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

Land Case # 02 of 1997

BETWEEN: MORRIS BULE
Original claimant

AND: RON TAMTAM
Counter claimant 1

AMON WARI
Counter claimant 2

JOSEPH RAUBAN
Counter claimant 3

JOEL TAMTAM
Counter claimant 4

ZAACHEUS BILA
Counter claimant 5

Coram : Senior Magistrate Edwin Macreveth
Island Court Justice David Tabi
Island Court Justice Basil Tabevanua
Island Court Justice Isaiah Tabi

Clerk: Patrick George

JUDGMENT

This is the written decision for the Ome land claim heard from the 16th to the 19th of March, this year at the abandoned Banmatmat Bible College. Oral decision was delivered on the 19th day of March, 2009. The land in dispute is situated at the southern tip of the island of Pentecost. It is located on the western side of the island laying between Bay Homo on the north and the river of Wabet on the south. The advertisement caused by the principal disputant invited 5 parties to file a counter claim. The parties in contention over the land are all claiming land ownership and dispute over boundary. The issues for determination concern ownership and boundary dispute.

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Its boundary is generally described to commence at the coastal area of Pentebamal near Bay Homo and runs inland connecting the following named areas of Ranoe, Atloa Warre, Waniol, Pantal Panatlang, Peteamly, lionkanaborbor, Reftorbus, Londis, Panbor and up to Ranabit. From there, it turns southeastwards connecting Panliptadok, Bilintanyes to a rock, Lonlies, Tiring, Rerir, Ravil, Walipis, Randivinvap, Satnon, Paat Jusuk and ending at Wabot river mouth at the coast. Its territory from the eastern side is bounded by the sea shore line.

Before dwelling on the subject matter and to guarantee better understanding of the reasoning of this judgment; a brief discussion of the relevant laws and the local custom processes and usages of the area in dispute are outlined below.

THE LAW, CUSTOM AND HISTORY

It is our immediate note that the area of concern does not have a land policy. In spite of such missing guideline, there is significant information gathered from the hearing regarding customary principles of land ownership.

Briefly, the relevant law under Article 73 of the 1980 Constitution stipulates that all land in the Republic of Vanuatu belongs to the indigenous custom owners and their descendants. Article 74 provides that the rule of custom shall form the basis of ownership and use of land in Vanuatu. Article 95(3) states that customary law shall continue to have effect as part of the law of this jurisdiction.

Turning to the customary practices forming the basic rule of land ownership, generally the southern part of the Island of Pentecost is predominantly a patrilineal society. Meaning, ownership of customary land is communal or collectively own based on common descent, residence within a nasara and participation in common activities. A tribe or bloodline is identified with the land through the nasaras. Individuals within the clan are closely tied up with their territory by affinity and consanguity through blood and marriage. A group of persons belong to a family line and a territory.

Land is traditionally transferred or inherited patrilinealy from the chief or original ancestor to the eldest son who would normally bear the responsibility for providing equal distribution of the deceased father's land to other siblings, relatives and kinships. This is a male predominated system which is twinned with the land tenure system handed down from generations to generation. Equally by custom, the matrilineal descendants cannot claim land ownership if, there are surviving male descendants. Any claim following the matrilineal lineage would be culturally limited to a claim of right of use of the land.

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It is common belief among the local communities that the first settlers of south Pentecost are created by Batkulkul (God) at a place called Pantail. It is the general practice that the first person to explore, live and control a land boundary would eventually become the original chief or ancestor of the territory. This chief on behalf of his family unit would normally be recognized by the public as the original custom owner of the land. Every member of his tribe or group communally own undivided interests in the land.

The tribe which forms the land owning unit is normally based on blood relationship, meaning, they are all related by blood, having descended from a common or original ancestor. In practice, the first person and his family to arrive at the disputed land and built a nasara there, are the custom owners of the land. It makes no difference whether they left again for some other reasons, they would always be designated as the custom owners.

Any incoming tribes accepted into the area would remain under the control and authority of the principal chief and his subordinates. After exchange of custom processes, such a clan may be allocated a parcel of land specifically for subsistence use only. Any member of incoming tribes may take part in pig killing ceremonies and setting up of nasaras or nakamals on the land. But, by custom such events cannot entitle such individual chief to claim ownership.

Chiefs are in the past usually nominated on the basis of custom values, wealth, bravery and other common characteristics. A man earns his chiefly title or name by way of performing a namangi or pig killing ceremony. There are different stages of status in hierarchy for a chief to acquire.

Pig killing ceremonies would normally occur at a nasara. Chiefs from other nearby land territories may provide contribution of pigs towards the performing chief . It is traditional that such performing chief is normally expected to give something in return as a token of appreciation. For instance, a chief may give land away to a supporting chief as a matter of reciprocity. The first ever built nasara of a tribe becomes the original nasara. A nasara is usually identified by man made features such as erected stones, natural plants such as namele palms and other identical phenomena.

Boundaries of land in the past and present are normally indicated by natural features, such as trees, rivers, mountains, man made features and other geographical phenomena. Boundaries dividing each chief's kingdom are normally surveyed by the concerned chiefs and their people based on their histories.

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Beside the position of law and custom principles, the court in determining the issues has reminded itself of the relevant provisions stipulated under the Island Court Act, Cap 167. In deciding the evidence before us, the court must be guided by section 25 of the Island Court Act. That particular section provides direction that in any proceeding before the Island Court, it shall not apply technical rules of evidence but shall admit and consider such information as is available.

Section 10 of the same Act states that subject to its provisions, the 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 written justice, morality and good order.

Given the basic understanding of the traditional processes and the law in general we now present the relevant information submitted before the tribunal in the usual order of presentation.

Original Claimant

Stevenson Bule appearing for Morris Bule and family prior to his presentation, sought leave of the court to allow him tender late Samuel Bule's statement in support of his claim. Samuel Bule is Stevenson's cousin father who has recently passed away 3 days before trial. The application was accepted and the bundle of information was admitted as part of the evidence.

This claimant led evidence that his family believes that his first ancestor Loas was created by Batkulkul at Pantail. Loas after his creation left to discover the land and later settled at Lonlibli. From there, he migrated to Ome. There, he took with him a tabu nangalat and created a stream called Waudri. This man later moved to Banmatmat with his customary items among others such as a banian seedling. There, he created a cave inhabited by dogs, a pool of sea water used for breeding pigs in multitudes known as Wamha. At Banmatmat, he met a man by the name of Karantas.

After his exploration of the land he returned to Ome where he built his original nakamal. Loas later on created the following nasaras of Leltol, Ranot, Wanur and Ranapot. In illustration of his genealogy he provided two separate family trees outlining his generations once residing at Lonlibli and Ome.

He claims that the defendants have no right to claim the land of Ome. His tribe has always been regarded as the customary owner of the land. His ancestors have given rights of ownership over certain parcels of land to local dwellers. He listed them as follows. The land area of Lonliae to Pantebamal was given to

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Philip Taribut. The land of Lonsing and Lonmalmal was allocated to Henry Salitotmol. Lontoga was bestowed to Tauleo Bebe, Lonlitor to Richard Saliu, Panlikaula to Willie Tamtambu and Lonliklat with Panlidar to George Tatau.

In addition, three (3) other portions of land known as Lonwas, Lonlibul and Pantor were sold to a Missionary called Thomas Tamtam an original native of the island of Ambrym, who initially brought the gospel into the area of South Pentecost. A pig was handed over to James Watas as payment of the land area of Pantor. The terrains of Lonwas and Lonlibul were purchased from Philip Taribut with the same form of compensation.

In another story, he said that on the 8th of July, 2001 Bessy Marmar a relative died in the village of Ranputor. A Tunan was performed to his family where it saw the surviving children of deceased by way of maintaining familial relationship paid a custom gift as a way of recognition to Morris Bule. He explained that such occasion reconfirms their common originality of having a single bloodline.

