

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

(Civil Jurisdiction)

Civil Case No. 6 of 2013

BETWEEN: PAUL ROBERT DENNY
(Original Claimant)
AND: JACOB TOAME
(Counter Claimant)

MATTER: Dispiut ova long family saksesen raet, long kastom.

Jastices: Jastis Shema Tasvallie
Jastis Douglas Vandel
Jastis Endie Shem

Clerk: Joel Jacob

JUDGMENT

Brief backgraon blong case:

Civil Case # 6/2013 hemi wan kastomary matter concernem dispute ova long family saksesen raet long kastom. Dispiut ia hemi bitwin tufala brata long smol Tautu village, Paul mo Jacob. Suprim kot hemi lukluk long keis ia finis mo hemi riverem ikampak blong kot ia hemi mas dil wetem. Long 26/08/2013 kot hemi sitaon mo lukluk long ol issues ia we suprim kot hemi wantem blong kot ia hemi mas lukluk long olketa.

Issue:

1. Wanem nao hemi ol saksesen raets blong Paul.R.D mo Jacob.T olsem ol stret brata long kastom?
2. Olsem wanem nao, bae raet ia hemi pass long wan jeneresen iko long narafala jeneresen long kastom blong tufala patis long sitiwesen blong Paul.R.D insaet long keis ia?

Smol Histri blong case:

Original Claimant – OC hemi talemaot long kot ia se raet ia hemi pass on long pupu, papa mo ikam long hem olsem fes bon. Jacob hemi namba 4 long family blong hem mo long kastom blong olketa, hem nao hemi sud tekem raet ia mo hemi sud bos long ol kastom property from, tufala ikamaot long sem papa nomo. Hemi konteniu mo talemaot



se raet ia hemi pass tru long blad mo papa blong tufala nao I kivim raet ia long hem. Hemi talemaot tu se hemi jif.

Witness

OC hemi kat 2 Witness.

1. Anatol Lingtamat. Witnis ia hemi kam blong talemaot long kot ia se hemi save Denny nomo. OC nao isud tekem raet ia from hem nao hemi fes bon. Hemi konfemem pakeken se raet ia hemi pass tru long blad from kastom blong olketa hemi folem blad we hemi pass iko long fes bon. Witnis ia hemi talemaot tu se sipos fes bon hemi no stap or hemi ded, seken bon nao isud tekem raet ia be ino save jam iko long namba 4 bon from ikat 2nd mo 3rd bon istap yet.
2. Jeffery William. Witnis ia hemi talemaot tu se every kot we hemi stap atentem hemi no blong Jacob be hemi blong Denny. Hemi talemaot tu se raet ia hemi mas ko long fes bon from kastom blong olketa hemi olsem. Pakeken, hemi talemaot se spos fes bon hemi no stap, bae seken bon hemi tekem be spos fes bon ikat wan boe, bae raet ia iko long boe blong hem. Lastly hemi talemaot se taem we issue blong tufala stret brata ia hemi raes, inokat eni jifs long village iko blong stap helpem tufala long problem blong tufala.

Counter Claimant – Bifo CC hemi kivimaot ol toktok blong hem, hemi ridimaot one raet we papa blong hem wetem ol jifs oli bing saenem blong soemaot pablikli se hemi jif (pg.29 long statement).

Long taem blong kros examinesen, hemi talemaot se raet ia istap wetem hem finis taem we ol keis istap long aelan kot kasem long suprim kot. Hemi se OC ikat sam problem wetem olketa mekem se papa blong tufala ikivim raet ia ikam long hem (CC). CC hemi konfemem tu se folem kastom, fes bon or fes blad nao isud tekem taetel ia be nomo, from ol problem ia we OC ikat wetem olketa mekem se papa blong tufala ikivim raet ia iko long hem. Narasamting tu from, istap divendem papa blong tufala long fulap samting mekem se papa blong tufala ikivim raet ia iko long hem.

Witness.

CC hemi kat 1 witness.

Albert Telangi. Hemi kam blong witnisim se, hemi luk pepa ia mo ol 16 jifs ia we oli saenem pepa ia we Robert hemi kivim raet blong hem iko long Jacob. Taem kot hemi kros examineitem hem, hemi talemaot se 14 jifs nomo isaenem pepa ia. Hemi jes saenem long wan narafala dei wetem wan mo jif. Mo tu, tufala isaenem pepa ia taem we inokat eni brata or ol families blong OC istap blong witnisim saening ia. Lastly hemi stetem pakeken se fes bon nao hemi sud karem raet ia from hemi fes blad be hemi no tru long kastom pefomens. Sipos we fes bon hemi no kat, seken bon nao isud tekem raet ia be spos fes bon ikat wan fes bon san, hem nao bae itekem raet ia.

