

***LAND SEBER***

<b>BETWEEN:</b>	<b>FAMILY NORMAN WONA</b>	<b>ORIGINAL CLAIMANT</b>
<b>AND:</b>	<b>FAMILY JOHNIS PAUL</b>	<b>COUNTERCLAIMANT 1</b>
<b>AND:</b>	<b>FAMILY DIN ESUVA</b>	<b>COUNTERCLAIMANT 2</b>
<b>AND:</b>	<b>FAMILY GAVEGBALAS &amp; OTHER</b>	<b>COUNTERCLAIMANT 3</b>
<b>AND:</b>	<b>FAMILY SALATHIEL VORAS</b>	<b>COUNTERCLAIMANT 4</b>
<b>AND:</b>	<b>ALFRED WESAM</b>	<b>COUNTERCLAIMANT 5</b>
<b>AND:</b>	<b>FAMILY FREDIN ARTUVAG</b>	<b>COUNTERCLAIMANT 6</b>
<b>AND:</b>	<b>ELSIE</b>	<b>COUNTERCLAIMANT 7</b>

Coram: **Senior Magistrate Rita Bill NAVITI**  
Island Court Justices: **Justice KEN WETING chief of Gaua**  
**Justice LEO TMATA chief of Mota**  
**Justice PHILIP WORRIS chief of Kerebeta Vanua-Lava**

**JUDGMENT**

**BACKGROUND:**

This matter was originally dealt with by the TORBA Island Court presided over by Magistrate Jerry Boe.

An appeal before the Supreme Court was successful and the matter was remitted back to the Island Court for re-hearing.

**INTRODUCTION:**

The dispute over customary ownership of land known as "SEBER" situated at East Vanua-Lava, Banks commonly known as SOLA.

Boundary of the disputed land is as follows:

- Starts at TURTANTAN at the sea cost; it runs East to NARUE SWAN, then go up to
- MOR hill then down to
- NAMALAK then run by the sea shore to
- NUSUON including
- SMALL ISLAND QITINWOL, then to
- BIG STONE Then up to swamp again and to
- DRY CREEK at Periot and up the hill and back to
- TURTANTAN. **(see attached map)**

### **COMPOSITION THE COURT**

There were not objection for the following Justices to deal with this matter:

- **Justice KEN WETING** chief of Gaua
- **Justice LEO TMATA** chief of Mota
- **Justice PHILIP WORRIS** chief of Kerebeta Vanua-Lava

### **PROCEDURES:**

The court explains the procedure for the trial. There is going to be":

- **Examination** in Chief,
- **Cross examination** and
- **re-examination.**

### **LAWS:**

#### **1980, CONSTITUTION OF THE REPUBLIC OF VANUATU**

Article 73. All land in the Republic of Vanuatu belongs to the **indigenous custom owners and their descendants.**

Article 74. The **rules of custom** shall form the basis of **ownership and use of land** in the Republic of Vanuatu.

Article 75. Only indigenous citizens of the Republic of Vanuatu who have acquired **their land in accordance with a recognized system of land tenure** shall have **perpetual ownership of their land.**

#### **Island Court Act Cap 167**

#### **Island Court civil procedure Rules**

*Section 8 of the Island Court Act empowers the island to apply customary law of the area in dispute when determining customary ownership. However the decision must not stand against the spirit of justice, reality and good order.*

## **CUSTOMARY LAND TENURE:**

Vanua-Lava as an island uses one language and one custom practice for the whole of the island. Inheritance over land is a mixer of both Matrilineal and Patrilineal.