In response to the counter claimants, he made the following statements. He argued that Ron Tamtam cannot claim the land of Banmatmat since his forefather Thomas Tamtam is a native of Ambrym. He referred the court to Samuel Bule's statement at page 117 containing a documented record of confrontation dated 5th of December, 1908. Such documentation was drawn up at Bay Homo, South Pentecost. He specifically argued that page 17 of such manuscript at the first paragraph suggests that Tomace also known as Thomas Tamtam was not born on the island of Pentecost.

With respect to Amon Wari, he contended that CC2 has no right over Lonsing since such land has already been given away to Henry Salitotmol but, since Henry had no surviving child it must reverse to his family being the custom owners. His ancestors have also given CC2 right to use the area of Lonorbus at Lonsing.

Moving on, he further submitted that Joseph Rauban CC3 is barred from claiming Ome nasara and its surrounding areas because he is originated from the island of Ambrym through this man Pasan whom is the common ancestor of Joseph Rauban. Pansan has in the early 1900 sailed ashore to the community of Wanur and was accepted to live with his early family members at Ome. Pasan was later asked to leave Wanur after refusing to offer his pig to his ancestors for purposes of namangi. At his expel, Pasan sought refuge and resided at Ponor. He was allocated land by family Dominique and Thoma where he settled to the present.

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He alleges also that his grand parents have too given Joel Tamtam, CC4 right to use the land at Lonlibli. Remblili is situated outside the land boundary of Ome. Turning to CC5, he explained that Zaacheus Bila has no standing in custom to claim ownership of land since he is claiming via the matrilineal lineage. The children of Zaacheus Bebe should instead claim in accordance with the traditional land ownership principles.

He called 4 witnesses to testify on his behalf. The relevant parts of their statements are in the following words.

Anatol Watas disputed that this name Salmeme belongs to Moltabas Sandy. Moltabas Sandy had asked him to write a letter raising their concern over such name on the 19th of October, 2003. On the 1st of June, 2007 Stevenson Bule and his supporters traveled to Magam village in an attempt to investigate and discover whether Ron Tamtam's original ancestor is Salmeme. They sought information from Zakias Parbo a close relative of CC1 who informed them that he has no knowledge of whether Salmeme is part of CC1's family tree.

Lino Bule in his statement told the tribunal that a person by the name of Milo mentioned by CC1 belongs to his family line. Among other irrelevant statements as contained in his statement he added that following Philip Coniel's letter Joseph Rauban is originated from the island of Ambrym.

Charley Lala led evidence that during Tom Tamtam's funeral ceremony Zakias Parbo had informed them that if he had the means, he would repatriate the deceased body to Ambrym for burial. His father had also once told him that Thomas Tamtam is a native of Ambrym. He went on provide that on the 7th of March 1997, Malbangbang Council of Chiefs declared the land of Lonlibli in favour of his family. A copy of such decision is exhibited as CL1.

While, Harold Tema stated that Thomas Tamtam had adopted his great grandfather by the name of Wol. His father Issach Buleban narrated him that Thomas Tamtam had purchased Lonlibul area by offering a pig and 30 pounds to Philip Taribut as payment. Wol espoused Bessy Malimarmar. At Malimarmar's death his family paid a custom ceremony called Tunan to Morris Bule. He believes that Thomas Tamtam is an indigenous of the island of Ambrym.

Counter claimant 1

Ron Tamtam in his genesis told the tribunal that Salmeme is his original ancestor. After his creation at Pantail left for Banmatmat with his customary items such as a banian seedling, a tabu nanbilak (bird), a forbidden namele palm

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and others listed at page 13 of his statement. At page 14 to 16 he went on to explain the purposes of his tabu identities. His ancestor was the earliest person to explore and settle the land of Banmatmat.

He described its boundary from the south to commence at Paliwap up to Athalger running eastwards to Mobrahguk, Mobitin, Mobaheleng, Lonalele, Lalback, Lonliwailalbak, Londada unto Midi. It then turns left and northwards to up to Remeliahel, Lonbwiribwalbwal passes behind mount Tulap changing direction westwards connecting Lonbulmangkan, Lontap, Ranoe, Paraaku to Pantebamal. Its frontier from the western side is bounded by the shoreline.

Salmeme firstly traveled to an area called Atla. Upon his departure, he took with him a piece of stone to his next settlement called Laji. He then moved to another area known as Lasalap and to Ranputor thereafter. Later descendants of Salmeme have created nasaras, nakamals and various stations such as Lonliae nasara, Lonlitor, Panlikaula and others as outlined in his statement at page 17 to 18. A family tree is made available tracing his early generations to the present.

He related a tale of two ladies from Banmatmat whom around the volcanic eruption had sailed to Ambrym on board a namele leaf. There, they met two men and on their return later conceived a child each. Tubovivi an offspring of the two females still has descendants at date such as Zakias Parbo residing at Magam village, north of Ambrym. He explicated that following this long time connection he still considers his family as close relatives to Zakias Parbo.

Among other detailed information, he claims that the original claimant is a native from the island of Ambae. Bule was exiled to Pentecost where he firstly arrived at Ranatbe where he was received by one Tangebu. He later settled at Ranputor and Lonlibli. Chief Tangebu while, staging his pig killing with the assistance of chief Wawa of Ranputor had offered Bule as gereawas after having run short of pig. He explained that this term *gereawas* is a special name normally given to someone who has been substituted or offered to replace something else. Moltor allocated Bule a portion land at Lonlibli known as Panot for cultivation purposes.

He went on to explain that George Tatau's tribe headed by Butlengleng was received by one of his grand parent Teoll after arriving at Lonliklat, Pandebamal area. This clan was allocated a piece of land for use at Banmatmat. His family and George Tatau's family are related by marriage since his ancestor Thomas Tamtam had espoused Serah Lonmel, daughter of Mol Guru from the same tribe. A family chart is produced showing this early connection.

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In addition, he added that around 200 hectares of Banmatmat land was also sold to early traders such as Charles Peter Stuart. Before its return to the owners, the property was re sold to George Kombe Tor. A portion of it was occupied by the Catholic mission. Following intense dispute over such occupied land area, the Catholic mission returned such land to his family as original owners in 1984.

His early grand parents and other locals acting on representation basis have been collectively involved in the trading of the area of Lolooroo (Lonoroe), Ole, Rope, Ranadadacon, Lon bolonluh and Banmatmat around 1912. In 1913, David Tamtam, Tom Tamtam and others also sold Lonlei area, Lonwas and others. Certain lease agreements were also reached between the same locals such as the field embodying Banmatmat Bible College. Tom Tamtam and David Tamtam also appeared as custom owners in the negotiating certificate concerning Bay Homo Title no. 764. To reinforce his presentation he referred the court to his annexure RT1 to RT12 contained therein the file.

By way of reply to the original claimant's accusation over his origin, he pleaded that the documented land sales would prove that his tribe are the customary owners of Banmatmat land. Thomas Tamtam or his later descendants had exercised their proper authority to sell their customary land to early Christian missions and traders. Those land sales documents have directly and always refer to his forefathers as custom owners and had never mentioned that Thomas Tamtam is from the island of Ambrym. He emphasized that in practice, any individual from other islands such as Ambrym cannot sale land from the island of Pentecost. Man Pentecost would never allow that to happen. Doing such an undertaking would put someone's life in great danger.

Turning to the genealogy tree of Morris Bule, he stated that James Watas is not a a bloodline of the original claimant. James Watas has origins from the land of Remblili and is a tribal member of CC4's family. He went on to provide a complete statement explaining James Wata's relations from the past unto the present. James Watas has always settled at his tribe's land Remblili.

The first witness, Philemon Tamtam led evidence that he wants to reconfirm CC1's connection with his family. Esther Japon wedded David Tamtam. This couple had a son, who became is his father. His great grand fathers had friendly relationship with CC2's ancestors while residing at Lonorbus.

