

IN THE EFATE ISLAND COURT OF
THE REPUBLIC OF VANUATU
Held at Port Vila
(Civil Jurisdiction)

Land Case No.1 OF 1996

BETWEEN: **AMON TOM KALTAK**
Representative of **KALTAKI** family &
Descendants

- Original Claimant

And: **HENDRY KALTAL SAUREI**
Representative of **MARAKAI SAUREI**
family & descendants

- Counter-Claimant No.1

AND: **BERNARD KALOTITI KALORIB**
Representative of **TOUMATA TETRAU**
family and Descendants

- Counter-Claimant No.2

AND: **WILSON PAKOA VATUMAURI**
Representative of **TIMATASO**
NATAMATE family and
Descendants

- Counter Claimant No.3

JUDGMENT

Hearing Date: 5 August 2013.

Judgment Date: 26th August 2013

Coram: Nesbeth Wilson
Magistrate

Justices: Chief Joshua Harry
Chief Raymond Morris Marongoe
Chief Sam Maripakoa

Clerk: Christina Shedrack

NEM BLONG LAND CLAIM : MATANTOPUA

Komposisi blong Kot

Long Amendment Act No.35 blong 1989, Parliament i bin pasem se anda long seksen 2 blong Aelan Kot Act, CAP 167, taem we Aelan Kot isitaon blong harem dispiut long land bae wan Magistret i mas sitaon wetem trifala Aelan Kot Jastisis. Anda long seksen 2(a) blong Act ia, wan Magistret olsem bae ino save sitaon sapos Jif Jastis ino kivim authoriti long hem. Folem hemia Kot i wandem talem long ol patis se olgeta we oli deal wetem kes blong Matantopua land oli qualifae evri wan.

Before Kot istart blong harem land kes ia ibin kat sam applications we sam patis oli mekem. Fas wan hemi application blong Tony Kanekae. Long application blong hem, hemi askem kot blong strikem aot Family Timataso Natamate blong no tek pat long Land Kes ia.

Afta kot iharem hem mo harem every nara parties, Kot iharem se Original Claimant wetem Counter Claimant No.1 long respond blong application ia tufala iwantem se Family Toumata Tetrau tugeta wetem Family Timataso Natamate ino mas be parti long Land Kes ia. Afta consideration blong Kot, Kot idecide se under long Island Kot Rules, (rules 6 mo 8) tufala families ia tufala ikat raet tu blong joint olsem parti long kes ia, mekem se family Toumata Tetrau ikam Counter Claimant No. 2 mo Famiy Timataso Natamte ikam Counter Claimant No. 3.

Wan orol application we Amon Tom Kaltak imekem hemi blong stopem Kes long Island Kot mo tekem iko long Land Tribunal. After hemi mekem application blong hem mo kot iharem ol narafala parti Kot idecide se bae kes is igohed long Island Kot from se kes istat finis mo ol narafala partis ia oli wantem se bae kes igohed long Island Kot.

CASE BLONG KALTAKI FAMILY - ORIGINAL CLAIMANT

BASIS BLONG CLAIM BLONG HEM.

- Hemi folem bloodline blong man.
- Chief nao hemi kat full right blong markem boundary blong graon.

PRESENTESEN BLONG CLAIM.

Spokesman blong Original Claimant hemi Amon Tom Kaltak. Long presentation blong hem hemi se kraon ya iblong Tom Kalfabun, Tom Kalfabun igivim long boy blong hem Kaltaki. Kaltaki igivim long boy blong hem Tom we hemi papa blong Amon. Mo papa blong hem Tom Kaltak hemi givim long Amon. Hemi talem se according long kastom Chief nao hemi gat full right blong markem boundary. Kraon we istap long dispute Chief Graham Kalsakau II wetem kaonsel blong hem ibin wokabaot long boundary blong hem finis mo bakeken afta we

hemi ded, son blong hem Chief Manto Kalsakau III mo kaonsel blong hem iwokabaot long semak boundary bakeken. Hemi talem se insaed long Matantopua ikat two family long hem, emia fameli Saurei wetem Kaltak. Mo hemi bin providem long kot wan letter blong Chief Manto Kalsakau III mo kaonsel blong hem we isoem se Chief isolvem finis dispute long kraon ia. Hemi go on blong talem se after decision blong Chief Manto Kalsakau III, tufala hemia Saruei mo Kaltak tufala iakseptem mo respectem wanem Chief mo kaonsel italem folem kraon ia. Hemi providem wan nara leta we Tavaki Saurei iratem we isoem se family Saurei ino kat dispute long boundary blong kraon blong hem long Matantopua.

Hemi kat three witnesses.

EVIDENCES.

Witness No.1 – hemi Walter K Matoutorua. Witness statement blong hem ishort nomo. Hemi talem se hemi save kraon ia Matantopua mo hemi confirm se kraon ia hemi blong apu Tom Kaltak. Hemi se ol olfala blong hem Jack Pakoum Matoutorua, Henry Matoutorua, Kalopong Matoutorua mo Peter Matoutorua oli talem tu se kraon hemi blong apu Tom Kaltak. Mo tu mama blong hem we hemi pikinini blong apu Tom Kaltak tu ise kraon ia hemi stret kraon blong Tom Kaltak.

Witness No.2 – hemi Louise Kalsakau. Witness ia hemi pikinini blong Alick Saurei mo mama blong hem Leimalu Saurei (born Kaltak). Hemi se tufala italem long hem se graon we dispute istap long hem hemi blong apu blong hem Tom Kaltaki.

Witness No.3 – hemi Tosuru Taura (born Saurei). Long statement blong hem hemi confirm se kraon ia hemi blong Amon Kaltak. Hemi se ikat family Saurei mo Kaltak nao oli kat kraon long Matantopua. Hemi confirm tu se Chief Graham Kalsakau II follem wetem Chief Manto Kalsakau III oli wokabaot long kraon ia finis, mo hemi se Amon istap klem from hemi kraon blong apu blong olgeta Tom Kaltak.

