

IN THE EFATE ISLAND COURT
OF THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Chiefly Dispute Case No. 06 of 2009

BETWEEN: **MR CHARLEY MALA**
 Claimant

AND: **CHIEF DAN BOB**
 First Defendant

AND: **CHIEF MARIATUATUINGAPAT**
 Second Defendant

Coram: Justice Ann Carlo [Chairman]
 Justice Eddie Karis
 Justice Harry Joshua

Clerk: Jona Mesao

Date of Hearing: 24th May 20010

Date of Judgment: 10th September 2010

JUDGMENT

Court ia isitaon long 24th May 2010 mo harem wan Claim we Claimant Mr Charley Mala ilodgem long Efate Island Court long 20th November 2009 concernem Chiefly Title ia Valealiu, we emi biliv se emi blong Lausake Village, emia long Island blong Emau.

CASE BLONG CLAIMANT

Claimant emi talem se Chiefly Title ia Valealiu emi wan Paramount Chiefly Title blong wan Paramount kastom we emi stap long Lausake Village long Island blong Emau. Claimant emi continue mo talem se Paramount Title ia we emi stap claimem tedei olsem Original Claimant long case ia, em nao emi stret nearest of skin or stret blad line we emi shud inheritem. Claimant italem se long Island blong Emau, ikat six (6) Paramount Chiefs mo wan long ol-Paramount Chiefs ia emi Valealiu. Chiefly Title ia Valealiu emi kat meaning blong em. Valea emi bigfala or Paramount cave mo Liu emi bigfala or Paramount high long chiefly kastom rank. Mi wandem talem tu long Court ia se mi, mi stap long category blong patrilineal blood long namba five (5) person. Emia nao custom bilif blong mi long Claim blong mi. Mi wandem talem tu se ol narafala avenues tu mi upholdem.

Olsem long mama Law blong yumi, Constitution emi upholdem kastom tu olsem part blong existing laws, emia long Article 95 (3). Claimant emi talem tu se ol stret native blong Lausake emi ol descendant's blong Original forefather's blong em Supua Marintano Valealiu. Valealiu emi kat wan Paramount Varea nomo we emi Varea Naroukoua. Paramount Chiefly Title ia emi kat tu ol custom properties blong em we oli stap long Lausake Village. Ikat Varea Naroukoua, we emi meeting place, Vanuan

mingo we emi meaning burial site, Toko emi meaning Chiefs throne, Wede emi ordination stone, Vanuan Tapesu, emi meanim private gardening land blong Chief, Vanuan Nawora, emi meanim private land passage blong chief, Vanuan Navsakeana, Ordination land blong Chief mo Naveaniana Ki Nawota olsem anda graon mineral blong Chief. Paramount Chief Valealiu emi bin stap welcomem ol different kaen pipol bifo ikam long Lausake Village long Emau Island. Hemi bilif blong mi se historical migration blong different racial Ni Vanuatu ia we oli reside long Lausake Village tedei emi independent mo neutral information we mi usum blong pruvum se Valealiu emi Paramount Chief blong Lausake Village.

Paramount Chief ia emi kat raet blong tekem strangers oli kam live wetem hem olsem emi wandem. Paramount Chief Valealiu, emi kat tu kastom boundary we istap between Lausake Village mo Wiana Village we pipol blong Emau Island oli save gud istap kasem tedei. Paramount Chief Valealiu emi kat tu ol warriors. Wan long ol warriors blong em nem blong em Taliemiala. Warrior Taliemiala wok blong em, emi blong mekem war, putum bak peace long taem blong war motu blong protectem land boundary blong Valealiu. Wan taem, Chief Ameara-Liu blong Takara emi invaetem Warrior Taliemiala blong iko helpem em long Efate blong bringim peace during tribal war we istap long Efate. Long family tri blong Supua Mariantano Valealiu we emi great great grand father blong mifala emi olsem. Supua Mariatano Valealiu emi maret long wan woman nem blong hem Leielo mo tufala ibornem two boy mo wan gel. Nem blong tufala boy ia emi Taliemiel mo Vakaletap Salegoro Valealiu mo sista blong tufala nem blong em Leiatrongo. Taliemiala emi wan warrior emi no mared. Vakaletap Salengoro emi kat two woman. Fes woman blong em nem blong em Leisara. Tufala imared mo tufala ikat wan boy nem blong em Kalomala Valealiu. Second woman blong em, emi Leinagis mo tufala ibornem Leita. Kalomala imaret long Leisera mo tufala ibornem Watson Salegoro Valealiu, Samson, Dorsen, Samy, Leimaies mo Mattlyne. Watson Salegoro Valealiu emi maret long Rubby mo tufala ibornem mi Charley Mala.