- **MATRILINEAL SYSTEM** where Customary land rights are inherited through original mother who started the clan;
- **PATRILINEAL SYSTEM** where the elder son has custody of the land for the benefit of his clan.
- **“TAN-TUN”** Customary purchase of land from one tribe to another.
- **“TAN UN-UNSEG”** equivalent to customary lease over Customary land. This is performed at the death of a father by his children in order to acquire right over his properties including right to occupation of customary land;
- **“TANG-KEVKEV”** compensation paid by a murderer to his/her victim’s tribe;

History dictates that there are two main tribes in the Province of TORBA:

- **TAGALOSIR** and
- **TAGALOMERE.**

A number of clans emerge from these two main tribes. Such following clans settled at Vanua-Lava:

- *Seber,*
- *Vemol,*
- *Beut,*
- *Gavekbalas,*
- *Namal,*
- *Lo,*
- *Quetusa,*
- *Qon,*
- *Mwot,*
- *Vanatur,*
- *Mwerlav,*
- *Vag...etc.*

## **PRACTICES:**

Like other parts of Vanuatu the first settler over a land gives birth to the original Tribe. The land then becomes and remains the Tribe’s customary land. Customary ownership is vested in the children of the first settler and will forever remain with that original Tribe.

Other clans may come to occupy the tribal land as soon as the sons of the original tribe enter into intermarriages with women of other tribes. The children born of those intermarriages will form a different clan from that of their father and will have **occupational rights** over their father’s land.

However those rights must be purchased in custom through **“Tan Un-unseg”**. As a result the rights to occupy the land may be transferred to different clans at the death of the custodian as many times as there were custodians over the same tribal land. It would

usually be the first born male of the clan who would be in possession of the said land to protect the land on behalf of his clan.

Therefore the children must always perform a custom ceremony called "*Tan Un-unseg*" during the funeral of their father to secure their rights to continue occupy the land of their father's tribe. This is equivalent to a custom lease over the custom Land. It is usually performed when the custodian of a land dies. That is to say the first born male of the original family tribe.

Thereafter successive clan must perform "*Tan Un-unseg*" to secure their rights to continue occupation and/or possession over certain pieces of customary land; unless the wife of the deceased custodian brought the original tribe back onto the land.

Indeed clan is transmitted by women. A man loses his clan when he marries to a woman of different clan; for his children will be categorized under his wife's clan. Example: if Adam of clan "*Seber*" gets married to Eve of clan "*Beut*", their children will be clan "*Beut*"; working on clan "*Seber*"'s customary land. At the death of Adam, clan "*Beut*" will have to perform "*Tan Un-unseg*" to clan "*Seber*" to retain their rights to continue occupation over their father's tribal land.

In this case "*Tan Un-unseg*" would be performed to the benefit of clan "*Seber*" who would be composed of Adam's sisters and her children.

#### **STANDARD OF PROVE:**

Standard of prove is on Probability.

It is the duty of this court to show that it abides to the constitution of the Republic of Vanuatu, 1980. It must apply custom laws as the basis of its decision. However its decision must not be inconsistent with article 73 and 74 of the same Constitution.

### **DECISION**

This court will make decision in remedy to the sale of the land in late 18 Century. That is to say the decision will address the situation of the land in the 18 century.

The disputed land is subject to a lease No. 721. Evidence show that the land was sold in around late 1800s by Mathew Vusqal who is of tribe "SEBER" hence this land is commonly known as "TAN SEBER" which means LAND SEBER.

The disputes over customary ownership of the land emerge after independence when the new country enforces its constitution chapter 12 to identify the custom owners of the land where the Province of Torba was to

be established. As information flowed out more people registered their interests. The court now has before it 8 interested parties.

This court is mandated to determine customary ownership of the land and delivering justice. Section 8 of the Island Court Act Cap 167 requires that the Island court *applies customary law of the area in dispute when determining customary ownership. However the decision must not stand against the spirit of justice, reality and good order.*

THEREFORE AFTER considering all the evidence given on oath and after reading all the information supplied during our visit to the Land we have decided as follows:

**ORIGINAL CLAIMANT: FAMILY NORMAN WONA:**

He claims under his female ancestor, one ROMORONE.

ROMORONE (seber) married QASNAN-NAN (Vanatur) and mothered ROPAPLIQER (Seber) who married MATERER and mothered ROQOTSAMUL (seber). ROQOTSAMUL married WUTEVLAV and mothered 2 boys: SIRVEGWEWUT and SEWEQO and their sister CECILIA ROLINGORWER (Seber).

