

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

**Civil # 09/07
Judg. #**

(Civil Jurisdiction)

BETWEEN: HUGO BELBONG
(Complainant)

**AND: MELTEMAL CLOVIS
ALBERTINE CLOVIS
MARCO CLOVIS**
(Defendant)

MATTER: DISPUTE OVER CUSTOM PROPERTY COCONUT

**Coram: Jastis Douglas Fatdal
Jastis Lorna Bongvivi
Jastis Evelyn Seth**

Clerk: Wendy W. Raptigh

JUDGEMENT

Brief backgraon long case:

Civil case 09 of 2007 Between Hugo Belbong and Meltemal Clovis, Albertine Clovis mo Marco Clovis, Court ibin harem trial long 8th November, 2007 hemia long Orap. Tugeta claimant iblong Vao nomo hemia long North East part blong Malekula. Long 26th November, 2007 Court ibin go visitim disputed site ia long Vao mo givimaot oral judgment long 20th December, 2007.

Issue:

Dispute istap bitwin olgeta parties antap ova long wan plantation blong coconas wei i stap long Honovar hemia long Vao main land. Hugo Belbong iclaim se ol coconas ia iblong hem anda long custom mo Clovis tu iclaim se ol coconas ia iblong hem anda long custom.

Court ia bae hemi traem blong finemaot se anda long custom mo law blong Republic of Vanuatu, whu ia nao igat raet ova long coconas plantation ia.

History blong case:

Case blong Complainant, Mr. Belbong Hugo

1. Samtaem long manis mai 2007 mifala ibin ko putum bak ol mak wetem olfala Leisong long wan line coconas we Jif Clovis mo family ipikimap oltaem. From olfala Leisong nao iplanem coconut mo isave wea ples coconut blong hem ifinis, emia long saed antap



ino long solwota. Sam dei ipass taem mi go luk bakeken mi sek we ol mak ia oli katemaot olgeta evriwan.

2. Sem dei ia nomo mi kambak long naet mi ko luk Jif Clement mo mi sendem iko askem long Jif Clovis mo italem long Clement se ino hemia long 1st June, 2007. Nao mi sendem bakeken blong go luk Marco taem istap ko blong luk Marco, imitim Clovis nao italem long Clovis ise bae mi ko luk Marco from mak bakeken. Semtaem Jif Clovis italem long Clement ise yuk o talem se Marco I katemaot ol mak.

3. Mi no tokbaot kraon, mi tokbaot mak blong mi nomo wetem olfala Leisong we Marco ikatemaot. Long tingting blong mi sipos LEisong bae ikatemaot mak maet istret lelebet be mo sori tumas mo sapraes long boy blong Jif Clovis we iko katemaot mak we papa blong hemi ino iven planem wan (1) single coconut nating long ples ia (Honovar) we mi stap talem.

4. Mi wantem talem se bifo taem we Leisong istap long coconut blong hem ino bin kat fasin olsem wetem bubu blong mi Belbong, even papa blong mi Mark. Fasin ia istat nomo taem Jif Clovis iblokem Leisong long 1980 rebellion mo iholem kasem tedei. Mi no save I holem property blong Leisong from wanem?

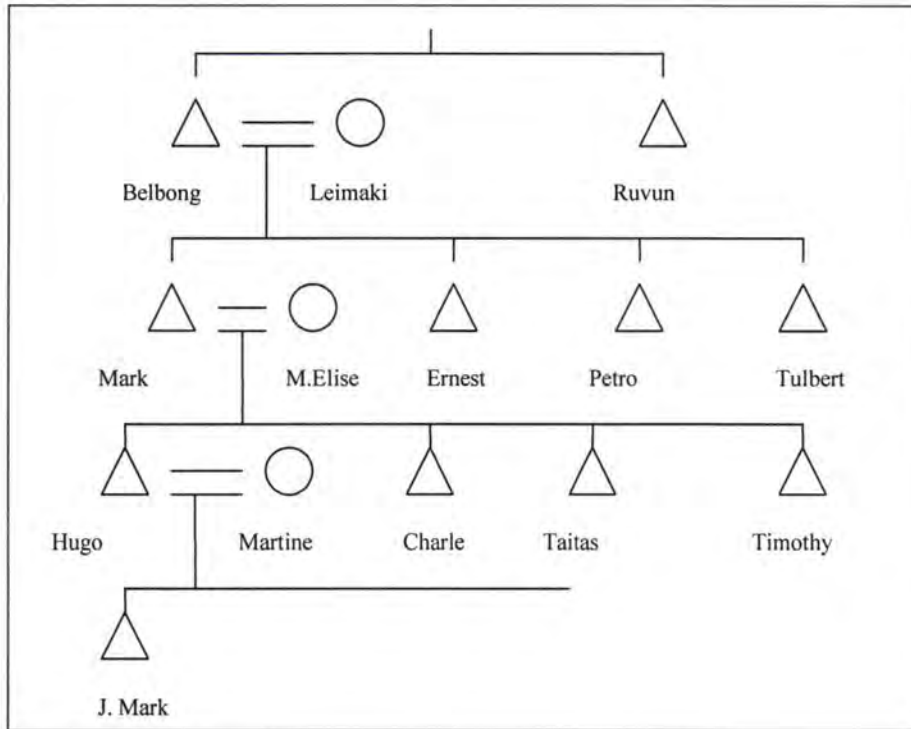
5. Blong talem long Kot ia bakeken se mifala mo family isave Leisong nomo we coconut blong hem imekem mak wetem bubu blong mi, be ino Clovis. Your worship mi kat sam tingting blong kivim long hem (Clovis) long Kot ia sapos emi kilti:

- I. Emi mas faen from mak we mi wetem Leisong ikatem afta hemi ko katem bak mak
- II. Emi mas refundem mi long ol expenses blong mi from rong blong boy blong hem.
- III. Sipos inogat bae mi helpem papa Leisong blong pem wan Order blong hem ilivim evri property blong Leisong wei holem olgeta long 1980 rebellion kasem tedei.



Famili tree

Stat long man wei planem coconut mo mekem mak wetem Leisong mo Robert long Solwota.



Hemia nao hemi statement blong mi.
Mi gat tu (2) witness.

Witness 1: Leisong Ruphun

Mi mak wetem Belbong, mi mi planem ol coconas. Coconas we oli stap tokbaot iblong Belbong, pupu blong Hugo. Mi plane mol coconas ia bifo rebellion.

Witness 2: Robert Meltek

Mi wantem talem se Hugo itru we olfala Belbong nomo imekem mak wetem Leisong emi long saed antap olsem we italem, be ino Clovis. Sipos Clovis italem se iplanem sam coconut ino tru. Ol coconut oli blong Leisong nomo. Mi wetem Clovis pupu blong mitufala, tufala istret brata (Meltekru mo Meltelesaim). Long solwota mi mi mekem mak wetem olfala Belbong tu.

Clovis I blokem mifala wetem Leisong long 1980 rebellion mi iholem ol property ia kasem tedei.



Case blong Defendant, Jif Meltemal Clovis:

Long manis February, March, April mo May, 2007 mi stap long Vila, family Belbong ikam long plantation blong mi ale putum wan niufala mak long plantation blong mi mo boy blong mi, Marco I cuttemaot long coconut. Chonovar, ples mo pasis emi no niu ples. Family Meltemal imekem castom payment long ol man main land, claim blong mi istap long Supreme Court. Pupu, papa, mi mo boy blong mi mifala iusum Cnonovar ples mo pasis long taem finis. Ino long rebellion folem family blong mi nomo kasem tudei.

Leisong ino famili Meltemal. Robert mama blong hemi maretem 3 man, folem family Belbong be ino Meltemal. Cesar Sami ilaekem tumas property blong mi mo taitel blong Chief blong mi. Long custom men man blong problem long village kasem 2000 to 2004 hemi stopem wok blong Chief.

Tufala famili Sami mo Belbong long 1977 mekem rao wetem famili Maleb mo Meltemal. Maleb hemi go stap long main land tufala famili iusum graon mo property blong Maleb kasem tudei.

Famili Belbong ironem papa blong mi, from ilaekem tumas property blong family Meltemal. Emi big Chief long village Beterihi. Papa blong mi isevevem laef blong hem wetem 5 pikinini mo 2 kel long sista blong em kasem taem mifala ikam big wan mi go bak long reli ples blong mifala finis. Sam pat blong graon blong family Meltemal oli usum. Taem bae loa ikam bambae mi lukaotem.

Belbong imaretem 2 woman, brata blong em 3 women, bog family long Vao. Igat ol clemen blong castom chief long Vao, bambae mi kivim long taem long Court.

Witness: Noel Meltemal

Mi kam blong witnessim se hemia we oli jes kuttem mak ia long stampa blong coconas hemi wan niu mak ia be olfala mak istap.

Niu mak ia hemi wan taem we Hugo iwantem cuttem copra ikam askem coconas nao mi soem smol ples ia long hem nao igo cuttem coconas long hem be afta iputum mak.