CASE BLONG FIRST DEFENDNAT

Long response blong First Defendant, Mr Simeon Arthy spokesperson blong Dan Bon, emi talem se Lausake emi wan long olgeta Village blong Island blong Emau, North Efate mo Paramount Chiefly nem blong em, emi Marmarak, be ino Valealiu olsem we Claimant emi claimem. Lausake Village emi wan long olgeta six (6) Villages long Island blong Emau, North Efate. Inside long Lausake Village ikat four (4) Varea nomo. Ikat Varea Tourakesa, Varea Sauwia, Varea Rongovai mo Varea M'Tapil. Varea Tourakesa emi bigfala Varea blong Lausake mo semtaem emi Varea blong Paramount Chief blong Lausake we emi Marmarak. Ol narafala Varea we mi talem antap oli smol smol Varea insaed long Lausake. Olgeta Chiefs blong wanwan Varea ia, olgeta tu, oli kat ol hed Chiefs blong olgeta. Long Varea Sauwia hed jif blong em emi Timataso we tedei jif Marpakoa emi stap olsem hed jif blong em. Long Varea Rongovai, hed jif blong em emi Nakmourosa, mo Varea blong M'Tapil, hed Chief blong em emi Martokei. Olgeta wanwan hed jif ia oli kat tu ol assistant jifs blong olgeta mo mi save talem long Court ia tedei se plante long ol smol smol jifs tu we istap long each Varea ia oli foldaon istap tedei.

Assistant jif blong Varea Taurakesa mo Varea Rongovai emi Tafmarak, assistant jif blong Varea Sauwia mo Taurakesa emi Atavurua mo long Varea M'Tapil emi Sokaelo. Tede long Lausake ikat four (4) jifs nomo we ilaef istap we oli kasem ordination. Ikat jif Sam Marpakoa blong Varea Sauwia, jif Peter Martokei blong Varea M'Tapil. Jif Sandy Mandal blong Varea Rongovai mo jif Gershom Naotawia blong Varea Taurakesa. Long Lausake Village tedei, jif Sam Marpakoa nao emi acting Paramount jif istap tedei. Olsem mi talem finis se Paramount chiefly title blong Marmarak we plante man ibin stap tekem ikam kasem tedei oli either ordain long chiefly taetol ia, Marmarak or oli stap acting (oliol) long em nomo. For example jif Marpakoa emi stap acting long Marmarak even though emi hed jif blong Varea Sauwia. Mi wandem talem tu se Naflak tu emi pleim wan important role blong determinem whu isave tekem ova long wan Chiefly taetol.

For example Marmarak Naora mo Marmarak Tilua oli naflak Rama (Island Cabbage). Long history blong taetol ia Marmarak emi olsem, Marmarak Belewot emi bin tekem Paramount taetol ia long taem finis ikam nao long Lausake Village kasem tede. Taemi emi ded, Chiefly title ia ipass on ikam long Marmarak Naora. History italem se Marmarak ia nao emi tekem Maloulofa long Efate ikrosem solwora iko long Emau Island. Long taem ia nao Makoulofa, isakem half kaikai blong em long solwora we tedei oli kolem Tokotakia blong Makoulofa, afta isakem nakou fes (fire making wood) mo melu nakorova (sun screen) blong em long Tanlop emia long Wiana mo tede fufala trees ia igrow plante long em. Afta long Marmarak Naora, emi Marmarak Tilua. Marmarak Tilua emi bigfala brata blong Willie Kaltapas Nakmou, we emi maretem Leinoa mo tufala ibornem Sai, Gibson mo sam narafala pikinini bakagen. Willie Nakmou emi maretem Touta we ibonem Kalwat, Lucy mo samfala moa. Kalwat emi maretem Helen we tedei ikat ol pikinini blong em olsem Jif Sandy Mandal. Salegoro tu emi bin ating (oliol) long taetol blong Marmarak. Salegoro emi tekem Leinagus we ibornem Leita. Afta Salegoro emi lego tufala istap blong go wok long Queensland, Australia. Taem emi stap long Queensland, emi bin mitim Leisara woman blong Siri Manamuri, we emi ded long wei. Siri Manamuri ia emi blong Souwia long Makira. Be long taem ia Lei sara emi pregnant long Kalomala finis tru long fes man blong em, Siri Manamuri.