CECILIA ROLINGORWER (Seber) married WILSON NAOLINE and mothered MARY REBUS(Seber). MARY REBUS married WALTER WITHFORD and mothered DOROTHY, NORMAN (seber) and GRACE who escaped tidal wave.

However the history to continue to show that MARY REBUS (Seber) has a brother by the name of NELSON NAOLINE of clan Seber. That Nelson Naoline wedded Mary Magret Ronin and fathered Alfred Wesam counterclaimant 5. In custom NELSON NAOLINE should be the leader of the "Seber" clan to control "TAN SEBER".

Indeed the evidences produced show that the same NELSON NAOLINE was head of clan seber; at his death the position of leader of clan Seber was transferred in custom to NORMAN WONA.

NORMAN WONA is leader of clan Seber in 2011 under ROPAPLIQER who has lived on the land in 18 century when the land was sold.

**FAMILY JOHNIS PAUL**

He claims under his great great grand father MATHEW VUSQAL.

He traces his family tree as follows. The first settler over the land was one GAT BENAO of Seber clan. GAT BENAO fathered ROWEGMA married ROSEGERQO of clan Mot and fathered 3 children: MATHEW VUSQAL, ROGIAVTAMAL and their sister ROTETESEM.

MATHEW VUSQAL of clan Mot got married RETINGRISBEAD of clan Seber and fathered 5 children:

1. CLEMENT
2. CHARLEY,
3. PETER,
4. MATHILDA, and
5. ALLEN-LUKE

1. CLEMENT of clan Seber got married to JOANA of clan Mot and fathered SIMION MARVU and EVELYN RESELENGLENG . Clement died and JOANA wedded NELSON NAOLINE, the original claimant's uncle and mothered Alfred Wesam counterclaimant 5. The male descendant of Clement Simion Marvu was childless.
2. CHARLEY married RESIWINET and fathered ELIA. ELIA married to REWELBEAG and fathered PAUL and JOHN MANROR. PAUL married to KIKI of clan Beut and fathered Thompson, Johnis Paul, Smith Paul, Ellia Paul. JOHN MANOR married to LILI and fathered Rocliff and Johnny.
3. PETER wedded ROMEBOL and father JOHN PATTERSON TINREWER who was childless.

MATHEW VUSQAL's only sister named ROTETEVSSEM of clan Mot married WELEM of clan SEBER and mothered TEWNMEL. ALFRED WESAM counterclaim 5 and ELSIE MWESAR counterclaimant 7 confirmed that that same TEWNMEL had performed custom activities on custom site which JOHNIS PAUL claims belong to GAT PENAO during land visitation.

This counterclaimant alleges and majority of the counterclaimants before this court confirm in evidence that the same MATHEW VUSQAL sold this land SEBER to "white men" in around 18 century. This claim was not discredited.

MATHEW VUSQAL, then relocated his family to *TAWA*. "*TAN SEBER*" was then under European lease and subject to development and migration by other clans who might be employed by the purchasers of the land. There were not retaliations or opposition, or objection to the sale and/or registration of the land.

Therefore customary control over "*TAN SEBER*" was inexistence. So any Un-Unseg would not serve its purpose since the land has moved from MATHEW VUSQAL to European.

A number of meetings and custom ceremonies were performed during the absence of MATHEW VUSQAL'S descendants, resulting in current infrastructures being built in Sola.

The descendants of MATHEW VUSQAL were isolated and remained in ignorance of any land dispute until the TORBA Island Court clerk published the dispute filed by the original claimant Mr. NORMAN WONA nation wide through Radio Vanuatu.

This concludes that MATHEW VUSQAL of *clan Seber* was in total control and management over "*TAN SEBER*".

## **FAMILY ESUVA DIN**

He claims under a female ancestor called RASASTUL of clan Beut. RASASTUL has a childless brother by the name MATWOON also of Beut Tribe.

