

IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU
(Land Jurisdiction)

Land Case No. 4 of 1985

BETWEEN: CLAUDE TELUKLUK

Applicant

AND: BANI SIWAI MOLUNTURALA & OTHERS

Defendants

DECISION ON APPLICATION

By way of an application, the applicant is seeking this court's leave to be included as a party in Land case no. 4 of 1985. His reasons as advanced are as follows;

- a) that he was not aware that his land Tonmalvar was included in the advertised land of Tondor.
- b) that he only had knowledge of the above fact on the 27th of February, 2006 when one of the claimant came to seek his assistance to act as a witness to his claim.

He further provided that if the court is to accept his application, he is capable to pay the Court fees and file his documents before trial.

The majority of registered parties including the primary claimant have opposed his application on the following grounds. Firstly, that all along he was fully aware of the claim and the advertised map. Secondly, that he was fully aware of his Constitutional right to make a claim, but he choose not to do so except at the last minutes. Thirdly, his acceptance would endlessly prolong the proceeding.

The question posed is whether the applicant had any reasonable explanation for his delay.

The answer to this question is in the negative. It is obvious from the facts of the case that the applicant and his family who are ordinary residents of the same area as the other claimants were fully aware of the dispute. This has been confirmed by the applicant himself on cross examination. He explained that he was hesitant to make discovery over the publication because he had thought that it does not involved his land, Tonmalvar.

It is noted that the land in question was publicized twice. The first advertisement was carried out in the late 1980's according to the original claimant. However, due to missing documents on file, it was re advertised on the 17th of June, 2005. Again the applicant was at all material time a resident of Vao since the filing of the claim to the court in 1985. He had knowledge of the map and claim. Nonetheless, he took no necessary steps to investigate the advertised map. After some 20 years have gone passed and a week away from hearing when he now decides to apply as a party. He had ample time to file a claim but he failed to do so in a timely manner.


More importantly, this Court is fully aware of the applicant's customary rights as enshrined in the Constitution under Chapter 12 regarding Land ownership. However, those rights are in conflict with the claimant's fundamental right to be heard in a court within a reasonable time. Accepting the claimant would inevitably prolong this proceeding which was already pending trial for the last 20 years.

Further, there was uncertainty over his claimed area. He was not sure whether the advertised map included part of his claim or not ? It was also disputed by some parties that Tonmalvar is located outside the advertised boundary. That is a matter to be proved by the applicant himself .He has failed to do so.

Under the circumstances of this case, the application is entirely dismissed. The claim is scheduled for trial on the 13th day of March, 2006.

The applicant is informed of his right to appeal in 30 days.

Dated at Lakatoro this 8th day of March, 2006

BY THE COURT

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EDWIN MACREVETH
Supervising Magistrate