Bebe Bong in support, presented that one of his forefather Guidis Moltor did part take in a namangi rite at Ranputor staged by chief Wawa. Bule was treated as a gereawas during that ritual due to shortage of pig. His ancestor had allocated Bule a parcel of land to work at Panot. Besides, he argued that the primary claimant has no absolute right to claim land because he is a stranger from Ambae

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island exiled to south Pentecost. He remembers by heart two historical songs past down from generations in remembrance of the arrival of Bule at Ranatbe.

John Malon said that there other customary land within the advertised map such as Banmatmat, Remblili, Ome and Lonsing. He agrees and re confirmed that the land boundary of Banmatmat on the west begins at Pantebamal marked by a natora tree ending down at Wanur village on the south. CC1 is not from Ambrym but has close relatives at Magam village such as Zakias Parbo an existing descendant of two females whom have long ago sailed to north Ambrym. Thomas Tamtam returned from Queensland as the first ever missionary of the Church of Christ in the region. He is related to the Tamtam family since a sister of Serah, wife of Thomas Tamtam had married one of his grand father, Philip.

Augustine Taback of Point cross area, led evidence that he believes that the land of Banmatmat belongs to CC1. He argued that there are custom stories or events which have occurred in the past in the area of Banmatmat. The stories and customary tabu mentioned by Ron Tamtam are correct and unique to the area.

He related a story that once upon a time, a man from Ron's tribe named as Waben while fishing met two ladies from Wanur who decided to follow him to Lonliae nasara. These ladies became his wives. A ceremony organized for the bride payment of the two females was marked by the planting of namele palm. A custom song known as Tuturanmil was composed in commemoration of such occurrence. In another story, a father had raped her daughter called Milo while gardening. In grief of the event the mother including Milo and the father decided to commit suicide by jumping into a coastal cliff. The mother with the daughter survived the event except that the father died.

Witness, John Pattison of Wanur village told us that he comes from Serah's tribe. Serah Lonmel had married Thomas Tamtam. The boundary claimed by CC1 is correct because it is the traditional border dividing the land of Ome and Banmatmat. Thomas Tamtam is not from the island of Ambrym.

Counter claimant 2

Amon Wari is disputing that the land in publicity is false by reason that it covered other customary land areas of Ome, Remblili, Banmatmat and Lonsing which he claims to own. He described Lonsing land to commence at Ranoe linking Lontap, Lonbulumangkan to Lonanu. From there, it follows upstream Rekon river to a banian tree, Lonberebarot, Rebtowarbush, Lionkananborbor, Lonlimut, Linembet to Pantor. Its limit is demarcated by the river of Lonbegan to

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Panlike stream, Pankawamol down to Lonma, Wari river and back to Ranoe. His land is bounded by Lolumentekon on the northern side. He shares the same boundary frontier with Remblili custom boundary on the east. Likewise, on the west he also shares the same landmark with CC1 claiming Banmatmat land from Pantebamal.

He claims that his initial ancestor Loas was created at Pantail by Batkulkul. Loas after leaving Pantail settled at Panwan and later on at Waliap. Loas was the first human to explore and settled the land of Lonsing. He was in possession of customary items such as an eel fish, a kingfisher and others listed at page 4 of his statement. At Waliap, he created his original nasara and nakamal. He resettled at Panlike and Lonsing afterwards. He kept his forbidden eel fish at a stream known as Panbili. Robsal Molwa from the third generation founded the nakamal of Ranbilinuir at Lonsing. Another forefather Bila Sunga built a nakamal at Lonliwas while, he himself also constructed a nakamal at Lonorbus.

Due to some devilish activities which almost wiped away his tribe in the past, several families escaped and resettled at Waliap. A missionary by the name of Frank Filmer brought the gospel news into the area and built a church. Some member of his tribe who did not want to get involved in the new teachings again left for Binrobrob. There, Albert brother of Robsal set up a nakamal. It is there that Thomas Tamtam came to invite them into Christianity. Following this call, various relatives moved to Ranputor while some remained at Lonsing unto date.

In further support of his case, he maintained that two village and area courts have also decided the land of Lonsing in his favour. These events are documented and annexed as AW3, AW4. He stresses that Morris Bule should not be believed because he had twice made changes to his map by initially advertising the land as Banmatmat land boundary covering a lesser land area starting at Atbera to Gusnana. He has totally changed such map instead by advertising a much wider area of land claiming it as Ome land boundary.

A family diagram is presented, having a total of 13 generations altogether. A full and detailed description of his family line is provided at page 17 - 19 of his claim.

Philemon Tamtam provided that he has familial connection with CC1's family. Esther Japon espoused David Tamtam and they begat a son who became his father. His great grand fathers had friendly relationship with CC2's ancestors while residing at Lonorbus. Subsequent to this relationship, coconut palms were planted at Lonorbus which are still in use today.

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Graham Tema testified that the land of Lonsing commences at Ranoe. CC2 shares the same frontiers with CC1, CC3 and CC4. This is the traditional boundary respected from the past to date. Joseph Bule witnesses the same statement.

Counter Claimant 3

Joseph Rauban is claiming the land of Ome. In his explanation stated that Ome land does not cover the full boundary as advertised. There are other customary land such as Lonsing, Banmatmat and Remblili therein. He clarified that Ome is just another boundary of land as mapped in his claim.

He agrees with the statement forwarded by CC1, CC2 and CC4 since they all share undisputed boundaries recognized for ages to the present. He described his land territory in the following words. At the northern sea coast, it begins at Paliwap connecting Wanur village, Ranbugulu, Tandumdum down to Wabet. It then runs from eastwards to Ramel turning to Panatit up to Lionkanaborbor. From there, it turns northwest wards to Ransibuno, Lonbwiribalbal, Midi, Mobitin, Paliwap back to Wanur ending down the water's edge.

The first ancestor Bumnotnot was created at Pantail by Batkulkul. Bumnotnot after living Pantail settled at Ranbilibesa and later on at Rewas. He then traveled and settled the areas of Ome, Umil and Ponoor. He founded his first nasara and nakamal of Ome. Bumnotnot was the first man to explore and live this land territory with his custom properties such as, a namele palm, nakato (hermit crab), a human spirit known as adokorot and more listed at page 6 of his statement. His other descendants were also involved in the creation of other nasara or nakamal such as that at Wanur. A genealogy tree is presented to the tribunal having a total of 14 generations altogether with a detailed explanation of his relations at page 9 -10 of his claim.

He related a story leading to their first adoption as follows. Tate Bebe whose chiefly title is Moltula from Lonlibli needed assistance to stage his pig killing ceremony. He sent words for Gobgobnaim a descendant of Bumnotnot for help. The invitation was accepted as sought. However, after the festivity Tate could not provide something in return or exchange to Gobgobnaim. Given his situation, he offered a him a male infant by the name of Boer as payment or gift. This boy is known today as Selwyn Olul. By culture, he would be classified as a gereawas. He explained that Boer's mother came from Remblili land while, the father is a native of the land of Saltas. His mother upon his father's death re married Tate Bebe.

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He objected in defence to Morris Bule's claim, arguing that Bule is certainly unsure over his history and customary land boundary. He pointed out that the primary claimant had altered his original map published in 1997 by replacing it with a new map. In 2003, he had issued a map calling it as Banmatmat land boundary having an area of land beginning at Atbera Rocks to Gusnana area. This time around, he is submitting a completely different map extending its areas to other disputed land, naming it Ome land boundary.

Turning to the genealogy tree of Morris Bule, he contended that James Watas is not a relative of the plaintiff but a tribal member of Joel Tamtam originating from Remblili land. He went on to give a complete statement explaining James Watas relations from the past unto the present at page 17.