Afta we Leisara emi bornem Kalomala, Salegoro emi jes karem tufala ikam bak long Lausake Village long Emau Island. Salegoro emi stap wetem tu woman, Leinagus mo Laisara. Evidence ishoem se Kalomala emi half cast lelebet bitim Leita from tufala ikamaot long different papa. Leita emi maretem John Kalorosa Tafmarak we emi wan Atavi (assistant) blong jif Marmarak. Salegoro emi jes kat wan pikinini boy wetem Leisara mo boy we nem blong em Kaltap mo emi ded mo oli berem em long wan stampa blong wild naus long Sauwia Village. Afta long Salegoro, Marmarak Tavale (Mantou) emi tek ova long Paramount Chiefly Title ia. Marmarak Tavale emi maretem Leisau, mo tufala ibonem Toumeire, Pangorololo (Bero) mo Pangorotomate we emi no save karem pikinini.

Toumeire imaret iko long Luisosou mo tufala ibonem Ruben. Ruben emi maret long Raela mo bornem Leiwora, Leitonga mo samfala moa. Afta long Marmarak Tavale,

Leimarak. Pangorololo (Bero) imaretem wan man nem blong em Sampu. From we Pangorololo (Bero) emi no save karem pikinini, Pangorololo emi askem sista blong em Leingongo blong kam stap wetem man blong em Sampu, blong tufala isave kat pikinini. Sampu istap wetem Leingongo mo tufala ibonem Jack Fapopo mo Savira. Pangorololo (Bero) nao emi tekova long papa blong em, Marmarak Tavale, olsem Paramount jif long wan taetol we oli kolem Leimarak from pikinini boy (Jack Fapopo) we ikamaot long Leingongo. Leingongo emi yangfala tumas mo emi no save tekem taetol ia yet Marmarak. From we Leimarak emi wan woman mo ol duti blong jifly title ia ihad wok tumas long hem, Jack Tavola, long gufala tingting blong em, italem se taetol ia imas pass iko long Langi Soro we emi pikinini blong em, mekem se emi kam Marmarak Soro.

Arenjem ia emi blong kivim taem long Jack Fapopo emi kam bigwan inaf blong save tek ova long Paramount Jifly taetol ia Marmarak. Afta long ded blong Marmarak Soro, Jack Fapopo itek ova long Paramount jifly title blong Marmarak. Afta long ded blong Jack Fapopo, long 1964, Kalorongo Martokei emi oliol (acting) long taetol ia olsem Marmarak kasem retirement blong em. Long taem blong leadership blong Martokei, Fred Sokaelo, wan pkinini man blong John Kalorosa Tafmarak, emi tekemap assistant jif blong Village kasem ded blong em. Long history blong Paramount jifly taetol ia Marmarak ibin pass bifo ikam kasem tedei istap shoem iklia se taetol ia ikat wan strong link iko back long, long taem start long Marmarak Belewot ikam kasme Sam Marpakoia tedei. Mi wandem emphasaesem se Marmarak emi Paramount Jifly taetol blong Lausake Village long Emau Island be ino Valealiu.

Taurakesa emi bigfala Varea blong Lausake, long Emau be ino Narkoua. Mariatu Atungiapat emi Paramount jif blong Varea Narkou long Wiana Village long Emau Island, be ino Valealiu olsem we Claimant istap Claimem. Varea Narkoua emi wan Varea blong Wiana long taem ikasem tedei be ino Lausake olsem we istap long statement blong Claimant. Long family tri blong First Defendant, Chief Dan Bob emi olsem. Marmarak Tavale emi maret long wan woman nem blong em Leisau mo tufala ibornem Toumeire, Pangorololo (Bero) mo Pangorotamate. Pangorololo (Bero) emi maret long Sampu be tufala ino kat pikinini. Wetem wan arrangem we istap imekem se Leingongo emi stap wetem Sampu mo tufala ibornem Jack Fapopo mo samfala moa. Jack Fapopo imared long Nelly mo tufala ibornem First Defendant Chief Dan Bob.