Olgeta witnesses ia oli confirm se ol evidence blong olgeta igo olsem: -

- a. Ikat wan piece kraon inside long disputed land ia hemi Pumaso
- b. One foundation blong haos blong Toumata Tetrau
- c. House we hemi blong Amon
- d. Presbyterian Church, SDA Church, CMC Church mo NTM Church
- e. Boundary blong disputed graon hemi start wea mo finis wea
- f. Inokat Tapu ples mo tapu stone

OL NARAFALA DOCUMENTARY EVIDENCE.

- a. 3 letters blong Chief Manto Kalsakau
- b. 1 letter blong Tavaki Saurei
- c. Wan skej map blong disputed area

BAONDTRI BLONG GRAON WE HEMI CLAIMEM.

Boundary hemi start long white nakavika tree iko kasem white wood behind SDA Church folem kasem mango tree mo go daon long solwota long area blong wel kasem Matnai mo fas long boundary blong Bakakoto.

FAMILY TREE.

Kaltaki hemi pikinini blong Tom Kalfabun mo wife blong hem Leisere. Tom Kaltak hemi pikinini blong Kaltaki mo Leiri. Amon Tom Kaltak hemi pikinini blong Tom Kaltak mo Leiatu.

CASE BLONG MARAKI SAUREI FAMILY - COUNTER CLAIMANT NAMBA 1.

BASIS BLONG CLAIM BLONG HEM.

- Hemi klem folem bloodline mo tribe blong Varkali Saurei.
- Klem through naflak Temalu
- First settlement long Matantopua

Spokesman blong family Saurei hemi Henry Kaltare Saurei we hemi son mo representative blong late George Maraki Saurei we hemi gran son blong Kalsong Saurei we hemi olsem tribe Varkali Saurei bloodline. Long presentation blong hem, hemi talem se issue blong land Matantopua hemi pass through long court level folem ol smolsmol raorao blong kraon long Matantopua until yumi kam long level we hemi Efate Island Court. Hemi se hemi representem late George Maraki Saurei hemi stanap blong justifaem mo defendem klem blong hem long Matantopua land olsem :-

- Tru kastom land owner folem inheritance bloodline mo tribe blong Varkali Saurei tribe.
- 5 generation blong tribe Varkali Saurei ilive long disputed land ya Matantopua mo olgeta istil live long land ia kasem tedei.
- Tribe Varkali Saurei wetem nasara blong hem ifes tribe blong mekem garden, hunt mo putum ol land mark long land we idispute tedei.
- Land ya Matantopua hemi kastom land kastom inheritance from generation to generation blong tribe Varkali Saurei.
- Amon Kaltak olsem main Claimant mo ol nara parti oli nogat any kastom right by birth or inheritance long land ya Matantopua mo wokabaot blong Kalorisu Saurei inever kivim land or kraon olsem Pumasoi. Kalorisu Saurei hemi letem smol ples blong hemi mekem garden nomo be taem ided kraon mbae ikam bak long kastom owner tribe Varkali Saurei.
- Late George Maraki Saurei Counter Claimant No.1 nao iputum olman narafala island long land ia Matantopua mo live temporary nomo long hem mo wok from schoolfees blong pikinini mo through long tribe Varkali Saurei olsem kastom owner by inheritance mo birth right signem agreement blong ol services olsem light wota mo TVL landline blo pass through long Matantopua.
- Apu Kalorisu Saurei olsem kastom land owner, kastom inheritance by occupant and blood line olgeta unda long tribe blong Varkali Saurei, inever ikivim Pumasoi long

family Kanegae. Any agreement blong Pumaso long land blong Matantopua we inside without concern mo kastom approval blong tribe Varkali Saurei hemi nul and void.

- Tribe Varkali Saurei olsem kastom owner inever devidem or transferrem land iko long wan narafala tribe or family. Kraon blong Matantopua hemi kastom land by birth, inheritance mo bloodline blong tribe Varkali Saurei.
- Tribe Varkali Saurei through long Lovilovi Saurei olsem rightful owner through long kastom long Efate.
- Tribe Varkali Saurei inokat any link wetem Kaltak family by bloodline fimaly tree mo kastom towards land ya Matantopua.

Pupu Lovilovi Saurei hemi clan Temalu through long mama blong hem tu we hemi clan Temalu. Temalu ikam ded long Lovilovi Saurei. Land ya pupu Lovilovi Saurei iholem mo finis long hem mo therefore land ia ikam sole kastom property ownership by clan mo ol descendants blong hem.

Ol nems blong olgeta places long Matantopua mo surrounding areas: -

- a. Matnai Matnalu, Matantopua
- b. Kawenu Kaweriki
- c. Kaweriki Iririki
- d. Lu kuwi Ekuk

Through long ol graonds ia long introduction blong kes ia hemia olgeta evidences we parti ia iprovidem: -

EVIDENCES

- Custom ownership by Temalu clan
- Custom ownership by life blood descendants from generation to generation blong tribe Varkali Sourei.
- Tribe Varkali Saurei ifes tribe blong settle long land ya Matantopua mekem karen long hem nemem ol ples long hem long language blong hem.
- Ol language nems blong ol places mo uses blong Matantopua land through long fasen mo tribe Varkali Saurei.
- Ol Descendants blong tribe Varkali Saurei istil inheritim ol chiefly taetol names we hemi related long kastom usage kastom fasin practices long Matantopua.

Kastom ownership long land Matantopua kastom blong ol clans blong aguarem land hemi through long woman. Folem clan Temalu nao Lovilovi ikam blong ownem land ia Matantopua.

Witness No.1- hemi Masing Marakali Lauru. Long witness statement blong hem hemi talem se kraon we Matantopua Church istp long hem emi truly kraon blong family Saurei. Mo hemi attachem family tree blong olgeta blong confirmem storian blong hem.

Witness No.2 - hemi Eslik Saurei. Long statement blong hem mo long all evidence we hemi givim hemi confirmem se land Matantopua hemi blong Kaloris Saurei. Hemi talem se hemi harem history ia long apu blong hem Saurei we hemi papa blong hem mo mama blong hem,

Tavaki Saurei mo Tapeti Saurei we tufala italem long hem se tru rightful kastom owner blong Matantopua hemi Kaloris Saurei.