**RASASTUL** married to **SUNUNTEL DEREMEN** of **VUNLEVU** and mothered **REDUNUNAU** of clan Beut who married **TEUTEUSEM** and mothered **OLTUL** of clan Beut. **OLTUL** fathered **ROQONAWAG**. **ROQONAWAG** married **LEKELQO** and mother **LEVIAREVES** of clan Beut who married **DANULEMAL** and mothered **OLIVEREGESWER** and **REBECCA RETINGORWER** both of clan Beut.

**REBECCA RETINGORWER** wedded **KELEP NUGTEL** and mothered **ESUVA DIN**, **LAISA**, **SERA** and **VILIKITAS**.

The first settler over the land at ~~NAMASMAS~~ was **JULIA** of clan Beut in 1972 and **ESUVA DIN** of clan Beut in around 1974. **ESUVA DIN** was born in 1901 and died in 1999. He worked as a native missionary for 40 years.

The first custom ceremony "**TAN UN-UNSEG**" was performed in around 1984; and the latest was performed at the death of **ESUVA DIN** in 1999.

They did not perform any "**TAN UN-UNSEG**" before because they were not sure whether the land belongs to Beut.

The evidences show that Clan Beut settled on the land after it was sold. Like other part of Vanuatu the undeveloped land within the lease are to be forfeited to the custom owners.

This court is satisfied that in this case clan Beut found an undeveloped area within he lease and occupied it without approval of Clan **SEBER**. They then performed "**TAN UN-UNSEG**" to themselves to continue occupation. The first ceremony was performed when the dispute started and the last was performed 2 years after the dispute was filed in the Island Court and published.

"**TAN SEBER**" is certainly not their original tribal land; but they have made some developments to the land; they have been in occupation of the land for a length of time and have their ancestors buried there. They are now before this court to claim their interest over the land in dispute.

## **FAMILY GAVEKBALAS & OTHERS**

He claims under a female ancestor called **ROTOGLAKALAKA** of clan Gavekbalas. That woman married **WOGAS MENAO** of clan Vanatur and mothered 2 girls: **REVILERAG** and **ROMANTAON** both of clan Gavekbalas.

1. **REVILERAG** wedded **TION** of clan Qon and mothered **FLORENCE** and **ANDREW**. **FLORENCE** married to **BENJAMIN BENIGRAO** or clan Beut and mothered **DAVID** (spokeperson for this claimant); **LOREN**, **ELINA**, **ANNETTE** and **LILI ROMOS**. **ELINA** married **SILAS VAGOS** and mothered: **ALBAN**, **NESTON**, **MARY**, **LYLY**, **STEVE**, **CHARITY**, **ALICE**, **ANNA** and **DANNY**.  
**TAN SEBER-SOLA, VANUA-LAVA**

2. **ROMANTAON** wedded **SEWEGSUM** of clan Vanatur and mothered **ROBERT SONON** and **MARTHA ROTIL**. **MARTHA ROTIL** married **ALEGA** and mothered **MOT** of clan Gavekbalas. **Mot** married **NICK MUSMABARE** and mothered **LINES MATARTOGA** who married **ROSLYN** and mothered **NELLY, MERELYNE, MOSES, MEDLIN AND KALSON**. **MARILYN** wedded **JULES** and mothered **VALERIE, MICHELLE, MAEVA, JULIEN, CHRISTEN, CHRISTINA, STEPHANY and BETRAND**.

Evidence produced show that the negotiation over ownership of land started round 1950s. One thing is sure is that the land "*ARE*"P was part of "*TAN SEBER*" sold in late 1800s by **MATHEW VUSQA**.

The land was registered under SFNH Societe Francaise des Nouvelles-Hebrides) lease title and was solely controlled by that company from the date of the sale up to late 1970 before New Hebrides gained its independence.