CASE BLONG SECOND DEFENDANT

Long response blong Second Defendant, Chief Mariatu Atungiapat, emi talem se history blong em, emi start wetem Alcik Mara Mariatuatungiapat we Nakamal blong em nem blong em Varea Narkoua mo nem blong Nakamal ia emi start bifo 18 century ikam kasem generation blong tedei mo emi no moa kat any Nakamal we nem blong em, emi Narkoua long any Village blong Emau, except long Wiana nomo. Nakamal ia emi Narkoua we jif blong em, emi Mariatuatungiapat. Ino kat any jif we emi tekem title blong Nakamal ia Narkoua, kasem namba five generation blong jif Mariatuatungiapat we emi onem Nakamal tedei. Fes Chief emi Alick Mariatuatungiapat, second long em, emi Chief David Mariatuatungiapat, afta long em, emi Lindsay Mariatuatungiapat, mo afta long Lindsay emi Melten Mariatuatungiapat, mo tedei emi Gilbert Mariatuatungiapat.

Nakamal ia ikat ol tabu place mo ol tapu stones, we oli plante we oli stap long area blong Nakamal ia. Mifala iwandem talemaot tu se boundary blong Chiefly Title ia Mariatuatungiatpat istart long area we TVL Tower istap long em long bush ikam kasem solwota daon long point we mifala isigaotem hem wan kastom nem we emi Neika Miala (Red Fish), mo Neikamiala emi stap between area we Wiana Village ifinis, mo Lausake ifinis long em, long ples ia nao Mariatuatungiatpat emi stap kaikai long em. Insaed long Nakamal ia we Mariatuatungiatpat emi onem title blong em ikat tu ol saporting jifs blong em mo hemia nao emi title blong olgeta, ikat, Valeasa, Masepat, Matoualiu, Makouliu, Masai, Marmal, Simono, Mua, Tavmalo, Masepokas, Songoliu mo Dantika. Olgeta title ia tedei oli stap mekem wok blong saportem bigfala jif blong olgeta jif Mariatuatungiatpat long Nakamal ia Narkoua.

Kraon blong nem ia Mariatuatungiatpat hemi start long Nauramiala iko kasem Toupele. Hemia nao emi tru history story blong jif Mariatuatungiatpat we emi onem Nakamal ia Narkoua. Hemia emi ol tapu ples blong Mariatuatungiatpat. Ol tapu ples blong emi istart long Narkoa ko kasem solwota, long Neikamiala mo iko long Lounkusea. Ol tapu ples ia oli life today mo mifala isave gud. Nem blong ol tapu ples ia ikat Vattap (Iakenaru), Toparepare, Mtaloaparetou, Wararik, Mtarokotou mo Vatunamonuka. Hemia emi stap soem se Mariatuatungiatpat nomo ikat tapu ples long Narkoua long Wiana Village long Emau.

SUBMISSION BLONG CLAIMANT

Long submission blong Claimant, emi talem se tufala Defendant's long case ia oli no some wan independency mo principle blong democracy blong justice long how oli stap group tugeta mo storian aot side long Court. Hemi clear se oli ko stap meet mo toktok tugeta bifo oli kam long Court blong presentem toktok blong olgeta. Hemia idemonstratem gud nomo se tufala Counter Claimants ia ishud ko one party nomo blong challengem Claimant long case ia, be instead oli ko separate mo mekem two Counter Claimants. Claimant iwandem submit truaot long cross examination process, tufala main witness blong Claimant iadmitim se first Defendant Chief Dan Bob emi stret native blong Epau Village, long North East Efate. Claimant iwandem submit tu se second Defendant Chief Mariatua tungiatpat main witness oli confirmem se Wiana Village long Emau Island ikat seperat Narkoua wetem emia we Claimant emi stap tokbaot long Court tede we emi stap long Lausake Village. Ikat wan clear example long ol sem nems we oli exist tede long Emau Island. Ikat Malasi we emi exist long Ngurua Village mo sem nem olsem, emi exist long Marou Village.