Afta long toktok blong tuketa paties mo ol witiniss blong tufala, kot hemi kam long olketa findings ia folem tufala issue we istap;



1. Kot I faenemaot se matta bifo long aelan kot OC hemi klemem saksesen raet blong papa blong hem Robert Toame.
2. Kot I faenemaot se OC hemi fes bon long family blong Robert Toame olsem we istap long tuketa saet family tri.
3. Kot I faenemaot se OC hemi konfemem long kot se kastomari raet hemi pass tru long blad from wan jeneresen iko long nara jeneresen.
4. Kot I faenemaot se witniss 1 blong OC, Anatol Lingtamat hemi konfemem se kastomari raet I pass tru long blad from wan jeneresen to next jeneresen.
5. Kot I faenemaot se witniss 1 yet blong OC hemi talemaot long kot se, 'kastom blong mifala, saksesen raet I pass tru long blad be ino pass tru long eni kastom ceremony blong tekem wan raet aot long fes bon brata long wan family'.
6. Kot I faenemaot se witniss 2 blong OC, Jeffry William I talemaot long kot se fes bon blong wan family ikat raet ya blong tekem jifly taetel blong jif long nasara blong em folem blad laen long kastom.
7. Kot I faenemaot se Robert Toame we hemi papa blong OC mo CC hemi neva stap kud wetem ol pikinini boe blong hem from sam family divrenses mekem se I kat dispiut ova long raet long family blong hem.
8. Kot I faenemaot se CC hemi namba 6 bon long family tri blong Robert Toame (inkludum ol man mo woman).
9. Kot I faenemaot se anding ova long raet from papa Robert to Jacob (CC) ino bing akri insaet long family blong Robert Toame.
10. Kot hemi faenemaot se anding ova long raet ia iko long CC hemi folem sam family laef problem bitwin OC mo papa blong hem Robert Toame.
11. Kot I faenemaot se anding ova long raet ia ino bing kat every family Robert Toame istap blong witnisim kastom ceremony blong anding ova raet ia.
12. Kot i faenemaot mo arem se CC hemi bing konfemem mo akri se saksesen raet ia hemi pass tru long blad from jeneresen to next jeneresen.
13. Kot I faenemaot mo arem se Robert Toame we hemi papa blong OC mo CC I talemaot mo akri long kot se kastomari raet I pass tru long blad from jeneresen to jeneresen.
14. Kot I faenemaot mo arem se witniss 1 blong CC, Albert Telangi I akri long kot se kastomari raet I pass nomo long blad from jeneresen to jeneresen.

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 mo paoa blong hem, spos oli no gat conflict wetem eni loa we oli stap raetem, mo no gat konflik tu wetem jastis, morality mo gudfala orda.



Apply Law igo long fact:

Kot emi tekem decision follem customary system blong titlelism long each eria customary way.

Long this fala case, kot I faenemaot se eria in dispute long saksesen raet ia emi folem blad laen system we hemi pass tru long fes bon blong wan family. Hemi minim se, raet ia hemi inherited tru long laef blad from wan jeneresen to anata be ino long ol narafala kastom ceremony or, eni samting aotsaet long blad.

Wetem tuketa saet findings blong kot, kot hemi kam blong faenemaot se OC (Paul Robert Denny) hemi laef blad blong Robert Toame mo hem nao hemi fes bon san blong Robert Toame.

DIKLEREISEN ORDER

Wetem every toktok mo ol findings blong kot, kot hemi rule se;


1. Saksesen Raet tru long blad blong Jif Robert Toame hemi stap anda long Atoriti blong fes bon son blong em, Jif Paul Robert Toame.

Dikleresen order ia kot imekem tudei Tesdei 5th blong manis Septemba 2013.

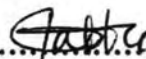


Dated at Lakatoro this 5th day of September 2013.

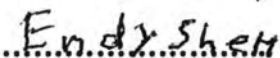
BY THE COURT



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Justice Shema Tasvallie



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Justice Douglas Vandel



.....
Justice Endie Shem

