

**IN THE MALEKULA ISLAND COURT
HELD AT LAKATORO/ MALEKULA**

(Civil Jurisdiction)

Civil Case #. 28/09
Judg. #

**BETWEEN : JANIQUE MELTEKANI
(Claimant)**

**AND: MALESSAS DONAL
(1ST COUNTER CLAIMANT)**

**AND: BLASIL TAISETTS
(2ND COUNTER CLAIMANT)**

**AND: MTAIN JEAN NOEL
(3RD COUNTER CLAIMANT)**

**MATTER : DISPUTE OVER JIFLY TAETOL BLONG NASARA
MELNATOR**

**Coram: Jastis Douglas Fatdal
Jastis SHEMA TASVAILLE
Jastis FREDDY MALRESS**

Clerk: Wendy W. Raptigh

JUDGMENT

Brief backgraon blong case:

Civil Case # 28/09 hemi wan customary matter concernem dispute long Jifly taetol blong Melnator nasara, hemia long Walla Island. Case ibin go long trial long 26th August, 2009 hemia long Orap sub centre. Afta long trial ol justices ibin gat Janis tu blong go visitim nasara hemia long Walla Island.

Issue: Whu ia long olgeta fofala claimant ia igat raet blong karem taetol blong Paramount Jif blong Melnator nasara?

Smol Histri blong case:

Original Claimant – Janique Meltekani hemi stap talem long histri blong hem se hemi kam long Island blong Pentecost tru long tufala man we oli kam shore long Potonjelle mo mov igo long Levu, then long Put. Long Put tufala iseraot from sam deferens blong tufala wan hemi go long Lowea wetem 1 pig mo ston blong pig mo nara wan igo mekem



nakamal Jedankew mo statem nasara Melnator. Hemi kleim Melnator from se hemi founder blong nasara ia mo taem hemi statem nasara ia hemi kleim se hemi Paramount Jif blong Melnator nasara. Insaed long Jedankew nakamal we Melnator istap insaed igat ol sakrifaes ston, ol grave, tu tamtam, ston blong ol ded, ston blong ol family we oli kam mo sam ol nara samting we bae hemi jes explenem long Court.

1st Counter Claimant – Malessas Dona hemi kam long Tanmeliu. Hemi se hem nao paramount Jif long nasara Melnator from Jedankew ipemaot olfala blong hem wetem 30 pigs. Melnator hemi namba tu nasara blong Ama. Ama nao hemi bin givim bandri we tedei Melnator nasara istap long hem wetem olgeta nakamal ia; Jedankew, Tsinior mo Put. Igat ston blong Nawu mo Nibhurtra nakamal we oli stap insaed long nasara Melnator. Lawor nao hemi bildim fes nasara we hemi Ama. Tabu fire Ama iputum finis. Hemi stap statem tu se Lawor wetem Ama namangy tudei hemi wan mo Melnator, Lawo, Pelut, Sanaliu oli diferan tudei long Namangi
Hemi add on blong talem se Original claimant mo 3rd counter claimant oli blong Pentecost. 2nd counter claimant hemi blong Atchin main land, oli tekem olgeta ikam blong representem 2 olfala we oli kilim tufala long Atchin mainland. Tufala iblong Nabahurtra long Lolnai village. Ol stret man blong Melnator nasara oli ded evriwan finis, line blong woman nomo igat Isaak Malnaim long Rano, Maltabong long Vao mo Rosa long Atchin. Kastom bisnis long taem blong ded blong trifala ia oli mekem ikam long Melnator nasara, Jedankev nakamal long olfala blong mi Eugene.

2nd Counter Claimant – Placide Taissets hemi stap claim se tru long blad line blong hem nao Amel Melnator istat. Thru long Rowsilolnai blong Lolnai nakamal hemi tekem woman Rano mo tufala igat wan pikinini nem blong hem Natossets. Natossets nao hemi founder blong Amel Melnator. Fes Namangi long Natossets hemi kilim long Amel Melnator mo maintenem Jifly taetol blong hem mo blad line blong hem. Pikinini blong hem Lietenmal hemi kilim 2nd namaki long Amel Melnator mo boy blong hem Bourmetenmal hemi kilim 3rd namaki long Amel Melnator. Hemi mekem wan ples blong preparem ol tul blong fight (Vivsibekver). Pikinini blong hem Meltekaout hemi kilim namanbi wetem pupu blong hem long Atchin. Hemi buildim Nimlep, wan custom haos mo hemi gat wan custom singsing. Pikinini blong hem Melteksaen hem tu ikilim namanki long Atchin mo pikinini blong hem Tilenmal hemi kilim namanki long Amel Ama Walla Island. Pikinini blong hem Placide hemi no kilim namangi from Christianity ikam finis be full raet blong papa blong hem Tilenmal hemi givim long hem we hemi maentenem kasem tudei.