Tribe Gavekbalas must have been occupying the land in around 1888. They have settled there and have buried their ancestors there. **ROBERT SONON** on whom this counterclaimant bases his claim lived around the area in around 1888. He might have been amongst the first settlers when the land was sold.

He confirms that the word "**AREP**" means to pull. And it was refer to Qat pulling his canoe ashore on that spot. Evidences further confirm that **FLORENCE**'s house was situated where the **Arep** school's flag pole is today; and that the land was subject to SFNH lease; so the native's consent was not needed to build the school. The land belonged to the French company under the purchase in late 1800 and the company authorized the building of the school.

"*TAN UN-UNSEG*" was performed to clan Gavekbalas over "*TAN SEBER*" to continue usages of the property left by ancestors of clan Gavekbalas; but there is not mention of "*TAN-UN-UNSEG*" performed to the benefit of clan "*SEBER*". It might be right thought, because the control and management was transferred to SFNH through le sale of land so any "*TAN-UN-UNSEG*" to clan *Seber* would not serve its purpose then.

However clan Gavekbalas has settled and worked the land, they have performed certain customs and have buried their ancestors there. They have considered "**TURTATAN**" as their land because they have continually planted taro there from the time of **ROBERT SONON** until after the independence without interference.

"*TAN SEBER*" might not be their Tribal land. But they are before this court today as a clan headed by Chief David to claim their interest over that part of "*TAN SEBER*".

### **ALFRED WESAM**

He claims on behalf of clan **MOT** under **MATHEW VUSQAL**. He seek his custom interest over "*TAN SEBER*" in accordance with all the activities his clan *Mot* has performed to clan *Seber* for "*TAN SEBER*".

His family tree shows at the top a man called **ROWEGMAL** of clan *Seber* who married to **ROSEGERQO** and fathered **MATHEW VUSQAL, ROGIAVTAMAL and ROTIUTIUSEM**.

**TAN SEBER-SOLA, VANUA-LAVA**



1. **MATHEW VUSQAL** married ROTINGRESBE and fathered CLEMENT, PETER, CHARLEY, ALLEN, MATHILDA.
2. **ROGIAVTAMAL** married SEMLO-ON and fathered ROSALAV whose husband was ORVANVAN of clan Gavekbalas and mothered RETURLES. ORVANVAN died and ROSALAV remarried WAS of clan SEBER and mothered ALICE RAVALTIVEG. ALICE RAVALTIVEG married PHILIP TUBEPTTEL and mothered JOANA RODUNQIAT who then married CLEMENT VUSQAL and mothered SIMION MARWUWER and EVELYNE ROSELENGLENG. When CLEMENT died **JOANA RODUNQAT** remarried **NELSON NAOLINE** of clan SEBER and mothered CLEMENT BATREWER, AUGUSTA, ALICE ROTOTWEN, WILSON ROROWEN, **MARY MAGRET RONIN** and ROVOLYN. **MARY MAGRET RONIN** married **ALFRED RONTGLELEY** and mothered **ALFRED WESAM** (this counterclaimant), LUI WORVETEL and JOHN BARINGTON.

This claimant is linking himself and his clan “Mot” to that of:

- **MATHEW VUSQAL** clan Seber through CLEMENT VUSQAL, son of the vendor of “TAN SEBER”; and
- **NELSON NAOLINE**, brother of **MARY REBUS** who has mothered **NORMAN WONA** leader of clan “*Seber*”.

He claims his customary rights over a number of custom ceremonies that he and his ancestors have performed. He states that his clan *Mot* has continuously performed the “*TAN UN-UNSEG*” from the time of **MATHEW VUSQAL** down to **WILSON NAOLINI**, to **TEUMEL**; to **SIMION MARVUWER**, **CLEMENT VUSQAL**, **GRACE WONA**, down to **WILSON ROROWEN** at the funeral of **PATTERSON TINGROWER**.