First Defendant emi no kat any customary right blong inheritim Chiefly Title ia Valealiu, from papa blong em, emi blong Epau Village long North East Efate. Long Custom Naflak emi no kat any customary right blong inheritim wan Paramount Title, only bloodline blong man. Long family tri blong First Defendant emi soem clear se Chief Dan Bob emi no stret blood line [Patrilineal] blong Chief Marmarak. Spokesperson blong Second Defendant Mr Simeon Arthy mo witness Sam Broed Marpakoa istap defendem First Defendant Chief Dan Bob se emi blong Emau mo isave inheritem ol custom properties blong Marmarak, emia ino tru mo ino folem principal blong custom blong Vaturisu

Council blong ol Chiefs blong Efate. Marmarak emi no wan chief from emi no kat family tri blong em mo first Defendant ino save provum se emi connect directly long em. Second Defendant emi no kat any customary right blong claimant bloodline blong Chiefly Title ia Valealiu. Chief Mariatua tugiapat emi blong Wiana Village. Hemi kat own chiefly inheritance blong em mo custom properties blong em. Hemi no stret bloodline blong Chiefly Title ia Valealiu.

SUBMISSION BLONG FIRST DEFENDANT

Long submission blong First Defendant emi talem se Lausake Village emi wan long olgeta Village we oli exist tede long Emau Island long north Efate mo Paramount chiefly nem blong em, emi Marmarak be ino Valealiu. Chiefly title ia Marmarak we emi pass long plante jifs ikam kasem tedei we oli stap either tekem taetol ia or oli bin stap acting (oliol) long em nomo be bambae iprovided afta iko long stret man blong em. Claimant iclaim se Valealiu emi Paramount Chief blong Lausake Village emi no tru. Mifala ino disputim kastom fasin blong inheritim wan kastom nem olsem we Claimant istap putum long ples ia. Mifala idisputum fasem we Claimant emi stap Claim se ikat wan man we emi Supuamariantano mo semtaem emi Valealiu.

Long wan extra submission we iattached long Claim document blong em, emi putum nomo Mariantano we emi wan Munuoi (clever) bifo long Lausake Village long Emau. Mifala idisputim se Mariantano emi tekem taetol ia Valealiu semtaem. Mifala isave nomo se ikat wan Varean Narkoua, be ino Naroukoua we emi wan olfala Varea blong Wiana Village. Sem Varean Narkoua ia emi bigfala Varea blong Wiana Village mo emi still exist olsem wan long olgeta four (4) Varea blong Wiana tedei. Hed Chief blong Varean Narkoua ia em Chief Mariatu Atungiapat. Secondly, olfala ples blong Varean Narkoua mo Malala blong em istap outside long kastom boundry blong Lausake, mo istap inside long kastom baoundry blong Wiana Village. Varean Narkoua emi neva stap inside long custom boundary blong Lausake Village. Nambatri samting emi Wiana Village tede, ikat wan jif long semfala nem ia Valea we emi blong Varean Narkoua long Wiana Village. Mifala iwandem submit se sapos itru se Valealiu emi stat long Mariantano ikam, then iminim se family ia ino blong Lausake Village, instead oli blong Narkoua we emi stap long boundary blong Wiana Village. Mifala iwandem talem tu se Chiefly Title we Marpakoa emi holem emi wan high chief bitim Salegoro long Lausake Village mo man we ikivim nem ia emi olfala papa blong Claimant olgeta, Kalomala.

Long taem ia ikat samples two narafala brata blong Watson Salegoro ilaef istap be olfala Kalomanta emi jusum Sam Broed Marpakoa wan pikinini blong olgeta blong tekem Chiefly Title ia. Question istap se why nao oli no kivim nem ia Valealiu long Watson Salegoro or Sam Broed Marpakoa. Mifala isave long taem finis ikam se bigfala Varea blong Lausake Village emi Varean Tourakesa. Mifala iconinue blong disputim se Valealiu emi blong Varean Narkoua. Long custom boundary we Claimant istap kleimem se emi kastom boundary blong Lausake long appendix 16, ino shoem nating olfala Varean Narkoua long map we emi talem se emi Varea blong Valealiu. Mifala istap askem long Court ia blong sakemaot Claim ia. Chief Mariatu Atungiapat nao emi bigfala Chief blong Varean Narkoua be ino Valealiu.