3rd Counter Claimant – Long smol histri blong hem hemi kam long Sanaliu wetem save se Nbelroriam, pikinini blong Warala hemi fes man we ikam long Walla Island. Nbelrorian nao istatem nakamal Lolnai mo Melnator. Mtain Jean Noel hemi stap kleim se blad line blong bubu Mtain mo fes descendant blong em emi blad line blong paramount jif blong fes tabu nakamal Lolnai mo fes tabu nasara Melnator. Hemi talem se ol fes descendant blong hem oli kilim namanki long Melnator ikam kasem bubu Denis (Mtain) we hemi kilim las namanki afta Christianity ikam tru long Walla island. Nem we hemi tekem long las namanki ia hemi Wotsani. Emi resifim ol man kam from Uripiv smol aelan, Pentecost mo nasara Ama.



Ol findings blong Court:

Follem olgeta brief histri long ol statement blong ol, toktok blong olgeta witness mo wokbaot long Nasara wetem wan wan claimant, Court inotem olgeta findings ia:

Original claimant – Janique Meltekani

- Court hemi finemaot se yes itru follem statement mo toktok blong hem mo witness se tribe blong hem hemi kam long Pentecost Island.
- Court hemi finem se Claimant hemi klem Paramount Jif taetol blong Melnator be hemi pemaot fire long Nasara blong Ama, minim hemi shud be smol nasara blong Ama.
- Court ino finem any preservation pruv blong basket we claimant hemi travel wetem long Pentecost ikam long Malekula.
- Court ino faenem tu eni pruf blong ston we claimant itru travel wetem long Pentecost ikam long Malekula mo ston ia iblong wanem.
- Court hemi luk mo prufum se yes ikat registration ston blong registerem ol man kam long nasara blong Melnator olsem we istap long statement blong Claimant.
- Court ino bin lukim area we tufala tamtam istanap long hem olsem we statement blong hem italem.
- Court ino bin kat pruf mo clear information long family ston olsem we istap long statmen blong hem.
- Court ikat pruv se ikat sacrifice ston mo Court ifinemaot tu se ikat tu separate nem blong spirit we claimant I worshipping, long statement ikat Belang Demej mo long submission ikat Kuku.
- Court ifinem tu se Claimant long family tree, hemi gat Kuku we hemi great great grand papa blong hem, be Court hemi confuse se long sacrifice ston claimant hemi stanap mo mekem sacrifice igo long Kuku?
- Court ino bin kat pruv inaf long royal grave we istap insaed long nakamal or Nimbaur blong hem.

Counter claimant 1 – Malessas Donal

- Court ifinemaot se long Nasara blong Amelnator inomo gat lofe blad we ilaef istap tudei follem man be ifollem nomo trifala woman we oli maret igoaot long tri diferen ples long Malekula, ikat Rano, Vao mo Atchin.
- Court ifinem tu se CC1 hemi olsem wan adopsen long Melnator nasara wetem 30 pigs olsem payment blong hem.
- Court inotem se wan custom bisnis we itekem ples long Rano, oli givim hed blong pig iko long Melnator nasara, we igo stret long olfala Eugene we hemi papa blong CC1.
- Court inotem se Malessas Donal ibin prufum Royal grave blong hem long Kot wetem eye witness blong Court blong lukim skul blong hed insaed long Royal grave.
- Court ifinem tu se itru ikat registration ston we CC1 hemi prufum insaed long Melnator nasara se hemi blong registerem ol man kam.
- Court ifinem tu se CC1 hemi prufum long Court area blong nakamal blong hem se nem blong hem Tsindankiw.



- Court ifinem tu se ikat nakamal representative ston blong ol diferen nakamal insaed long Melnator nasara olsem we CC1 istap talemaot mo some long Kot.
- Court ifinem mo lukim tu wan conference ples blong nakamal Tsidankiw we istap anda long Melnator nasara we istap tekem tugeta ol diferen nakamal ikam tugeta from ol diferen custom activity olsem CC1 istap talemaot.
- Court ino bin lukim kastom ston art we CC1 isoem long statement, be hemi bin lukim ston we kastom ston art (Tala) istap lay daon long hem.
- Court hemi finem tu se CC1 hemi bin prufum long Court ston blong Jif we hem, hemi stap clemem long nasara blong Melnator.