Witness No. 3 – hemi Lina Kalopngi Saurei. Witness ia hemi talem se mama blong hem Rima Saurei mo papa blong hem George Maraki Saurei blong Ifira Tenuku we hemi son blong Pastor Kalorisu Saurei. Hemi talem se papa blong hem istory long hem history blong apu blong hem, Saurei mo personal life mo narafala issues concernem land ia se iblong Saurei. Mo tu hemi bin swoem hem boundfary blong land ya long hem mo tu olgeta supporting agreements mo documents we papa blong hem ipasem long hem.

Hemi gohed blong talem se taem hem mo papa mo mama blong hem oli arrive long ples ia ples hemi bush nomo mo inokat any haos. Hemi se hemi stap go tekem kaekae long bush olsem mandarine, navara, leaf laplap mo dikim wild yam we olketa olfala Karen we istap grow wild, we olketa pupu blong hem oli planem bifo istap. Hemi confirm bakeken tu se papa blong hem George Maraki Saurei hemi lukaotem ples ia mo stap putum olketa pipol oli stap mekem temporary shelter mo fainem wok blong eduction blong ol pikinini blong olketa long Vila.

Witness No.4 – hemi Masoemanu Abel. Witnes ia hemi blong Emae island be hemi maretem daughter blong Late George Maraki Saurei. Hemi talem se George Maraki Saurei hemi story long hem se Matantopua Land hemi kastom land blong family Varkali Saurei by birth, descendants mo bloodline. Hemi talem tu se ol arrears raound long Matantopua, Kaweriki, Kawenu, Matnalu, Tekeremea mo Wanapua, ol pupu oli stap mekem Karen long hem, mo ino gat any man iliv long ol ples ia. Family Varkali Saurei nao oli ol fes man blong mekem ol Karen long ples ia. Hemi se George Maraki Saurei isoem ples we hemi kam liv long hem fes taem mo some ol olfala Karen, fruit trees mo ol names blong ol ples long Matantopua land. Hemi go on blong talem se land we CMC church istap long hem nao ia hemi kraon we Apu Kalorisu Saurei ilettem long papa blong Amon Tom Kaltaki blong mekem Karen long hem, be hemi no talem se hemi wan Pumaso. Late George Maraki Saurei ibin talem long hem ol respected jifly names inside long tribe Varkali Saurei mo thru long toktok blong hem nao hemi stanap long kot blong talem se by kastom practices: -

- Any man we ikam klem fromn Matantopua land imas klem anda long wan tribe/clan, jifly title, nassasra we iredated long land ia from Matantopua land hemi land blong Clan Temalu we ikam thru long Varkali Saurei tribe.
- I mas kat nasara mo purpose blong hem long disputed land ia Matantopua
- Meaning blong jifly title blong hem mo Duty blong hem iredated long land ia Matantopua
- Imas kat relationship blong kastom fasin practices mo link wetem land, places, nasara mo language long disputed land ia Matantopua.

Hemi confirm tu se Late George Maraki Saurei nao hem putum ol narafala man island long land ia Matantopua long purpose se oli nogat ples blong live long hem; kam liv temporary nomo long Matantopua land, mo wok from school fees blong ol pikinini blong olgeta.

Witness No.5 - hemi Mahit Kalourai. Witnessd ia mama blong hem hemi Edna we hemi pikinuini blong Kasong Saurei. Hemi storian se taem hemi smol boy yet ol ples long kraon ia oli dark bush nomo mo olgeta istap mekem Karen long hem. Uncle blong hem George MAraki Saurei imuv aot long Ifira mo go stap long wei mo afta nao ol man istap muv ikam sap long wei. Hemi talem se Amon Kaltak isave ples ia nomo be hemi no liv long hem mo apu blong hem ibin askem blong mekem Karen long hem be nao ia emi stap kleimem se emi kastom owner blong graon ia. Hemi confirm long kot se land ia blong Saurei mo uncle blong hem George Maraki Saurei nao emi kat control over long hem from hemi stap mo liv long area we Original Claimant istap klem long hem.

Supporting evidences: -

Presbyterian Church

SDA Church

NTM Church

CMC Church

Grave blong John Rarua

Scement foundation blong Toumata long Pumaso

Long time blong ol Cross Examination Witness no.2 hemi talem se hemi bin harem about fine blong Lovilovi Saurei iko long Kalfabun be italem se taem olfala woman blong Kalfabun ided kraon iko back long kastom owner. After long hemia ol nara witnesses ikam after long hem oli argue sem mak se taem olfala woman blong Tom Kalfabun ided kraon igo back long family Saurei.

BAONDTRI BLONG GRAON WEH HEMI CLAIMEM.

Istat long disputed area along side long solwora kam from Matnai. Folem olfala rod blong wan planta ikam long hafway iko long two ston one long right mo wan long left. Folem igo antap long second settlement blong George Maraki Saurei, then iko long haos blong Seru Korikalo. Afta iko daon ifolem ol line mango kasem main rod bakeken.

FAMILY TREES.

Family tree blong tribe Varkali Saurei istart wetem Lovilovi. Lovilovi hemi maretem Leingachi. Boy blong tufala hemi Kalorisu Saurei we hemi maretem Tounalae. Fes born son blong tufala hemi Joseph, 2nd born son Kalsong Saurei we hemi maretem Touskau. Fes born Edna 2nd born hemi George Maraki Saurei imaretem Rema. Fes born blong tufala Meriline Touska Saurei, 2nd born Lineth Leisale 3rd born Lina Leinapong 4th born Leah mo 5th born Henery Kaltare Saurei.

CASE BLONG TOUMATA TETRAU FAMILY - COUNTER CLAIMANT NAMBA 2.

BASIS BLONG CLAIM BLONG HEM.

- Hemi klem follem Pumaso
- Graon hemi blong man or woman olsem gift (Pumaso) mo taem oli givim oli no save karem back.
- Yu klem kraon folem together Naflak mo blood line blong man

PRESENTESEN BLONG CLAIM.