Witness, Cyriaque Olul in his statement provided that Morris Bule is claiming land which belongs to CC3. There are traditional boundaries recognized from the past and still observed at date. The original claimant has no nasara at Ome land.

Isaach Buleban disputed that the map introduced by Morris Bule has exceeded the traditional limits of Ome land. There is a customary border in place. He explained that the Remblili boundary mark is situated at Walep to Lionkanaborbor. From there, it connects Lonsing boundary up to Lonbwiribwalwal. While, the Banmatmat land limit ends at Paliwap at Wanur down to Wabet river. He re iterated that James Watas is not related to the plaintiff. James Watas is originated from the land of Remblili and is a member of Joel Tamtam's family line.

Augustine Taback told us that the map in issue has surpassed the traditional boundaries of Ome land. There are recognized customary borders in place. The land perimeter from Lionkanaborbor connects Lonsing, Ranatsing, Lonlep, Walep, Lolies, Ramil, Ranbiliwap and down to Wabet river. Besides, this witness went on explaining the purpose and nature of the tabu namele, Wager, a forbidden chicken, Adokorot and Aelap. These customary items are exclusively identical to Joseph Rauban and his clan.

Counter claiman

Harward Wari presenting Joel Tamtam and family is disputing the land of Remblili. In hi[illegible]planation, stated that the land advertised by Morris Bule has exceeded Ome[illegible] traditional boundaries. This map encompasses certain land areas culturally considered as land belonging to custom owners of Remblili land. Other parts of Remblili remain outside the contested areas. There are other customary land territories such as Lonsing, Banmatmat and Ome. He agrees with

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the statements forwarded by CC1, CC2 and CC4 and acknowledges that they are all share undisputed boundaries from the past to the present. He describes his land territory to begin at the area of Walep from the south up to Lionkanaborbor.

His original ancestor Leb was created at Pantail by Batkulkul. Leb after leaving Pantail explored and took control of Remblili land territory with his customary items such as a stone and others listed. This ancestor founded a forbidden house of war, a tabu house of pigs and others. Leb stationed his first nasara and nakamal naming it as Remblili. Later survivors of his ancestor created other nasaras and nakamals such as Sado, Pontangiel, Rebelaul, Panmoda, Lonau, Alsa, Ranbutanpiripiri and Poneat. The original claimant nor CC5 claim to own any of these nasaras.

Leb had a wife and bore children whom in turn had surviving issues at present. He has a total of 16 generations altogether. He provided a detailed explanation of his relations at page 5 of his claim pointing out that James Watas is a member of his clan. He went to elucidate in detail that Melgau's sons are Lusmil and Lusjingin. Lusmil had a wife and begat a child named Lustor. Lustor espoused Wanotamit and their son is James Watas whom had been for unknown period of time residing at Ome. Lusmil resided at Ome and Ranu nakamal via connection of his sister's marriage to one Daman of Ome. Lustor later resettled at Wanur where he built a nakamal. James Watas had been in the past working at a plantation at Epi. Upon his return, he stayed at Banmatmat where he met and married Wanotarit whose father is Bariakonkon a relative of CC1. After such matrimony, the couple returned to their original place, Remblili.

Beside the above, his grand parents had also given land for use to other locals following marriages and other social connections. He listed them and among others to name a few like, Tolak Martin, Augustine Taback and Bebe Bong.

In response to the plaintiff's claim he argued that Bule is doubtful over his history and customary land boundary. He re iterated that the primary claimant had made two different changes to his original map. We noted that he has advanced the same concern as raised by his colleagues CC1, CC2 and CC3 above.

Augustine Taback made a statement that CC4's past relations have allotted his family land for use. He went on to raise the same concerns raised by this counter claimant and his colleagues over the tactics used by the primary disputant in forwarding two different maps. He re listed the custom properties and the different nasaras as correct and that they belong to Joel Tamtam and his tribe.

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The last witness Joseph Bule held that the traditional landmark separating Remblili and Lonsing is marked by Londada, Lonsing, Ratnasing, Lonlep blintanyes and back to Ranabit.

Counter claimant 5

Zaacheus Bila provided that the basis of his claim is through the matrilineal lineage of his mother. He is disputing certain parcels of land called Waribot which is covered while the larger portion of it such as Lolumentekon remains outside the dispute.

To re enforce his claim he submitted that the concerned land areas has been decided by a village court presided over by chief Willie Bong Matur on the 22nd of March 1979 in his favour. A copy was tendered and verified. Besides the related information, he also produced a family diagram showing his uncle's generation beginning from Tetery as the first ancestor.

Witness, Luke Fargo in his testimony said that after creation at Pantail his ancestor settled at Lolumentekon area occupying it for centuries. Zaacheus Bebe at upon his death gave him right and his relatives to continue work the land. The ground claimed begins at the seacoast at Waribot area running up to Waniol. He claimed that Tetery had given a plot of land at Lonorbus to Daniel Rop used for subsistence farming. Upon questioning, he confirmed that the land belongs to Zaacheus Bebe whom has surviving children at the present.

Chief Peter Benkat submitted he had heard from his father that the land limit of Banmatmat only starts at Atbera and not at Pantebamal as claimed by the rest of the claimants. Two unknown ancestors from Banmatmat and two others from Lolumentekon had in the past erected this landmark. He admitted that his father during meetings had been witnessing the original claimant's map. However, he has to make such a change since, he has decided to joint and support CC5's claim.

ANALYSIS OF MATERIAL & FINDINGS

First and foremost, it has to be born in mind that the primary disputant in principle has the burden of proof to substantiate his claim with clear and relevant evidence before the court. Also he who asserts a fact must prove it by way of evidence.

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Our assessment of the entire proceeding indicates that the original claimant has throughout the proceeding provided very plain and general information. He failed to produce the most appropriate witnesses in court to support his statements. While, two (2) of his witnesses came to court to dispute their own interests rather than producing statements to reinforce the plaintiff's case. Most notably, he has entirely failed to challenge statements belonging defendants 1, 2, 3 and 4. He had no question to ask these claimants during cross examination. Having done so, he left all counter claims unchallenged and therefore remain wholly undiscredited.

On the other hand disputants 1, 2, 3 & 4 have aligned themselves sharing common understanding between each other disputing the original claimant. Besides this, all claimants are challenging contestant 5's claim, as having no profound standing.

Turning to the nature of the claims, from the proceeding it clearly stands out that the majority of the parties are claiming nakamals or nasaras including the respective areas of cultivation and occupation. All claimants must bear in mind that, it one's duty to prove his case by way of evidence that he or she has ascended from the original indigenous of the respective land in contest.

The visit to the land reveals that there are identical phenomena in place believed to be the frontiers dividing the land territories. Pursuant to our assessment of the entire evidence the court decided that there was no real need to inspect the boundaries of the entire land as advertised. Firstly, there is clear specification of the land limits as provided by the original claimant. Secondly given the grandeur or size we are of the view that it is impracticable for a single person or tribe to own such massiveness of land. We are as well satisfied the there are other land boundaries within the disputed boundaries such as those claimed by CC1, 2, 3 & 4 namely, Lonsing, Remblili, Ome and Banmatmat.

For purposes of understanding the customary structuring of nasaras and nakamals coupled with other related custom processes the court visited certain located items classified as totems or customary properties with the nasara of Lonliae.

Having made these observations, we have appreciation for a number of parties and their witnesses whom have made honest comments and statements. For example, amongst other things some have honestly told the court they cannot assert information pertaining to the setting of nakamals or give explanation to the patterning of nasaras and their ruins. It is accepted that not all parties will have the ability to produce exact recollection or account of past cultural practices, names and other comparative information.

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Given the nature of the visit and in consideration of the presented facts, the findings are discussed below commencing with the original claimant.

The primary claimant

The tribunal's assessment of the entire proceeding indicates that the primary claimant has throughout the proceeding provided very generalized information without proof. We now discuss his weaknesses and findings.