Counter Claimant 2 – Taissets Placide

- Court hemi finem se CC2 ibin confemem long Court se Natossets hemi founder blong Melnator nasara mo tu hemi talemaot se Bourmetenmal nao hemi founder blong Amelnator nasara afta hemi muv igo long Atchin.
- Court ifinemaot tu se Witness 1 blong CC2 ibin talem se hemi bin recifim Bourmetenmal long Atchin be ino olsem we stamen blong CC2 se Meltekaut ibin kilim namangi long Achin wetem bubu blong hem we hemi Lietenmal.
- Court hemi bin lukim nasara ia Amelve olsem we CC2 istap kleim mo finemaot se ikat small performance blong namangi olsem stating blong wan smol nasara.
- Court inotem se nakamal ia Lolnai olsem we CC2 istap kleim hem hemi jes sitemap ol stone igo raon follem toktok blong CC2 se nakamal ia ibin destroy before finis follem wan raorao blong ol tribe ia mekem se Court inokat inaf pruf long nakamal Lolnai.
- Court ino finem appropriate pruf blong indicatem ston or ples blong worship olsem we CC2 istap kleim long statement blong hem long statement.
- Court ifinem se yes ikat wan grave be grave ia long set up mo likeness blong hem, ino reflectem nakamal we CC2 istap klemem (Lolnai)
- Court ino bin kat pruf long chair ston we CC2 istap klemem long statement.
- Court ibin finem se yes ikat wan main rod olsem we CC2 istap claimem, be Court inotem se main rod ia ipas kolosap nomo long nakamal we hem hemi stap klemem (Lolnai)
- Court iprufum ples blong ol man olsem we CC2 istap klemem be Court iconfuse long rison se Original Claimant mo CC1 ibin klem se nakamal blong tufala (Tsidankiw) anda nasara blong Melnator.
- Long ples blong ol woman Court ino bin kat wan clear pruv long hem olsem we CC2 istap claim long statement.

Counter Claimant 3 – Mtain Jean Noel

- Court ifinem follem bladline blong CC3 se hemi smol brata blong CC2 we hemi fes decendant blong tribe.
- Court ifinem tu se CC3 follem statement blong yu se yu nao yu recifim ol man kam tribe blong uripiv smol island, Pentecost mo Ama Court ifinem long toktok blong ol claimant wetem ol witness se Ama hemi bigfala nasara wetem 6 namangi hemi mekem mo Melnator hemi kilim 3 namanki nomo.



- Court ifinem tu se CC3 hemi bin profum registration ston blong makem land boundary blong hem olsem we istap long statement.
- Court hemi no bin kat clear explanation long hamas namangi long nasara Melnator wetem ol prof ston we isave relatem long statement blong yu stat long ol fes pupu blong yu kam kasem las pupu blong yu Denis we istap kleim se hem nao hemi kilim las namangi afta Christianity hemi kam.
- Court iconfuse follem statement blong yu se pupu blong yu Denis nao hemi kilim las namangi before Christianity ikam, wea as fes descendant blong tribe blong yu we hemi CC2 istap klemem se pupu blong hem nao (Tilenmal) hemi mekem las namangi olsem we yu CC3 istap talemaot long statement.
- CC3 hemi bin profum tu long Court blong soem ston blong Jif we hem hemi stap clemem insaed long Melnator nasara.

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 ol findings:

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

Long saed blong custom Jifly taetol hemi kamaot tru long blad line mo ol performances blong namanki mo tu ol ston mo ol prof insaed long wan nasara. Sapos blad line ifinis olgeta then adoption long custom isave tekem raet.

Decision:

Wetem ol toktok ya court ikam blong mekem decision se:

Inomo gat wan stret laef blad blong Melnator nasara istap tedei from ino gat prof mo tru long ol findings we Cout inotem, therefore Court istap mekem decision olsem:

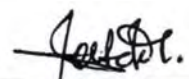
1. Jifly taetol blong Nasara Melnator Court igivim raet long CC1 – Donal Malesses tru long adoption.



2. CC2 – Placide Taissets mo CC3 Mtain Jean Noel yutufala iolsem smol nasara or fire blong Melnator Nasara.
3. Original Claimant – Janique Meltekani yu yu register insaed long Melnator Nasara therefore yu yu stap anda long authority blong Paramaount Jif blong Melnator.
4. Sapos eni party ino agri long decision ia, Court igivim 30 days blong appeal stat long tudei 1st October, 2009 kasem 1st November, 2009.

Dated long Lakatoro tedei 1st dei blong October, 2009.

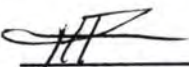
Before:



Douglas Fatdal
(Jastis)



Shema Tasvaille
(Jastis)



Freddy Malress
(Jastis)