Spokesman blong family ia hemi Bernard Kalotiti Kalorib. Long presentation blong hem hemi talem se olgeta oli kam olsem parti long kes ia blong protectem Pumaso we Kaltak igivim long Ati blong olgeta Toumata Tetrau woman Ifira we hemi maretem wan man Japan nem blong hem Kanegai. Tufala I givim area blong Pumaso iko long boy blong tufala Antoine Kanegai after Antoine Kanegai hemi givim long boy blong hem Tony Kanekai. Hemi gohed blong talem se Tom Kaltak hemi givim piece graon ia long Toumata Tetrau from se taem Tom Kaltak hemi bin stap wok long ship Toumata istap helpem wife blong Tom Kaltak blong stap lukaotem ol family blong hem taem hemi no stap. Mo tu taem hemi kam back from ship hemi bin sik mekem se Toumata Tetrau mo Kanegai tufala buildim wan haos blong hem mo Toumata hemi bin stap lukaotem hem tu taem hemi sick. Tom Kaltak hemi harem gud long wanem Toumata ibin mekem long family blong hem mo hem mekem se hemi givim piece land ia long hem olsem wan gift or Pumaso.

Long presentation blong hem Mr Kalorib hemi bin explain kastom fasin bong ol man Ifira Tenuku iaquarem land. Hemi explain long saed long olgeta samting ia: -

- Inheritance
- Fasin Blong kivim or tekem nem or title
- Transfer blong kraon through long adoption
- Raet blong ol woman blong karem kraon bifo
- Wanem ihapen taem man hemi inheritem kraon
- Raet blong man long kraon istat wea
- Tatotok or natatok (original or fesfala man Ifira)
- Tamafate (man Efate)
- Tarisale (man come) or Tasapo (ikam shore)
- Ol raet blong ol difren grup or classes blong ol pipol
- Nasautonga (kastom rent)
- Pumaso (gift/will)

Long submission blong family ia oli submit se Hitorial facts about Matantopua hemi originally owned by family Saurei thru long Naflak Temalu. Oli submit se nem ia Matantopua hemi bin slilip istap long taem until oli revivem long 1996 taem Tasila Daniel Kalorib inemem Presbyterian Church long area ia se "Presbyterian Church of Matantopua". Oli submit se Kalosike Lovilovi Saurei hemi bin fesfala man Ifira blong kam kristian. Hemi bin convert bitwin long yia 1879 mo 1882. Ifira Tenuku ikam kristian bitwin 1884 mo 1886.

Oli submit tu se long LIVE Book 5 long page 33 yumi luk se Lovilovi Saurei iconvert ikam kristian from safety reasons:

Hemi wan lida insaed long ol tribal war

Igat samfala man oli stap tretenem hem blong kilim from wan woman blong wan narafala tribe.

Fasin blong Lovilovi Saurei blong stilim weoman icausem ol tribal war.

Hemi changem laef blong hem mo kam kristian blong soemaot se hemi livim fasin blong darkness mo ifolem fasin blong delaet.

Oli submit se thru long nogud fasin blong hem ia nao hemi lusum part blong kraon long Matantopua iko long Tom Kalfabun. Ololfala blong bifo oli kat wan fasin blong holem taet or haedem ol storian blong ol nogud fasin mo nogud rod blong ol olfala bifo. Igat storian blong hao Lovilovi Saurei hemi lusum pat blong kron blong hem iko long Tom Kalfabun we hemi stret papa long Kaltak we hemi grandpapa blong Amon Kaltak. Oli submit se from Lovilovi hemi stilim woman blong Tom Kalfabun hemi mekem Kastom fine ia nao hemi kivim part blong kraon long Matantopua long Tom Kalfabun.

After long hemia nao Kaltak hemi givim piece blong graon ia long Toumata olsem Pumaso.

EVIDENCES.

Witness No.1- hemi Tony Kanegai. Long witness statement blong hem hemi talem se hemi kam long kot blong defendem land we papa blong hem Antoine Kanegai ibin shoem long hem we Kaltak igivim long Ati blong hem Toumata Tetrau olsem wan gift or Pumaso. Hemi talem se taem hemi stap long Malapoa College papa blong hem ikam wokabaot mo shoem hem boundary blong Pumaso ia long hem.

Hemi confirmem long Kot se Tom Kaltak hemi wan seaman mo taem hemi stap work long ship Ati Toumata Tetrau we hemi woman Ifira Tenuku imaretem wan man Japan nem blong hem Kanegai. Toumata ibin stap helpem woman blong Tom Kaltak blong stap lukaotem ol family blong hem taem hemi stap work long ship. Taem hemi kam back hemi bin sick bigwan mo Toumata ibin stap lukaot long hem tu mo tufala mo man blong hem ibin buildim wan haos blong Tom Kaltak blong hemi liv long hem. Hemi story tu se Toumata mo man blong hem nao ibuildim house long Matantopua long area blong Pumaso we naoia foundation blong hem nomo istap. Hemi gohed blong confirmem se Tom Kaltak ibin glat long wanem Toumata imekem long family blong hem nao igivim pis kraon ia long hem olsem wan Pumaso.

Witness No.2 - hemi Gilbert Kanekai. Witness ia tu hemi witnessim Pumaso. Long witness statement blong hem hemi talem se papa blong hem nao ibin stap mekem ol repair long house blong Toumata Tetrau we istap long pumaso area ia. Mo tu oli bin stap mekem Karen lon are blong pumaso. Hemi talem tu se family Watt oli bin stap long haos ia long arrangement blong Ati Toumata mo taem Family Watt oli muv aot wan nara man nem blong hem Jean Marie Robert we oli stap colem hem Frank ikam luk papa blong hem Kalonsema mo askem blong liv wetem family blong hem long haos ia. Mo between 1960 mo 1976 Kalonsema nao ibin stap collectem rent blong haos ia. After family ia imuv aot Kalonsema

iputum sam man blong Municipality blong oli liv long haos blong Toumata. Olgeta ia ikat Henry mo Pakoa Firi mo Kalonsema istil collecem rent kasem 1981 long taem we hemi ded.