The first flaw lies with his genealogy tree which puts Loas as the original ancestor. Samuel Bule at page 3 paragraph 9 of his tendered statement tells us clearly that he could only trace his family tree back to Teomarel whom is classed as the third generation. Upon questioned over the credibility of this fact, he admitted that his father is telling the truth. Thus, reality would be that Tema as listed to being the second generation does not exist at all. This very fact is contradictory his present family tree.

On the other hand, the duo Loas and James Watas are also heavily disputed by Amon Warl and Joel Tamtam who claims the same persons to be members of their tribe strongly supported by CC1 and CC3.

Further, by way of comparison with other claimants it is apparent that this claimant's genealogy appears very young having seven generations from Loas. Whereas, CC1, CC2, CC3 and CC4 have more generations. For illustration, CC3 CC4 each have 14 generations altogether. All these findings have also left doubts in our mind over reliability of his family line.

That leads us to the next question posed as to whether it is possible for Loas to set up 5 nasaras and nakamals of Ome, Leltol, Ranot, Wanur and Ranapot. The answer to the question is in the negative by reason of the following grounds.

a. His claimed nasaras are specifically disputed by disputants CC3. Also, CC1, CC2 and CC4 have also refuted his purported story relating to the nasaras and issued supporting statements in favour of CC3's narrative.

b. Samuel Bule's statement suggests that Loas set up 3 nakamals at Lonlibli, 2 nakamals at Ome, 2 at Ranot, 2 at Wanur and 1 at Ranapot nasara. In our opinion and historically a single person cannot by far create five nasaras or nakamals. Practically, a man must raise pigs to enable him stage a pig killing feast and that demands time. It was told that the farthest figure of nasara created by an individual chief would stand around 3.

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Our determination of the issue is that we do not believe that a sole chief would have the full capacity to create five nasaras together with 10 nakamals. This perceived story is in great doubt because such happening would be proven impractical and expensive to some extent.

We now turn to his response contending that his family has given right for land use to certain locals and claimants in this case. His claim indicates that his early ancestors have allotted Panlikaula to one Willie Tamtambu, Lonlitor to Richard Sali, Lontonga to Tauleo Bebe and Lonlibli to Amon Wari CC2. However, this argument could not be sustained given lack of supporting evidence.

Firstly, it is not clear as to which of his ancestor was involved in these arrangements. He has no information to that direction. He could not neither name the exact people from the other alleged recipient of the said parcels of land. He also failed to call any named receivers or members of their families for confirmation of the said dealings. He choose not to utilize this option.

Secondly, we noted that he has expressly stated in court that the land areas commencing from Lonliae nakamal up to Pandebamal belongs to Philip Taribut. On cross examination he had maintained that by custom the recipient now have absolute ownership of their allocated land areas. The question posed here is if so, then why claim the same areas of land again. The court's view in this perspective is that his claim in this dispute would be vexatious and oppressive by reason that he no longer has any right left at this time. He manifestly has no locus standi or standing in this proceeding given the transfer of land ownership.

Thirdly, the court doubted his alleged land deeds in the sense that matters of land rights or transfers of ownership are of common public issues. If they had actually happened in the past, then those arrangements would have definitely been witnessed by the public in some kind of ceremony in accordance to the custom processes or formality. There is no available information suggesting such a likelihood. Thus, in the absence of such facts, we conclude that such a story is baseless and non existent.

Moving on to the issue of boundary. It is obvious that this plaintiff remains uncertain over his publicized land area. He is definitely not sure as to where exactly his land territory begins and ends. The evidence reveals he had caused several changes to his claimed boundaries. For instance, in 2003 he had submitted a land boundary claiming it as Banmatmat land starting at Atbera and ending at place known as Gusnana. While at date, he is claiming a more wider area beginning at Pandebamal down to Wabet river on the south naming it as Ome land. He has frankly confirmed those facts as correct during interrogation.

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Our assessment of his demeanor and the adduced evidence of relevance to this issue before the court looks shaggy and unfounded. In is our remark that any person claiming land should have one told history with one boundary passed down from generations to another regardless of all circumstances.

Equally, given the vastness of the land areas claimed we have formulated a conclusion that a single chief or ancestor would never acquire or take control of such a land unless proven otherwise. In our case, there are no other information produced by this claimant to substantiate his claim.

On the other hand, Stevenson Bule has also told the tribunal that there are customary land areas within the advertised land, such as Ome, Remblili, Lonsing and Banmatmat. This finding is just another ground of discrepancy to his case. The disputed land in our determination, is not a single boundary but a land comprising of other customary territories as acknowledged by the rests of the disputants.

Furthermore, he could not establish evidence that his tribe owns every nasaras thereon. There are more than five nasaras as listed and claimed by the parties. It is our observation that he does not dispute or claim ownership of every nasaras there on the land. Interestingly, the visited nasara of Lonliae was never disputed by Stevenson Bule throughout the hearing. However, during the site visit he decided to change course of claim by claiming its ownership. This is just another piece of evidence that would inevitably confirm that he is still insecure as to which nasaras he actually owns. He seems to be floating around without a real history.

Beside his claim, defendants 1, 2, 3 and 4 are disputing his claimed nasaras and custom identities. For illustration, CC3 is also claiming the nasara of Ome as his clan's original nasara supported by his co defendants. Their evidence has out balanced the primary claimant's evidence.

The issue of Tunan is accepted by the court with the view that it is a typical traditional process. It is an act of recognition to the uncles or patrilineal line. However, it is evident in this scenario that the claim occasion was done without proper custom processes but politically manipulated with influence amidst differences between Morris Bule and CC1 over the land in dispute. It was not undertaken with good will.

We now turn to his argument over Thomas Tamtam's originality. It is his submission that the questioned ancestor is a native of the island of Ambrym. One of his pressing reasons is that Thomas Tamtam had purchased an area known as

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Lonlibul by offering a pig and 30 pounds to Philip Taribut as payment. Lonwas and Pantor were as well traded to Thomas Tamtam by James Watas.

This particular claim is dubious and misconceived because, we found no trace proof indicating that Thomas Tamtam had paid those plots of land from James Watas and Philip Taribut. First, there are no witnesses to confirm these land transactions. Secondly, Ron Tamtam and the rest of the claimants have denied having any knowledge of such agreement. Contrary to his assertion, the tribunal instead, found evidence of record disclosing that David Tamtam, Tom Tamtam, Philip Taribut and others being vendors were acting on a representative basis for the locals and the Church of Christ of New South Wales on the other part. For reference, with regards to the land of Lonwas look up page 37 of Samuel's statement.

Even, Charley Lala's statement above on the same matter could not persuade us at all. Again as emphasized earlier, his evidence could have gain some weight provided Zakias Parbo was called as a witness to confirm the alleged verbal communication. Similarly, Harold Tema's statement pertaining to this same issue could not be sustained upon the same point of understanding.

In addition, the original claimant has misinterpreted the recorded confrontation extracted from the French Resident Commissioner Archives of 1909 at page 17. Such manuscript is quite clear and understandable in its literal meaning. It is explicitly saying that Thomas Tamtam was not born on this part which is Bay Homo, during the negotiations to the land sales transactions.

Furthermore, this claimant could not proof by way of evidence that Thomas Tamtam had originated from the island of Ambrym. Questions such as to which area or tribe Thomas Tamtam had come from remain answered. We were told that a group of supporters of the original claimant did pay a visit to north Ambrym on the 1st of June, 2007 in an attempt to find Ron Tamtam's originality. However, that mission was proved to be fruitless.

The tribunal's finding to this debate is that Thomas Tamtam is indeed a native of Pentecost. The original claimant could only speculate information with suspicion with no root. More detailed discussion will be made on this issue under CC1's forthcoming evidence.

