area se oltaem man we hemi save kam Jif hemi mas tru bladline nomo mo hemi mas fes bon long famili. Even sapos igat bitim wan wife be first son we ibon long eni mama ya nao bae itekem raet blong kam next Jif.

Las toktok:

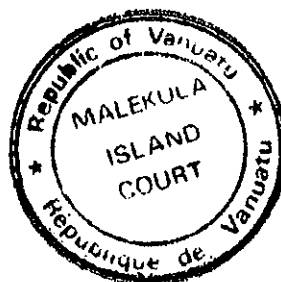
Kot hemi wantem letem tufala pati isave se long interest blong komunity mo blong promotem pis mo unity istap oltaem:

- Man we ikarem title blong Jif, weta paramoun or hed Jif, hemi mas liv mo wok wetem pipol.
- Man ia imas gat gud cooperation wetem ol family memba, ol pipol long velej blong mentenem pis oltaem.
- Man ia imas gat mo soem wan gudfala example long community, olsem eni man we ikarem title hemi mas respectem title ia mo soem long pipol.

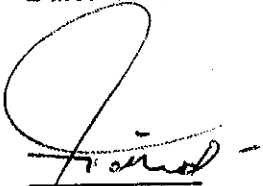
Decision

Afta we Kot iharem case mo lukluk long ol evidence bifo long Kot ia:

1. Kot irule se Pascal Lapenmal nao hemi stret man blong karem title blong Jif, follem first bon son.
2. Kot today hemi declare se tugeta parties tufala ifamily Lapenmal.
3. Tufala parti imas mekem reconciliation ceremony between tufala mo mas go andanit long leadership blong first bon son we hemi Pascal Lapenmal. Tru long authourisation blong Pascal Lapenmal bae ol family Lapenmal imas sitdaon tugeta mo putum up wan Jif blong olgeta.
4. Ino gat oda blong kost.
5. 30 days blong appeal.



Dated at Lakatoro this 22nd day November, 2006.


Frederick David


Lorna Bongvivi


Pierre Kai