Witness No.3 –hemi Andrea Kalsarea. Witness ia hemi witness long kot se befo World War II Kaltak igivim kraon long Toumata Tetrau. Kraon ia istap insaed long Matantopua area. Kaltak igivim olsem wan pumasos. Hemi also confirm se Kaltak hemi wan seaman mo hemi bin wok long wan ship blong BP we hemi stap travel iko lo Norfolk Island, Australia mo New Hebrides. Toumata wetem man blong hem Kanegai blong Japan ibin lukaotem Leiri woman blong Kaltak wetem ol pikinini blong tufala taem we Kaltak istap wok long ship ia Morinda. Kaltak iglad from givhand blong tufala ia nao mekem se hemi givim land ia long Toumata olsem pumasos.

Ol witnesses ia oli confirm tu se taem Seru Korikao iwantem buildim haos blong hem hemi go askem Kalonsema we hemi pikinini blong Toumata blong katem rod iko thru long area blong pumasos ia.

OL NARAFALA EVIDENCES.

- Extract blong LIVE Book, pages 33 to 39 blong Live Book 5
- Family tree blong conectem Susie we hemi adopted pikinini blong Toumata iko long Kaltak
- Sketch map blong boundary blong Pumasos
- Letter Blong Tousuru Taura iko long Chief Manto Kalsakau long 2012
- Letter blong Tafaki Saurei long 2003 iadress iko long Ifira Tenuku
- Letter from Tafaki Saurei long 1999

BAONDTRI BLONG GRAON WEH CLAIMANT HEMI CLAIMEM.

Istart long Mango long road igo antap folem fanis blong Malapoa College ikam kasem ples we ol bamboo oli bin stap long hem fas taem iko antap long wan White Nakavika tree iko long wan nambe tree ifolem iko daon long ol line mango kasem mango daon long rod bakeken.

FAMILY TREE.

Toumata Tetrau woman Ifira Tenuku imared wetem Kanekai blong Japan, tufala ikat two boy Antoine Kanegai mo Kalonsema. Antoine Kanegai hemi maretem Madeline Kanegai mo pikinini blong tufala Tony Kanekae we hemi Counter Claimant No. 2.

CASE BLONG FAMILY TIMATASO NATAMATE – COUNTER CLAIMANT NAMBA 3.

BASIS BLONG CLAIM BLONG HEM.

- Hemi folem three (3) paramount Chiefs
- Chief Esly Pakoa Natamate iklem folem Chief Masoemaramanu Tinabuamata

PRESENTESEN BLONG CLAIM.

Spokesman blong family ia hemi Wilson. Family ia idividem claim blong hem long 7 parts: Chiefly title Timataso Natamate we ifolem bloodline blong ol fes bon son blong onem kastom kraon, history hao itakem kraon or boundary we iklem, kastom blong kraon or boundary klem, kastom fasin blong usum kraon, family tree blong klem we iswoem lineage blong em wetem kraon we iklemem folem family blong Leikave Ngisa wetem Leipakoa Nasara, main kastom linkage mo criteria blong fes occupant blong kraon we istap long dispute.

Storean blong olgeta ise oli klem folem Chief title is Timataso Natamate we ifolem bloodline blong fes bon son blong onem kastom land. Hemi talem se emi auden folem kastom blong kraon or boundar we istap klemem, mining blong title blong jif we emi holem emi Chief Blong Pis or Chief Blong kipim pis mo language blong Chief Pakoa Timataso Natamate ikamaot long area we istap klemem. Hemi talem se insaet long boundary we istap klem oli kat ol tapu ples we istap performem ol tradisinal seremony blong hem long hem olsem tredisinal baptisim, kastom singsing mo kastom prea.

Hemi talem se, ol tredisinal seremoni ia, Varea or Nakamal blong em nomo i save pefomem from ol seremoni ia i stap onarem tufala spirit ia, "Pakoa Lapa Karespuma mo "Pakoa Riki Makotavaki", mo i talem tu se, Chiefly ordination folem principle kastom rul blong baondri we i claimem, i pass nomo long ol **"fes born son"**.

Long taem blong presentem submission blong em long Kot, emi bin singsing mo pray folem kastom blong baondri ia olsem evidence blong information we i talemaot long Kot.

Hemi storean long histori long how itekem kraon or boundary we istap klemem. Hemi talem se Kastom mo histori blong graon we i stap long dispiut emi blong ol tri (3) fala Paramount Chiefs ia: Paramount Chief Masoemaramanu Tinabuamata, Paramount Chief Marakibulemata mo Paramount Chief Masoenua. Hemi i talem se kastom blong graon or baondri ia, emi olsem kastom blong Paramount chief Roimata we plante man oli save se emi start long Efete mo spred kasem Shepherd mo histri mo kastom we oli talemaot long Court, hemi "Secret" tumas. folem kastom histori blong ol olfala blong olgeta, fes Paramount chief we i land long Aeland blong Efete, emi Paramount Jif Masoemaramanu Tinabuamata. "Kenu" we i tekem i kam, nem blong em "Tokorua" mo taem emi stap travel i kam, emi luk aeland ia, seip (shape) blong em i olsem nest blong pidjin mo i nemem Aeland ia "Efete"/Fete or nest blong pidjin". Hemi talem se Paramount Chief Masoemaramanu Tinabuamata emi land festaem long Mindiwora (South East blong Efete) mo liv long Maniwora. Paramount Chief Masoemaramanu i liv long taem long eria ia, be afta we papulesen blong em i gro mo from raorao from lidasip, Paramount Chief Masoemaramanu Tinabuamata i disaet blong muv aot long Maniwora mo kam setel long Raouloa long Western part blong Efete.

Hemi talem se, i bin gat wan traebol war bitwin Paramount Chief Masoemaramanu Tinabuamata wetem Paramount Chief Marakibulemata. Traebol war ia, ol narafala claimen tu oli talem long statement blong olgeta. Tufala brata is itwins tufala i bin rau from lidasip. Wan i wantem kam Paramount Chief mo narawan i wantem kam Paramount Chief. Tru long raorao ia, i bin gat bigfala traebol war long vile lapa, start long Raouloa i go kasem Malapoa. Fait ia nao i mekem se Paramount Chief Masoenua i kam putum pis bitwin Paramount Chief Masoemaramanu Tinabuamata mo Paramount Chief Marakibulemata. Chief Pakoa Alick Timataso Namori olsem fes witnis blong Chief Pakoa Esly Timataso Natamate, i konfemem

relationship blong Paramount Chief Masoemaramanu Tinabuamata wetem Paramount Chief Marakibulemata. Chief Pakoa Alick Timataso Namori i talem se, histori mo kastom we Chief Pakoa Esly Timataso Natamate i talem emi tru.