In conclusion to his whole claim, the plaintiff has entirely fallen short to establish his claim with evidence. He had no compelling evidence. He has failed to produce the most appropriate witnesses in court to support his statements. Two (2) of his witnesses came to court to dispute their own interests rather than producing statements to back his proper case. He has no real history, given his

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shown irregularities and uncertainty over this claim. Most outstandingly, he has also completely failed to challenge statements belonging Ron Tamtam and others. Having done so, he left major issues contained in those statements unchallenged and hence accredited in favour of CC1 and his colleagues.

In light of the foregoing discussions, we have no other alternatives but decline to grant his claim.

Counter claimant 1.

This disputant's claim is by way of the patrilineal bloodline of Salmeme being the original ancestor of Banmatmat customary land boundary. The opposing parties are Morris Bule and Zaacheus Bila. We note throughout the hearing of this defendant's claim that the duo had completely failed to challenge his evidence. For example, Stevenson Bule having been given the opportunity to ask question, elected not to question Ron Tamtam at all including his witnesses. Meanwhile, CC2, CC3 and CC4 and their witnesses do not dispute CC1's claim. They have made supporting statements confirming CC1's history as correct.

Given the position of the original claim; it is obvious that the entire evidence of Ron Tamtam and his witnesses remain intact. We take that the original claimant is accepting all information as claimed by Ron Tamtam as accurate. Amongst other statements, the original claimant is accepting that Bule comes from the island of Ambae. In avoidance of repetition, we have elected not to re iterate the entire evidence advanced by CC1 here.

Needless to talk about though, for purposes of discussion we have noted that Thomas Tamtam's originality is the central argument dwelled on by Stevenson and his witnesses. We shall dwell on that debate in the following paragraphs.

That claim is baseless and misconceived given the fact that we found no trace proof indicating that Thomas Tamtam had purchased land from James Watas or Philip Taribut. On the other hand, CC1 and the rest of the claimants have denied having any knowledge of such dealings. The court could only find documentary record of land but instead stating that David Tamtam, Tom Tamtam and Philip Taribut and others acting as vendors of Lonwas sold to the Church of Christ of New South Wales with a value of 20 pounds according CC1's exhibit annexed and marked RT4. The statements provided by Charley Lala and Harold Tema on the same matter could not persuade us at all given lack of supporting material.

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While, the recorded confrontation extract heavily relied upon from the French Resident Commissioner Archives of 1909 at page 17 is quite clear in its literal sense. To cast out any shadows of doubt, the specific sentence made on the 6th of December, 1909 states and we quote" *Pour ces terrains de la Baie Homo la Societe est forte de ses droits et aurai raison de pretentions mensongeres le l' indigene TOMACE qui de son proper aveu a declare qu'il n'etait pas ne sur cette partie de Pentecote".*

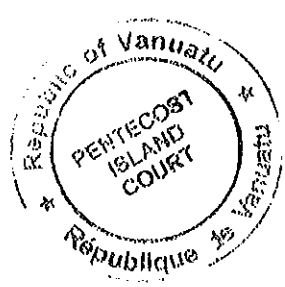
Our reading and understanding of the extract and the entire document itself is that it is saying that Tomace known as Thomas Tamtam has admitted himself that he was not born on this part which is Bay Homo, during the negotiations to the sales transactions. So, there is room for implication that it is very likely that Thomas Tamtam may have perhaps originated from other parts of Pentecost island. That possibility could not be ruled out. The original claimant has misinterpreted this sentence by saying that Thomas was not born at Pentecost.

Additionally, the original claimant and his witnesses were not able to furnish the court with clear data as to which area or tribe Thomas Tamtam had originated from Ambrym. In the absence of such missing information this whole this argument is rejected and we instead accept CC1's claim as found.

In view of the above information, we have come to the conclusion to this debate that Thomas Tamtam is undoubtedly an indigenous native of Banmatmat. There is ample evidence providing the following facts. He had gone to Queensland, Australia and returned as an English missionary to the area. He spoke south Pentecost dialect as used by his present descendants. He is a native of Phasemasemare area and a chief according to the extracts provided by the original claimant. Also the extract of land sales in 1912 attached as annexure RT3 of CC1's statement provides that Thomas Tamtam is a native of Banmatmat.

It follows that the argument over this name Salmeme could not either be sustained. Anatol Watas is disputing this name in his own self interest claiming to own such local name. The nature of his claim would be a civil dispute and if he wishes to dispute such name he should file a separate case. It is apparent that this witness had nothing to do with the original claimant's case when he admitted that he cannot say anything. Secondly, it is accepted that this figure Salmeme claimed by CC1 is not the same person claimed by his tribe.

Turning to the rest of other raised issues targeting CC1, we have here decided not to repeat our considerations since they have already been discussed and decided upon their merit when determining the plaintiff's claim.



Having given consideration CC1's case, we conclude that there is sufficient evidence provided by this claimant in justification of his claimed area. The finding in brief is that Salmeme is the original ancestor of CC1 and the first person to explore, settled and control the land of Banmatmat. His descendants had stationed nasaras and nakamals thereon as well and for that reason the land of Banmatmat shall continue to remain in their hands.

Counter claimant 2

This defendant is claiming the land of Lonsing. It is noticed that CC1, CC3 and CC4 and their witnesses do not dispute CC2's claim and also made supporting statements to back up his history.

The only claimant who had confronted CC2 is the plaintiff who is also claiming to be a descendant of Loas. On examination, CC2 had maintained his argument and further labeled Morris Bule of fabricating his family tree because he seems to have a loosen generation. Our analysis of their evidence over this topic has shifted the balance of truth in favour of CC2 given the listed facts below.

Samuel Bule's evidence at page 3 paragraph 9 clearly admits that he could only trace his family tree back to Teomarel whom is classed as is the third generation. Stevenson Bule upon questioned over the reliability of this fact, genuinely confessed that his father is telling nothing else but the truth. This specific truth has undermined the plaintiff's present family tree. It certainly tells us that Loas and Tema as listed to being the first and second generations do not exist at all. While, CC1, CC3 and CC4 and their witnesses have made common approval statements of CC2's family tree as correct.

Another contending argument of the principal claimant suggests that he had given CC2 right to use the land Lonlibli. However, this argument could not be accepted given lack of supporting evidence. First, he has no information as to which of his ancestor was involved in this arrangement. He could not name his exact ancestor being the donor neither had he identified the correct person from Amon Wari's family as the recipient of the land.

In addition, the court doubted his alleged land deeds in the sense that issues of land rights are of common public concern. If they had actually happened in the past then those arrangements would have been witnessed by the relevant community leaders such as chiefs or other elderly people in some kind of ceremony. There is no available information suggesting such a probability. The rest of the parties have no knowledge of such arrangements. Thus, in the absence of such facts, we conclude that such a story is baseless and non existent.

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His account concerning the nasaras and nakamals including the possession customary properties remain free of dispute. None of the parties especially the plaintiff and CC5 had attempted to challenge or claim them.

We have accepted this claimant's claimed boundary given the uncertainty on the part of the original disputant over the advertised boundary. Stevenson Bule and his witnesses are not really familiar with the claimed land area. To avoid repetition detailed explanation on this finding may be viewed above under the relevant discussion over the advertisement.

In summary of our findings, we conclude that Loas is indeed the original ancestor of Amon Wari and the original human to explore and live the land of Lonsing. Lonsing is a separate land boundary beside Ome, Remblili and Banmatmat. At Waliap he created his original nasara. His later descendants have also performed pig killings and erected nasaras and nakamals thereon the land.

Counter claimant 3

Joseph Rauban is claiming the land of Ome through the patrilineal line of Bumnotnot being his original ancestor. The only opposing party to his claim is the original contestant who also dispute ownership of Ome land. Our determination of their evidence is as follows.

It is our immediate note that CC1, CC2 and CC4 and their witnesses do not dispute CC3's claim. They have issued favourable statements to back up his claim of ownership.