He condemns the attitude of **NORMAN WONA** original claimant, in that during the death of **NELSON NAOLINI** on 11 January 1971 he was not present; thus, displaying total disrespect to the family that deserved it as head of clan *SEBER*. Clan “*Mot*” performed ‘*VUSAROR*’ to **GRACE WONA**, **PATTESON TINGORWER** and **FRED BALLAS** of clan *SEBER*.

He listed a number of other custom ceremonies that he and his clan performed to clan Seber for “*TAN UN-UNSEG*” which evidences were not discredited.

Evidences adduced show that he is comfortable with history from late 1950 and agreed that the land belong to clan *SEBER*. He confirms ownership by **MATHEW VUSQAL**.

His interest is over his custom ceremonies performed to clan “*SEBER*” over “*TAN SEBER*” and seems to think that certain behavior and attitudes displayed by original claimant **NORMAN WOMAN** who is directly related to him do not qualify him to be leading clan “*SEBER*”; thus he would not be comfortable in negotiating with him any longer.

### **SALATHIEL VORAS**

He claims under a JANET and ANISNUN who, he claims are his ancestors and were originated from Vanua-Lava. These two persons were buried at Vanua-Lava. Some of their children left when the land was sold, to Mota in around 1900s. They have lost trace of their clan and relatives in Vanua-lava; but they are adamant that they belong to Sola. In giving evidence the witnesses were confident and mention custom sites that were later confirmed by other claimants during the visit to the land. They have led the court to “*VETBULUS*” which is a stone. No other claimant has mentioned it and/or discredited it. They also mentioned the site of a village by the seashore in front of the current foot-ball field which again was confirmed by other claimants. They further mention a grave where they heard that PHILIB PAEPAE the first grand child of JANET and ANESNUN was buried when he died of leprosy. The cemetery site could not be viewed since it was cleared by bulldozer; but other claimant seems to accept its existence.

They complain that they have tried their best to research their relatives on Vanua-Lava but they sensed that people here were holding back or hiding information from them.

They claim that they originated from *LESERSER*. When visiting the land, the court was shown the site of *LESERSER* by majority of claimants. Thought it might be unbelievable for human settlement, the name *LESERSER* existed on Vanualava and indicated that this group’s history might as well started on Vanua-lava.

Furthermore they claim that JANET and her sister JOANA were working the land at *TATERIK* for planting Taro. *TATERIK*, they said was where the courthouse is currently built. The *TATERIK* was not mentioned by the original claimant on the disputed map. However every claimant confirms the site and the name when it was mentioned. Finally they claim that it was JANET and her sister JOANA, who pronounce the word “*SOLA*” to a European who noted it down and called this area “*SOLA*” until today. It happened when the two sisters were roasting crabs. The European approached them and asks the name of the area. Not knowing what the European was asking, they replied: “*SOLA*” meaning Crabs thinking that he was inquiring as to what they were up to.

The court believes this party. They have displayed remarkable confidences as they presented their case before a crowded courtroom. They have been criticized and mocked through cross-examination but they did not fail in their evidences.

As a token of their rights, this court will allow them a piece of the disputed land in memory of their ancestors and lost clan.

### **FREDING ARTUVAG:**

He claim under **FREDING ARTUVAG** of clan *NAMAL*. In his family tree he indicated that he is descendant of **JOSES BASNESOR** of clan *QUETUSA*.

**JOSES BASNESOR** and his brother **ROBERT BASNESOR** were both of clan *Quetusa*.

**JOSES BASNESOR** married **ALICE ROLULUM** of clan *Go* and fathered **FREDING ARTUVAG**. **FREDING ARTUVAG** married **MEBEL** of clan *NAMAL* and fathered **VAILET ROSINIT** and adopted her brother **STACHYS SIPLAG**. **VAILET ROSINIT** married **LIVAE TAGARO** and mothered **PANSY M., MELODY M., SALATHIEL ANNA, JIMMY COLLEN** and **ROY SMITH** (the spokesperson for this claimant).