Ol findings blong Court:

Afta we Kot ilukluk thru long ol documents, mo harem ol toktok blong tugeta claimant, Court inotcem se Defendant Clovis hemi stap base plante more nao long graon. Court itekem into account se disputed property ia istap insaed long disputed land blong Tondur we hemi gat 14 claimant evri wan mo istap pending yet befo long Malekula aelan Court. Defendant Clovis hemi wan long ol claimant long Tondur disputed land ia mo family Belbong tu.

Court ino interest tumas long issue ia blong disputed land ia be Court iwantem finemaot se whu ia nao out long ol claimant ia iplanem ol coconas wei stap. Long taem blong cross examination Court ifinemaot se Leisong (witness blong Belbong) hem nao iplanem ol coconas ia we idisputed istap before long this Court. Leisong ibin admitim long Court se



hemi bin planem ol coconas ia blong Belbong, pupu blong Hugo bifo long rebellion. Therefore, Court ibin askem blong go lukim disputed site mo blong Leisong ipointemaot ol line mak blong ol coconas olsem we hemi save from hemi bin planem. Defendant Clovis ino save prufum hem wan se olfala blong hem iplanem ol coconas ia, for instant taem Court iaskem hem se coconas plantation ia befo hemi wan olfala garen? Hemi ansa se hemi no save. Taem oli askem long witness blong hem – Noel Meltemal se yu bin harem se afta long rebellion nao Clovis ijies muv ikam insaed long coconas plantation, hemi ansa se hemi no save from long taem ia hemi stap long Vila.

Court ifinemaot tu se long ol plantation coconut ia igat ol nara pipol tu we oli no clemen oli gat coconas insaed. For instant, afta long barrick coconas blong Belbong, Marco istap narasaed, then afta long Marco, Robert Meltelesai. Olgeta oli cuttem mak long ol coconas nomo blong markem ol plantation se wan barrack ifinis long wea ples stret.

Court ifinem out long cross examination blong Robert Meltehuri (papa blong Clovis) wetem Meltenisai (papa blong Robert) tufala ibrata. Robert hemi bin confirmem long Court long taem blong cross examination se Leisong hemi planem ol coconas be insaed long wan graon we hemi se iblong Meltenisai. Hemi go on blong talem se reason ia nao mekem se olgeta ikam takeova long ol coconas ia afta long rebellion from oli believe se graon ia iblong olgeta.

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 aplaem kastom we istap insaed long eria 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:

Section blong Law we Court ia istap applyem tudei hemia antap – CAP 167 (s.10).

Hemi common sense nomo se whua iplanem coconas, hem nao property ia iblong hem. Hemi common sense tu se wan man ino save kam stap plant long wan area we ino blong hem, hemi save plant nomo sapos hemi askem raet blong use long owner blong graon. Olgeta points ya nao oli ol gudfala orda we hemi ol custom practice blong long taem finis ikam.

Court ia ino lukluk long issue blong dispute blong graon we istap but hemi stap lukluk nomo long issue blong disputed property ia. Issue blong Land bae Island Court ideterminem yet.



Last toktok:

Dispute ia hemi causem plante division between olgeta Clemens, Court iwantem se bae peace imas stap ol taem. Eni wan insaed long family we bae itraem blong brekem order ia hemi save pass long Court from contempt blong Court Order mo fine or go long kalabus.

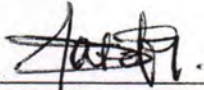
KOT DECISION

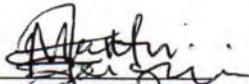
Wetem ol toktok we kot ibin harem bitwin Complenen mo Defenden wetem ol witnesses blong tufala saed, mo ol wokabaot we ol jastis oli mekem blong lukluk mak mo property, Kot itekem decision se:

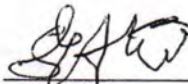
1. stat from tudei 20.12.07 bae tugeta saed ino save overem olfala mak.
2. ol coconut we Leisong iplanem bae iko bak long family Leisong blong oli usum.
3. Coconut blong Belbong bae iko bak long family Belbong blong oli usum.
4. Kokonas blong Clovis bae iko bak long family Clovis blong oli usum.
5. Bae wan family ino save ko usum coconut blong nara family unless emi askem blong usum.
6. Taem bae Island Court ifinem whu istret owna long disputed land ia then bae negotiation blong olsem wanem blong usum graon isave tekem ples bitwin stret custom land owna mo wan wan clemen blong ol coconas plantation ia.

Sapos eni wan ino agri long decision hemi kat 14 deis blong mekem wan apil stat from tudei.

Dated long Lakatoro this 20th dei blong December, 2007.


Jastis Douglas Fardal


Jastis Lorna Bongvivi


Jastis Evelyn Seth