This claimant supported by his colleagues is submitting that Ome land comprises of a smaller land territory but not as mapped. Other parts of Ome land remain outside the advertised land. There are other traditional land territories thereon touched by the advertised map such as Ome, Remblili, Lonsing and Banmatmat.

Considering the entire boundary claimed by the original claimant, we have opted to accept CC3's claimed territory given the fact that Stevenson Bule and his witnesses are not certain over the claimed boundaries as over mentioned above. In fact, the original claimant has himself admitted making alterations to his original map with no reasonable justification. For the irregularities played on the part of Morris Bule we have accepted Joseph's claimed boundary. The finding is that the advertised land is not a single boundary on its own but a land comprising of other customary land having separate territories as acknowledged and confirmed by the rests of the contenders.

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Moving on to the disputed nasaras and nakamals. The gathered evidence in this area suggests that Joseph Rauban has substantiated sufficient evidence with the support of CC1, CC2 and CC4. It is still at large questionable as to whether Loas will be able to practically set up the five nasaras. The original claimant's story suggests that Loas has created a total of five (5) nasaras with 10 nakamals within Ome land. We are hesitant to believe the original claimant because realistically it would be impractical in this context for a person to reach such achievements.

We closely noted that the side story accounted by Joseph Rauban is logic and sensible that Bumnotnot after exploring, he had settled the land and founded the nasara of Ome. His other descendants were also involved in the creation of other nasara or nakamal at Wanur and other areas. This fact is further supported by another piece of evidence by virtue of the fact that his family tree had existed prior to the creation of Morris Bule's genealogy tree. Counter claimant 3 has a total of 14 generations altogether compared with 8 questioned generations belonging to Morris Bule.

The accusation advanced by the primary disputant to have come from Ambrym cannot prevail given lack of supporting material. Stevenson and Lino Bule could not supply the court with clear and constructive information as to which area in Ambrym, or tribe CC3 had originated. That failure leaves us to rule out all possibilities and pronounce that Pasan is not Joseph Rauban's forefather.

Given the totality of his gathered evidence we are persuaded that CC3 has proven his case supported by his co defendants that Bumnotnot and his present relatives are the rightful owners of Ome as marked within the advertised land.

Counter claimant 4

Joel Tamtam is disputing certain part of the land publicized by Morris Bule claiming it as part of Remblili customary land territory. There are other cultural land territories such as Lonsing, Banmatmat and Ome. Defendant 5 choose not to challenge this claim because he is specifically disputing a separate area of land. As a result, this bit of evidence remained free of dispute. The original disputant on the other hand had merely commented that Remblili is not covered by his claim but failed to support his perception with information.

It is accepted that his earliest ancestor Leb had settled and occupied that land for centuries. There are customary objects possessed by his ancestor and unique to his bloodline. Leb founded the nasara and nakamal of Remblili. Later descendants of his ancestry created other nasaras and nakamals such as Sado,

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Pontangiel, Rebelaul, Panmoda, Lonau, Alsa, Ranbutanpiripiri and Poneat nakamals. No party is disputing any of those nasaras.

His grand parents also gave land for use to Augustine Taback and family among other named tenants. Augustine Taback was called as a witness giving confirmation of this claim.

In whole, CC1, CC2, CC3 and CC5 and their witnesses do not dispute CC4's claim and also advanced supporting statements to back up his claim of ownership. Given the circumstances of CC4's claim we have no reservation but to admit and accept his claim as sought.

Counter claimant 5

Zaacheus Bila by way of his claim through the matrilineal line is claiming ownership of a parcel of land known as Waribot. A larger part of his claim remains outside the advertised map. The land claimed begins at the seacoast at Waribot area up to Waniol. This disputant's claim is heavily challenged by every party. Here are some of the findings.

Firstly, he seems uncertain over his position in this case. He is claiming ownership rather than the surviving children of his uncle Zaacheus Bebe. On interrogation, he claims that his uncle had given him right or power of attorney to claim on his behalf.

Conversely, the court found no related evidence of such a dealing. Luke Fargo had told the court that the land belongs to Zaacheus Bebe. He has disadvantages here as none of the surviving issues of his uncle had come to court for reconfirmation of his standing.

Secondly, his purported boundary is as well deeply disputed by all claimants criticizing it as fake. The father of his witness, chief Peter Benkat had initially been witnessing the original claimant's claimed territory. However, his son Peter is this time witnessing another landmark contrary to their usual belief. Peter Benkat on cross examination had admitted such changes. This fact puts this witness statement and the claimed landmark into distrust.

The claimed village court decisions presided over by chief Willie Bong Matur on the 22nd of March 1979 would legally have no effect to our determination. Our verification of such document is that it is merely a minute and not the actual decision. We also found no disclosure of the reasoning of the declaration.

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Most particularly noted; Zaacheus Bila had initially been supporting the main claimant in the 2003 hearing. It is interesting this time that he had filed a separate claim. The point is that he too would have no real history or belief given his changing course of claim. He had no mention as to whether he owns any nasara or nakamals. Neither had he mentioned any customary objects regarded as a tabu or totem identical to his tribe.

In a nut shell, this claimant only had a half page statement of claim with very little information over his claim. He lacks corroborating evidence. He is uncertain over his position in this case and therefore, he cannot by law and custom claim land which he believes belonged to his uncle, Zaacheus Bebe. Given the nature of his case, his claim in this respect must fall.

DECLARATION

In light of the totality of the gathered evidence adduced in this proceeding with the discussed findings, and in application of the law and custom we hereby this day pronounce the following declarations:

1. That CC1, Ron Tamtam and family is declared custom owners of the land of Banmatmat as claimed and

2. That CC2, Amon Wari and family is declared owners of the area claimed as Lonsing and

3. That CC3, Joseph Rauban and family is declared owners of Ome land and

4. That CC4, Joel Tamtam and family is also declared owners of the land area claimed as part of Remblili customary land and

5. That the claims belonging to the principal claimant Morris Bule and counter claimant 5, Zaacheus Bila are entirely dismissed.

For ease of clarity all claimed boundaries sitting outside the advertised land will not form part of this judgment. It is reminded that this declaration does not also affect other property rights on the land, such as rights of claimants or other local occupants to harvest coconuts, garden, graze cattle and other existing development thereon the declared land. The losing parties must bear in mind that these rights may be waived or varied by the owners. The exercise of these rights is limited to existing properties prior to this declaration.

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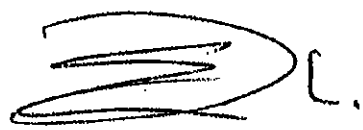
Parties are to pay their own costs necessitated by this proceeding.

The losing claimants are duly informed of their right to appeal within 30 days period at the receipt of this written judgment.

Attached to this decision is a copy of the sketch map outlining the boundaries of the advertised land of Ome produced by the original claimant. Another map is also provided separately showing the declared lands to the respective parties.