**TAN SEBER-SOLA, VANUA-LAVA**

This claimant's clan is *Namal* and it is sister clan of clan *Seber*. The clan settled outside the disputed area before they moved to *SISIOLE*. He confirms that the land originally belongs to clan "*SEBER*". The right of occupation was transferred to the clan "*QWETUSA*" then to *NAMAL*.

Indeed *QWETUSA* clan enter the land in the person of *JOSES BASNESOR* then it transferred to clan *NAMAL* in the person of *MEBEL* when she entered into marriage with *FREDING ARTUVAG*. *MEBEL*'s children *VAILET ROSINIT* populated the area with her clan *NAMAL*.

Similar to other clans the evidence lacks the blessing of clan *SEBER*. The land was "*TAN SEBER*" when it was sold in late 1800s. Custom rights were been transferred to European lease, so made it difficult to negotiate and/or perform "*TAN UN-UNSEG*" to the clan *SEBER* for the land. Undeveloped areas within the lease 721, were located by migrating clan and disposed off as they wish without opposition because native no longer controlled the area.

During the court visit over the land in dispute, we note newly planted coconut amongst old coconuts indicating new establishment within old development.

Finally the claimant admitted that Clan *NAMAL* were stationed at *VUREAS* in the past; thus accepting that the land does not form part of the original *Namal*'s tribal land. The counterclaimant comes before this court to ensure that he and his clan's interests are protected over the "*TAN SEBER*".

#### **ELSIE MWASAR**

She claims on behalf of her clan "*BEUT WESES*" through **RESIAGORBEUT**. In her family tree she traces that **RESIAGORBEUT** of clan *Beut Weses* married **TUIMEL** of tribe *Mwot* at *NAWASWAS* and mothered **ROSORONGWER** of clan *Beut Weses*. **ROSORONGWER** wedded **WERIRIAN** of clan *Go* and mothered **REWEDIUDIU**.

**REWEDIUDIU** married **MESWEL** of clan *Lo* and mothered 2 children: **REVESGORMAL** and **WILLIAM KALVELIES**. **WILLIAM KALVELIES** died a single man. His sister **REVESGORMAL** wedded **MWALROWROW** and mothered 4 children: **RALAN**, **RESIMEREN**, **RELILIPGORLO** and **LEUL** all of clan *Beut Weses*.

**RALAN** married **JOHN WEDER VELVELSEM** of clan *Lo* and mothered **RABATA** and **SERAH** both girls of clan *Beut Weses*. **RABATA** married **PHILIP MEMUG** of tribe *Qon* and mothered **NAOMI REDEREAK** and **MACKENZIE MEMUG** both of clan *Beut Weses*. **NAOMI REDEREAK** married **JOHN MWETELOL** and mothered **BERTHA DEREMATEL** and **HARRY RAUN**.

**BERTA DEREMATEL** married **DAVID MESILELTOK** of clan *Gavekbalas* (the third counterclaimant) and mothered **LILIAN TURKILO**, **ELSIE WMASAR** (this counterclaim) and **GEORGE BENKIMEN** all of clan *Beut Weses*.

When **TUIMEL** died **RESIAGORBEUT** performed “*TAN UN-UNSEG*’ according to Vanua-Lava Custom to take over the customary rights of clan *MOTH*. So the customary rights were transferred from Moth to *Beut Weses*.

It is probable that **TIUMEL** of clan *Moth* mentioned as husband of **RESIAGORBEUT** of clan *Beut Weses* was the same as the **TEUMEL** mentioned in the **VUSQAL** family tree being the son of **WELEM** and **ROTETEVSSEM**. Then this claimant’s rights would override the claim filed by **ESUVA DIN**.

It would conclude that *BEUT WESES* brought by **RESIAGORBEUT** would have higher rights of occupation than clan *Beut* claim in the person of **ESUVA DIN**.