SUBMISSION BLONG SECOND DEFENDANT

Second Defendant emi talem long submission blong em se Narkoua emi bigfala Varea blong Wiana we emi stap insait long customary boundary blong Wiana Village long Eamu Island mo bigfala Chief blong em, emi Paramount Chief Mariatu Atungiapat. Wiana Village emi kat three (3) Varea. Varea Narkoua, Chief blong em Mariatu Atungiapat, Vareaan Kat, Chief blong em, emi Songomapula mo Varea Sousin, Chief blong em, emi Marongoe. History blong mifala ipruvum finis se Paramount Chief Mariatu Atungiapat emi exist finis long taem bifo ikam from long taem we Salegoro blong Lausake we great great pupu blong Claimant Charlie Mala ibin stap acting acting olsem Marmarak we emi bigfala jif blong Lausake, mo long taem ia tu Chief Mariatu Atungiapat istap finis. Long kastom save blong mifala ikat five (5) man we oli bin inheritim Paramount Chiefly nem ia Mariatu Atungiapat.

Olgeta ia ikat Alick Mariatu Atungiapat, David Mariatu Atungiapat, Linsay Mariatu Atungiapat, Melten Mariatu Atungiapat mo Gilbert Mariatu Atungiapat we emi exist istap tedei. Long governing blong olgeta Chiefs ia long Varea blong Narkoua mo Wiana ineva kat eni ordination blong wan jif blong Narkoua we emi Valealiu. Narkoua olsem ol narafala Varea ikat wan Paramount Chief we emi Mariatu Atungiapat, Tavmalo emi assistant Chief blong em, we emi exist tedei long Varea blong Narkoua long Wiana Village mo ol narafala smol smol Chiefs we ikat Valesa, Masepat, Matoualiu, Makouliu, Masai, Marmal, Simono, Masepokas, Songoliu mo Dantika. Narkoua customary boundary emi stap long jurisdiction blong Wiana Village be emi no long Lausake olsem we Claimant Charlie Mala emi talem long Kot. Mifala iwandem confirmem bakagen long Court ia se Mariatu Atungiapat ikat customary boundary blong em we ikaveremap Varea blong em Narkoua mo ol tapu ples blong em. Mifala isubmit se Claimant emi wrong blong claimem wan boundary we iova lappem boundary blong Wiana Village, Marou Village mo Mangarongo Village long Emau Island.

Paramount Chief Mariatu Atungiapat iwandem talem se Vareaan Narkoua emi stap long boundary blong Wiana Village be ino Lausake olsem we Claimant italem. Mifala iwandem talem tu se Claimant emi wrong blong talem long introduction blong em taem emi stap presentem history blong em se Manapangamanua nao emi Paramount Chief blong Wiana Village. Mifala isubmit se Claimant emi no save pruvum beyond reasonable doubt se nem ia Chief Valealiu emi bin exist long Lausake from Salegoro ino bin tekem nem ia Valealiu, Kalomala ino bin tekem nem Valealiu mo papa long Claimant ino bin tekem nem ia Valealiu. Motu ol pipol ia oli blong Sauwia long Lausake be ino long Narkoua we emi bigfala Varea blong Wiana Village. Mifala iwandem talem long Court ia se Marmarak emi tru Paramount Chief blong Lausake Village be ino Valealiu.

I kat wan Narkoua nomo mo emi long Wiana Village be ino Lausake. Geat great apu blong Claimant Charlie Mala emi bin acting long wantaem Marmarak motu long existence blong apu blong Claimant Kalomala Maripokoa, Lindsey Mariatugiapat emi bin stap Paramount Chief blong Narkoua long Wiana Village mo long taem ia Kalomala ino bin tekem nem ia Valealiu. Therefore history blong First Defendant Chief Dan Bob

emi clear mo ikat prove se Marmarak ibin stap governem Lausake Village long taem bifo finis mo stret owna blong Title ia Marmarak emi First Defendant Chief Dan Bob.