Dated at Lakatoro this 16th day of April, 2009

BY THE COURT



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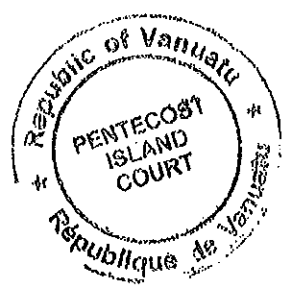
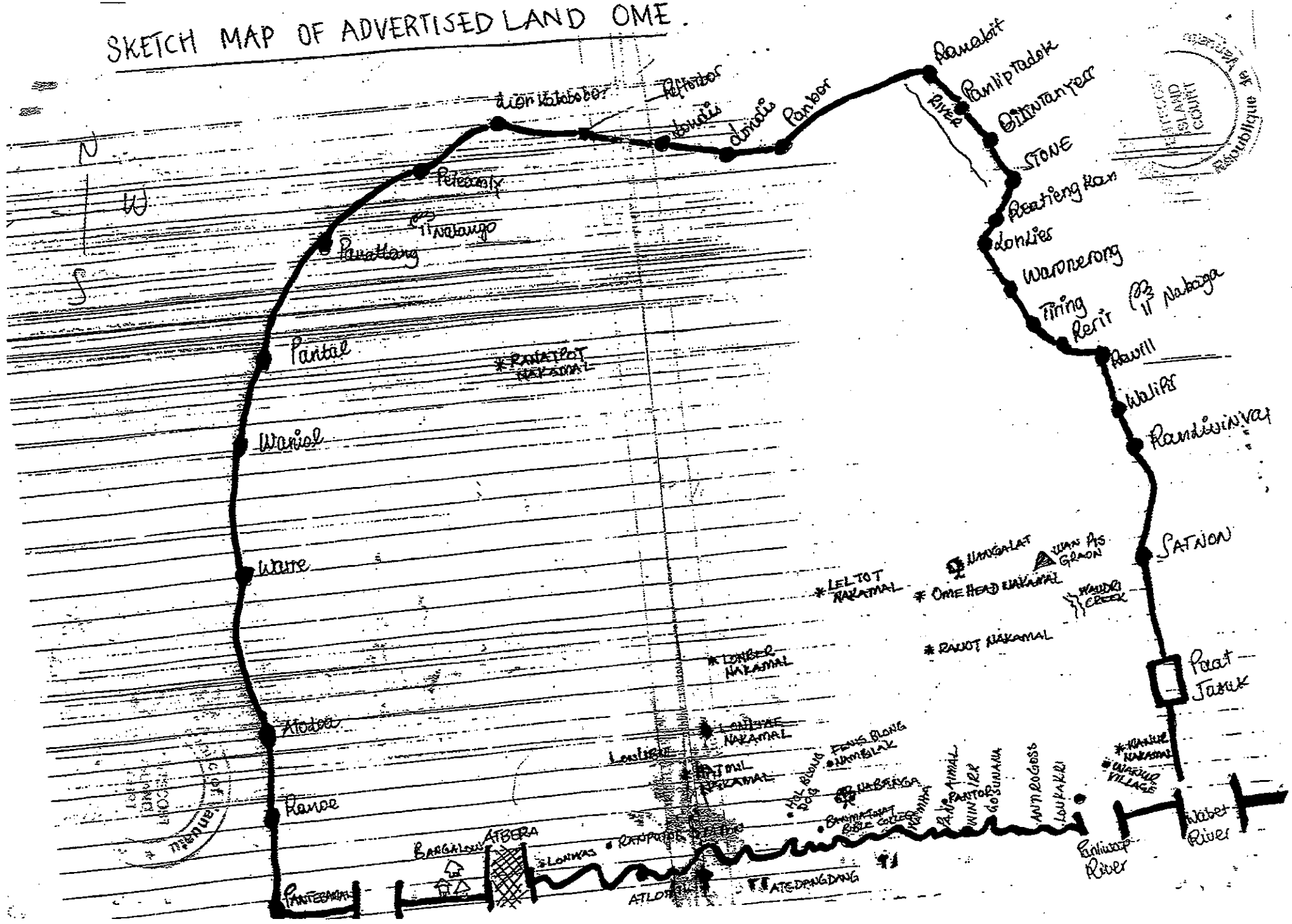
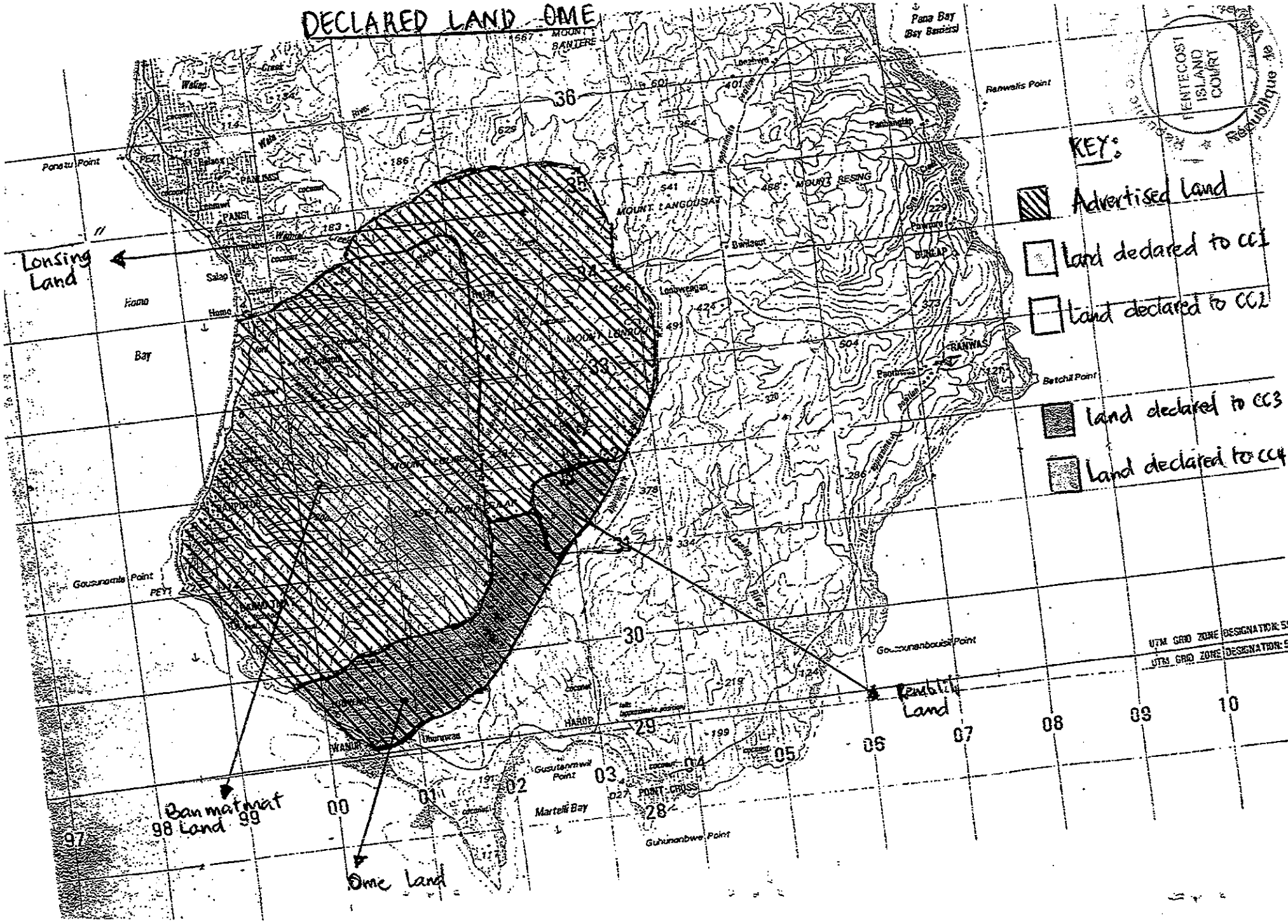
Edwin Macreveth
Presiding Senior Magistrate



SKETCH MAP OF ADVERTISED LAND OME.




DECLARED LAND OME
KEY:
Advertised Land
Land declared to CC1
Land declared to CC2
Land declared to CC3
Land declared to CC4
Lonsing Land
Banmatmat Land
Ome Land
Remblik Land
Pana Bay (Bay Barriers)
Ranwalis Point
Ponatu Point
Homo Bay
Gousunamla Point
Betchil Point
Gousunanbouisi Point
Guhunanbwe Point
Martelli Bay
Gusutanmwil Point
MOUNT LANGOUSIAT
MOUNT RESING
MOUNT BANTERE
UTM GRID ZONE DESIGNATION: 5
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