Finally the following clans are before this court today

- **SEBER**
  - **JOHNIS PAUL** representing the interest of the descendants of **MATHEW VUSQAL**;
  - **NORMAN WONA** representing the interests of the descendants of **ROPAPLIQER** including Descendants of **CECILIA RLINGORWER** by **NELSON NAOLINE** and **MARY REBUS**.
- **MOT**
  - **ALFRED WELSAM** representing the interests of the descendants of **ROSEGERQO**
- **BEUT**
  - **DANIEL GOLOU** representing the interests of the descendants of **ESUVA DIN** (*Beut*)
  - **ELSIE MWASAR** representing the interest of the descendants of **ROSIAGORBEUT** (*Beut Weses*)
- **GAVEKBALAS**
  - **DAVID MESIGTELTOK** representing the interests of the descendants of **ROTOGLAKALAKA**
- **NAMAL**
  - **ROY SMITH** representing the interests of the descendants of **FREDING ARTUVAG**;
- **FAMILY VORAS** the lost clan;

## **DECLARATIONS AND ORDERS**

1. **TAN SEBER** is tribal land of **SEBER** and must return to the vendor of the said land. That is **MATHEW VUSQAL** as priority right. Since the parties before this court cannot compromise on each others rights this court must take upon itself to specify the rights of clans within **TAN SEBER**.
2. Secondary right over **TAN SEBER** will go to the descendants of **ROPAPLIGER**. **ROPAPLIGER**’s boundaries as set by this court Starts at creek **LEUMOROS**, run up the hill after the Diocese, crosses the road including it itself the land allocated to New Police quarter,

running to the creek at PERANRANGOR and down to the bridge (see map)

3. **GAVEKBALAS** has interests over land in **TAN SEBER**. Its right of occupation starts at creek **PEU** to **TURTATAN** and up the top of the hill.
4. **SALATHIEL VORAS**, reserved his rights as a token of their ancestors' birth right. His occupational right starts at **WOMALAK** up to half way to the hill and run to the west in parallel with the seashore up to **GAGALA**.
5. **ALFRED WELSAM** has performed "UN-UNSEG" to this uncle **WILSON NAOLINE** death. Therefore, he has customary right over a part of **SEBER LAND**. Mot's land starts at **GAGALA** run up half way to **TOWENBWET** running West to the first creek at **Leumoros**;
6. **FREDING ARTUVAG** has interests over **TAN SEBER** his right of occupation starts at creek at **Periot** up the hill to **SISRAWME**, **TURQWELOWO** up to **Reynolds house**, including the village of **Namal**. But excluding the **Public Works** area. This boundaries stop at the hills sides.
7. **ESUVA DIN** and **ELSIE MWASAR** share interest within the same boundaris. However **BEUT WESES** represented by **ELSIE** has priority right over lands that were transferred from **Seber** to **Beut** through custom ceremony of **ROSIAGORBEUT**. Rights of **ESUVA DIN**, remain on the other side of the road from **BESONSON** to bridge down the hill passed the village. It runs from the road to the small creek behind the church. **Beut Weses** gets the other side of the road from **BESONGSONG** to the same bridge. It runs from the road to the creek joining **Peranrankor** inland.
8. The Land opposite the **Public Work** site called "**SEBER**" is declared "11Qat Heritage and belongs" to the people of **TORBA** province who must treasure it as a symbol of their history.

**BEUT, BEUT WESES, GAVEKBALAS, SALATHIEL VORAS** and **NAMAL** must perform custom ceremony **TAN UN-UNSEG** to the descendants of **MATHEW VUSQAL** as the original clan **SEBER** who owns the tribal land.

**NORMAN WONA** as leader of tribe **SEBER** does not need to perform any **TAN UN-UNSEG**.

**ALFRED WESAM** has already performed **TAN-UN-UNSEG**.

The declared custom owners must not evict any person or persons who might have developed their land. They must compensate them before eviction.

The parties have 30 days from today to lodge appeal against this judgment should they wish.

Sola, this 26 August 2011

Senior Magistrate Rita Bill NAVITI

Island Court Justices:

Justice KEN WETING chief of Gaua

Justice LEO TMATA chief of Mota

Justice PHILIP WORRIS chief of Kerebeta Vanua-Lava