Emi talem se folem family tree blong tufala Paramount Chief ia, Paramount Chief Masoemaramanu Tinabuamata i kamaot long fes bon papa mo Paramount Chief Marakibulemata i kamaot long sekon bon papa. Smol nem blong Paramount Chief Masoemaramanu Tinabuamata emi, Ngiatika. Papa blong Ngiatika emi Maitikitiki mo mama blong em i Leilasa. Tufala i bin rau from lidasip. Wan i wantem kam Paramount Chief mo narawan i wantem kam Paramount Chief. Tru long raorao ia, i bin gat bigfala traebol war long vile lapa, start long Raouloa i go kasem Malapoa. Fait ia nao i mekem se Paramount Chief Masoenua i kam putum pis bitwin Paramount Chief Masoemaramanu Tinabuamata mo Paramount Chief Marakibulemata. According long Counter Claimant: 3, land baondri we i stap claimem, Paramount chief Masoemaramanu Tinabuamata blong Efete nao i bin givim long Paramount chief Masoenua, afta Paramount chief Masoenua i givim long Head chief Timataso Natamate blong emi stap lukaotem mo pefomem ol diutis blong em. Claimant i talem long statement blong em se, emi impoten blong Efate Aeland kot i save se lidaship i stap kosem instability oltaem long ol famli blong ol Paramount Chief, mekem se Chief Timataso Natamate i gat wan spesel rol/responsibility we Paramount Chief Masoenua i bin givim long em blong i stap meitenem pis taem i gat raurau. Chief Timataso Natamate emi wan pis meka.

Oli gat three (3) witnesses every wan.

EVIDENCES.

Witness No.1 – hemi Chief Willie Samuel Masoenua. Witness ia hemi talem se imuv from Eretoka hemi kam liv long village blong Suama long Malapoa bifo hemi decide blong ko liv long Ravenga ni Efate. Chief Timataso istap blong maintainem pis.

Witness No.2 – hemi Pakoa Alick Timataso Namori. Long Statement blong witness is hemi tok abaot relationship blong Chief Maraki Bulemata mo chief Masoemaramanu. Hemi talem se Paramount Chief Masoemaramanu ikam aot long fes bon papa mo Paramount Chief Maraki Bulemata ikam aot long sekon bon papa. Smol nem blong Masoemaramanu hemi Ngiatika. Papa blong Ngiatika hemi Maitikitiki mo mama blong hem hemi Leilasa. Tufala ibin rau from lidaship. Wan i wantem kam Paramount Chief mo narawan i wantem kam paramount Chief tu. Hemi se thru long raorao ia ibin gat bigfala traebol war long vilelapa, start long Raouloa igo kasem Malapoa.

Witness No.3 – hemi Chief Morris Kaloran. Witness ia hemi talem der ibin kat wan tribol war mo tufala chief ia nao imekem pis, Chief Madoemsramanu mo Chief Marakibulematas we tufal ibrata. Tufala ibin stap rao from power blong big Chief.

Olgeta witnesses ia oli confirm se pis between different Chief long village blong Malapoa. Land ia oli bin kivim tru long ol different Chiefs ia.

OL NARAFALA EVIDENCES.

Kot hemi itake note long: -

- Kastom singsing
- Kastom prayer
- Kastom baptism
- Family Tree
- Map
- Photos blong Unity Day long 2004

BAONDTRI BLONG GRAON BLONG HEM.

Parti ia oli save ol names blong ol kraon, olsem Matantopua, Souama, Malapoa, Emango Tukutuku, Malulapa etc... be oli no save se boundry blong oleta oli stat wea oi finis wea.

FAMILY TREE.

Family tree blong olgeta hemi blong three different jifs mekem se kot inosave se bae ifolem which wan nomo.

FIELD VISIT.

Hemia long summary blong olgeta places we Kot hemi bin visitim wetem each parties.

Walkabaot wetem original claimant.

Hemia olgeta places Kot hemi bin visitim wetem Original Claimant.

- Start long mango long road iko kasem solwota ikam long white nakavika iko kasem white wood mo cross ikam long white nakavika mo kasem long main road folem fenis blong Malapoa College iko kasem solwora folem kasem well mo ko kasem Metnai.
- Presbyterian Church, SDA Church, CMC Church mo NTM Church,
- Residence blong ol man Tongoa
- grave blong Late John Rarua.
- foundation blong haos blong Toumata we hemi Poumaso,
- Residence blong ol man Kilbert,
- Haos we Amon ibuildim.

- Kava Nakamal.

Walkabaot wetem Counter Claimant No.1

Start long mango long road we foundation blong ol man America istap long hem. Iko daon long well long solwota we ol European planters oli makem, ko long Matnai we hemi stap long side blong wan haos we family Saurei oli givin long sam man Tanna. Afta go bak antap mo start folem olfala road narasaesd long haos blong Jeoffry mo ol family Bakakoto folem ikam kasem first residence blong George Maraki Saurei then ko long residence blong Seru Korikalo afta ko antap mo lukim electricity posts we George Saurei ibin signem agreement blong hem wetem UNELCO blong oli putum light igo long ples ia. After long hemia group iko long TBN Tower then ko antap kasem wan haos we istap stret long boundary blong Varkali Saurei mo family Bakakoto, iko through long wan thick bush mo kam kasem two nandao we boundary ifinis long hem we oli kolem ples ia Matnalu. Then iko long wan nambanga we ples ia oli kolem Pritano. Saurei mo Kaltak ibin mekem agreement blong exchangem kraon ia Matantopua mo Pretano. Then crosem rod ikam long haos blong James Viandre ikam long Foundation blong haos blong Tetrao. Kolosap heia wan family Surei iliv long hem, ikam long SDA Churchm, Nakamal, PCV, grave blong John Rarua no folem road. iko long main rod folem ikam oli swoem ples we family Saurei oli bin feedim pig long hem bifo. Kam bak mo folem ol mango mo ko back long mango we group istat long hem.