SUMMARY BLONG COURT

Long summary we Court ia ifaenemaot se olgeta parties long case ia oli agree se ikat wan Village we oli kolem Lausake we emi exist tede long Emau Island. Ol parties oli agree tu se ikat wan Varea we oli kolem Narkoua we istap long Emau Island. Long case blong Claimant, emi talem se Narkoua ia emi Varea blong Chief Valealiu mo emi stap insaed long boundary blong Lausake Village long taem finis before existence blong Wiana mo Lausake Village. First mo Second Defendants oli disputum statement ia mo talem se ino kat wan Varea we oli kolem Narkoua we emi stap tedei long Lausake Village, be Narkoua ia emi wan Varea we iexist tedei long Wiana Village mo Paramount Chief blong em, emi Chief Mariatua Atuingapat. Long summary long family tri blong Claimant, Court ia ifaenemaot se Supua Mariatano Valealiu, emi maret long wan woman nem blong hem Leielo mo tufala ibornem two boy mo wan gel. Nem blong tufala boy ia emi Taliemiel mo Vakaletap Salegoro Valealiu mo sista blong tufala nem blong em Leiatrongo.

Taliemiala emi wan warrior emi no mared. Vakaletap Salegoro emi kat two woman. Fes woman blong em nem blong em Leisara. Tufala imared mo tufala ikat wan boy nem blong em Kalomala Valealiu. Second woman blong em, emi Leinagis mo tufala ibornem Leita. Kalomala imaret long Leisera mo tufala ibornem Watson Salegoro Valealiu, Samson, Dorsen, Samy, Leimaies mo Mattlyne. Watson Salegoro Valealiu emi maret long Rubby mo tufala ibornem Claimant Charley Mala. Court ifaenemaot tu long family tri mo history blong First Defendant se, Chief Dan Bob, papa blong em, emi Jack Fapopo mo papa blong Jack Fapopo emi Sampu. Sampu emi originally blong Epau Village emia long North Efate. Sampu emi maret long wan woman nem blong em Bero we emi gel blong Marmarak mo Leisau. Court ia iharem tu se ikat wan Chiefly title nem we emi Marmarak we Second Defendant istap insist strong long em se em nao ishud rule long Lausake Village long Emau Island tedei. Mo long history mo summary long ol ruling Chiefs we Second Defendant, Chief Mariatu Atuingapat, emi presentem long Court ia, Court ifaenemaot se i kat five (5) man we oli inheritim Paramount Chiefly nem ia, ikat, Alick Mariatu Atuingapat, David Mariatu Atuingapat, Linsay Mariatu Atuingapat, Melten Mariatu Atuingapat mo Gilbert Mariatu Atuingapat we emi exist istap tedei. Afta long ol summary antap honorable Court ia, istanap long ol Laws ia nao blong mekem declaration blong em.

LAWS

“Existing Law”

Article 95 (3) provides that customary law shall continue to have effect as part of the law of the Republic of Vanuatu.

“Village and Island Courts

Article 8 (5) of the Constitution of the Republic of Vanuatu provides that; Parliament shall provide for the establishment of Village or Island Courts with jurisdiction over customary and other matters and shall provide for the role of Chiefs in such Courts”

“Application of Customary Law”

Section 10 of the Island Courts Act, CAP 167, of 1983 provides that; 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”.

FINDINGS BLONG COURT

Court ifaenemaot se, history we Claimant Charlie Mala emi presentem long Court ia emi wan complit history follem custom story we emi presentem long Court ia. Family tri blong Claimant emi stret folem custom mo ino kat jalense long em tru long patrilineal bloodline system. Supua Mariantano Valealiu emi maret long Leielo mo tufala ikat two boy, Taliemiel mo Vakatetap Salegoro Valealiu mo sista blong tufala emi Leiatrongo. Taliemiala emi wan warrior mo emi no mared. Vakaletap Salegoro emi kat two woman, Leisara mo Leinagis. Vakaletap Salegoro mo Leisara tufala ikat wan boy nomo mo nem blong em Kalomala Valealiu. Leinagis we emi second woman blong Vakaletap Valealiu tufala ikat Leita. Kalomala Valealiu emi maret long Leiserea mo tufala ikat Watson Salegoro Valealiu. Watson Valealiu emi maret long Rubby mo tufala ibornem Claimant Charley Mala. Patrilineal bloodline ia emi no chanllenge nating long other Claimants.

Ol private custom properties blong Chiefly title ia Valealiu olsem Vanuan Matingo [burial kraon], Toko [sitting stone], Wede [ordination stone], Lakeleo Mauri [healing stone] also oli no bin disputed by ol Defendants. Court ialso fanemaot se Chiefly title ia Valealiu emi exist long taem finis ikam mo Varea blong em long Lausake Village emi, Narkoua. Long case blong First Defendant, Court ifaenemaot se Defendant Chief Dan Bob bloodline blong em, ikamaot long Epau Village follem history mo evidence we emi kamaot before long Court. Defendant emi stap Claim mo base long title ia Marmarak se em nao i Paramount Chief or title blong Lausake Village long Emau Island. Be Court ia ino faenem any evidence long foret blong em blong satisfaem em se Chief Dan Bob emi directly connect tru long patrilineal blood line system long title ia Marmarak. Ikat evidence nomo se Defendant emi connect tru long woman.

Court ia ifaenemaot tu se, title ia Marmarak emi no kat wan own history blong em mo own family tri blong em. Court ifaenemaot long evidence we iproduce before long em se ol differencet pipol oli stap acting or oliol long title ia Marmarak. Olgeta persons ia istat long Belewot, Naora, Tilua, Salegoro, Mantou/Tavale, Leimarak, Langi Soro, Fapopo, Kalorongo Martokeo mo Sam Broed Marpakoia oli stap oliol or acting nomo long em kasem tedei. Court ia ifaenemaot se spos Marmarak emi wan Paramount Chiefly title olsem we First Defendant istap talem long Court ia, then, custom title ia oli no save acting long em long wan long fala period blong taem. Title ia Marmarak ishud handed

ova finis iko long stret bloodline blong em. Therefore, Court ia i asume se title ia Marmarak emi wan smol title insaed long Lausake Village we ino kat wan stret bloodline blong em i exist tedei.

Long case blong Second Defendant, Court ia ifaenemaot se, Chief Mariatu Atuingiapat, emi no disputim Chiefly title ia Valealiu. Court ifaenemaot se, Chief Mariatu Atuingiapat emi stap traem blong comparem nomo period taem we em, i exist long em mo talem se ino kat wan Chiefly title olsem Valealiu emi exist tu long taem ia. Most long ol arguments blong em long Court ia se Varea Narkoua emi no stap long Lausake Village, be iexist long Wiana Village. Court ifaenemaot tru long evidences we oli produce before long em se, Chief Mariatu Atuingiapat emi tokbaot plante land boundary blong Wiana mo Lausake Village. Issue we istap bifo long Court ia emi dispute blong Chiefly title ia Valealiu se em, nao i Paramount Chief blong Lausake. Ino kat any sufficient information or evidence blong pruvum se Second Defendant nao emi kat raet blong inheritim Chiefly title ia Valealiu.

Afta we Court iharem olgeta toktok mo ol evidences blong olgeta Parties, mo afta ridim olgeta submissions blong olgeta parties; Court imekem Declaration mo Orders olsem:

DECLARATION

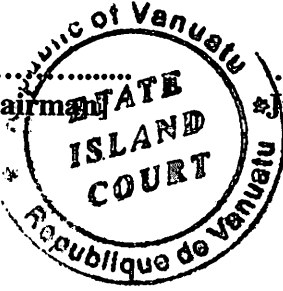
1. Claimant Charley Mala, nao emi stret man afta long Watson Salegoro Valealiu blong emi inheritem mo ownem Chiefly Title ia "Valealiu".
2. Kot ia i declarem tu se Title ia "Valealiu" emi Paramount Chiefly Title blong Lausake Village long Emau Island.
3. Kot ideclarem tu se ol Custom properties we oli exist tedei long nasara blong Valealiu long Lausake Village, oli mas stap long custody blong Charley Mala start from date blong declaration ia.
4. Ol Custom properties pronounce long declaration (3) oli no includim Kraon.

ORDERS

- Ol customary kraon mo customary land boundaries between Lausake Village mo Wiana Village, Kot ia ino kat power blong deal wetem mo emi no part blong customary properties we istap long declaration antap.
- Claimant Charley Mala emi mas ko long wan appropriate forum blong logem issues we oli related long land boundaries between Lausake mo Wiana Village blong deal wetem.
- Kot ikivim raet tu, long ol party's blong appeal within 30days sapos oli no hapi long decision ia.

.....
Justice Ann Carlo [Chairman]
Justice Eddie Karis

.....
Justice Harry Joshua



The seal is circular with a double border. The outer border contains the text "Republic of Vanuatu" at the top and "Republique de Vanuatu" at the bottom, separated by two small stars. The inner circle contains the text "STATE ISLAND COURT" in the center.

DATED long PORT-VILA, long 10th September 2010