Walkabaot wetem Counter Claimant No. 2

Start long bamboo antap iko long store blong Viandre after go long white nagavika go raoud long white wood pass ikam daon long ol burao mo namambe after ikam daon folem ol mango trees mo olfala fence ikam long ol man Gilbert oli stap. Founation blong house blong Toumata Tetrau, Grave blong Late John Rarua, Residence blong ol man Tongoa. Insaed long area ia oli pointem olgeta 4 fala churches, Presbeterian Church, SDA Church, CMC mo NTM Church wetem kava nakamal. Group imuv ikam daon mo finis long mango tree we foundation blong house blong ol man America istap long hem

Walkabaot wetem counter claimant No.3

- Kot ivisit start long Tebakor tuktuk, after iko antap long wan nakamal antap long hill, iko long side long cave down ikat ol stampa blong bredfrut afta iklaem iko antap long cave. Oli se cave ia nao Chief istap hide long hem long taem blong ol war. Afta ikam bak long truck iko long Manples oli pointem ples we family Ayong oli stap long hem after oli poitem ples we family Samblong oli stap long hem then drive in iko long wan ples oli kolem Kokoreko. Oli swoem haos blong chief mo oli swoem ples we oli kilim ol pig blong man Efate we oli no karem nao oli berem long ples ia. After wokabaot iko antap long wan smol hill oli swoem wan haos we ol man Ifira oli bin bonem then igo daon smol long wan nakamal we wan smol haos istap long hem, go insaed mo ikat sam samting blong kastom istap insaed. Then oli swoem three stone we oli se

irepresentem three chiefs blong olgeta. Then muv iko long wan ples we oli se hemi olfala village blong olgeta we oli kolem Malulapa. Ikat sam big stampa blong mango oli stap long ples ia tu. Muv igo daon blong visitim wan cave long side blong stone we oli kolem Nabwariki afta go luk ol family blong olgeta we oli stap long side river finis muv iko long Black Sand hemi long end blong Tagabe. Oli poinem aot point blong Malapoa. Then drive bakeken ikam long Malapoa. Long Malapoa oli swoem wan ples bakeken se ol family blong olgeta oli stap long hem. Then tanem raond ikam back iko antap long wan smol hil mo stap luk igo daon long Ifira Tenuku. Ples ia oli se ples ia nao oli save luk ol enemies blong olgeta mo daon long hem oli se ikat fulap ded man long hem after oli stap swoem nomo ol olfala Karen blong olgeta mo ikat tu haos blong two white man be oli nomo stap long hem from se wan spirit we istap long ples ia nao ironem aot white man ia. Finis long ples ia kot ikam bak.

- Kot iwanten talem nomo se fulap ol ples we mifala ivisitim oli stap outside long Matantopua especially long disputed area.

Long disputed area oli swoem: -

- Presbyterien Church, SDA Church, CMC mo NTM Church
- Residence blong ol man Tongoa, mo
- Grave blong Late John Rarua

FINDINGS BLONG KOT.

Efate Island Kot hemi bin sidaon start long 5 August mo finis long 19 August 2013. Afta careful analysis blong each parties' claims Kot ia hemi bin harem evidences ikam from 4 parties wetem 14 witnesses blong olgeta. Kot hemi notem olketa particularities blong land case ia se:

1. Olgeta 4fala partis ia oli no connect long bloodline or family tree be some oli connect through long Land Ternue system blong Efate;
2. Olgeta parties everyone oli muv from nara places long Efate mo one imuv from Tongoa ikam kasem long Ifira then long Matantopua;
3. Land dispute ia hemi stap long wan smol part blong land ia Matantopua;
4. Olketa graon ia hemi stap under development olsem ol churches, Tower blong telephone, water supply, electricity mo TVL land line cable we iunder control blong Saurei family;
5. Olketa basis blong claim long graon ia hemi involvem naflak Temalu mo kastomari raits blong land tenure follem kastom blong Efate.

Long saed blong original Claimant kot ifaenem se: -

- Kaltaki hemi karem kraon ia thru long wan kastom fine,

- Spokesman Amon Tom Kaltak hemi harem mo save long boundary blong kraon ia be hemi no stap liv insaed long kraon ia from se woman blong hem hemi wan teacher mo hemi no stap long wan ples,
- Hemi maret wetem woman Mele mo taem woman blong hem istap teach long Mele tufala wetem ol family blong tufala iliv long Mele kasem today,
- Kaltak hemi gat 4 generations we start long Tom Kalfabun ikam kasem Amon.
- Tom Kalfabun imuv long wan village oli kolek Ereueti ikam stap long Erakor Iland after ikam long Wanangire igo long Ifira mo stap long wan nakamal long wei then hemi kam long Matantopua.
- Kaltak hemi bin wan seaman mo hemi bin aot oltaem mo go long Norfolk Island, Australia mo New Hebrides,
- Kaltak hemi bin givim wan piece kraon long Toumata Tetrau olsem wan Pumasos,
- Ikat two olfala itekem Amon mo swoem hem boundary blong kraon long hem. Tufala ia George Maraki Saurei mo Alick Saurei,

Counter Claimant No.1 Kot ifaenem se: -

- Family ia oli kam aot long Naflak Temalu,
- Family tree istart long Livilovi ikam kasem Henry olgeta oli gat 5 generations,
- Lovilovi imuv aot long Ebuffa iko long Wanapau, Malulapa, Tekeremea, Matantopua, Kawenu, Eriki mo Ifira Tenuku.
- Hemi fes man Ifira we iko long Matantopua,
- George Maraki Saurei hemi bin muv igo long Matantopua long year 1956,
- George Maraki Saurei nao hemi stap putum ol man insaed long Matantopua, hemi stap signem ol agreement wetem olman blong mekem ol development long Matantopua.
- Family Saurei, Kot ifaenem se oli save real storian blong how Kaltak iko insaed long kraon ia be oli no wantem admitim or tokabaot,
- Kraon we oli givim olsem kastom fine igo long Kalfabun hemi long taem blong tufala yet,
- Long taem blong Lovilovi kasem Kalsong Saurei mo Tom Kalfabun kasem Tom Kaltak ino bin kat any raorao,
- Raorao istat wetem George Maraki Saurei mo Amon Tom Kaltak nomo,
- Dispute istap long ples we igat fulap development blong hem nomo,
- Outside long disputed area ikat ol nara man olistap be inokat dispute wetem family Saurei from,
- Ol tapu pleses oli stap outside long disputed area,
- Ol nasare mo nakamal blong family Saurei oli stap long Ifira Tenuku,
- Chief blong Ifira nao hemi chief blong olman Ifira mo kraon blong olgeta nomata oli liv long Ifira or Efate main land,
- Saurei hemi bin givim land olsem Pumasos be istap outside long disputed area,
- Pumasos we oli givim long Kanegai hemi no thru long family Saurei be hemi thru long family Kaltaki,

Counter Claimant No.2 kot oifaenem se: -

- Oli bin karem kraon long Matanpopua thru long wan Kastom Land Tenure we oli kolem Pumaso,
- Pumaso ia oli givim long wan woman nem blong hem Toumata Tetrau we hemi blong Ifira be imaret wetem man Japan,
- Spokeman blong parti ia isave mo expklainem gud olgeta kastom rod blong karem kraon long Efate
- Toumata Tetrau hemi karem Pumaso ia finis ipasem long boy blong hem Antoine Kanekai after Antoine Kanegai hemi pasem iko long boy blong hem Tony Kanegai,
- Brata blong Antoine Kanegai we nem blong hem Kalonsema nao hemi bin putum, ol man mo karem ol rent blong haos blong Toumata we istap insaed long Pumaso land ia kasem taem ided,

Counter Claimant No.3 kot ifaenem se:-

- Wan jif ipul long kenue we oli kolem Tokorua ikam from Tongoa mo kam kasem Efate.
- Ikat two paramount jifs (Jif Masomaramanu Tinapuamata Mo Jif Marakibulemata) tufala ifaet from power blong jif, wan iwantem paramount jif mo nara wan tu iwantem kam paramount jif,
- Tufala ishareout mo faetem each other
- Wan nara Jif oli kolem Jif Masoenua we hemi kam long Eretoka (hat Island) ikam mekem pis between tufala
- Parti ia oli save fulap kastom nem blong ol kraon be oli no save gud se boundary blong olgeta oli stat wea mo oli finis wea,
- Oli save tu fulap long ol tapu pleses, ol nasara mo ol farea be most long olgeta oli stap outside long land ia Matantopua.
- Ikat two caves we oli swoem long kot long taem blong wokabaot be tufala istap outside long disputed area.
- Ikat three stone long wan ples long Kokoreko area we oli se irepresentem three chiefs blong olgeta. Kot ifaenem se ol stone ia ol ino stone we istap hem wan, oli stone we iluk olsem olman nomo oli buildim,
- Ikat sam family blong olgeta oli stap liv long diputed area mo ikat grave blong wan family blong olgeta istap long ples ia tu,
- Reson why oli berem John Rarua long Matantopua se from oli givim nem ia Maraki long George Maraki Saurei,
- Kastom blong Efate you save kivim wan kastom nem or chiefly nem or title long wan man be hemia ino blong aquaerem land long hem,
- Ol jifs we oli nemem long presentation blong olgeta mo ol present chiefs blong olgeta oli audenem olgeta everywan long Tongoa Island,
- Kastom blong Efate ino semak olsem kastom blong Tongoa,
- Taem oli audenem wan jif long wan island oli stap wokabaot long kraon blong hem sem taem be hemi no save ko klem long nara island,

OBSERVATION BLONG KOT

Kot iwantem talem se ples ia Malapoa ol parties oli tok abaot be wea hemi siueted oli swoem mifala oli differen long each other;

Taem man imekem faen long any samting, kakae, money, mat, buluk, pig, land or any samting man ino save karem bak. Hemi ia ino long kastom bifo, naoia, long Vanuatu or any wea long world yuno save karem bak. fine hemi fine.

Taem wan man igivim wan gift of Pumaso, hemia tu nokat man isave karem aot.

Long Kastom blong Efate yu audanem wan jif long wan Island sem taem ol jifs we oli audanem jif ia oli wokabaot long kraon blong hem. Mo jif ia ino save go klemem graon long narafala island other than hemia we oli audanem hem long hem.

KASTOMARY LAND TENURE PRACTICES.

Kot hemi findem se igat two long olgeta parties ia iaquaerem graon follem PUMASO or Kastom Will mo wan kastom fine. Tufala ia igat;

- Original Claimant ikarem land through long wan kastom fine we Lovilovi Saurei ipem long Tom Kalfapun from hemi bin stilim woman blong Tom Kalfapun.
- CC2, hemi tekem kraon through long Pumaso we Tom Kaltaki igivim long hem we istap insaed long piece land we Kaltaki iaquaerem thru long Kastom fine.

STANDARD BLONG PROVE.

Kot ia hemi usum standard blong prove based long probability blong each case wether oli qualified under bladlaen descendants or eni nara kastom practices blong kastomari land tenure long area blong case ia, South Efate or even Efate as awhole.

Kot ia hemi gat duty blong applaem kastom olsem basis blong onaship blong kastomari land raits follem Articles 73, 74 mo 75 long Constitution blong Republic blong Vanuatu. Hemi also applaem Island Court Act, Cap 167 civil procedure rules, section 8

DEKLERESEN BLONG KOT.

Kot ideclare se Family Saurei nao hemi Kastom owner blong land ia Matantopua be ikat sam pieces or area inside we ibin kat Land Tenure system itek ples insaed long hem bae Saurei Family and Descendants ino save outem olgeta long land ia.

RAITS BLONG KASTOMARY LAND TENURE.

Olgeta narafala parties oli gat olgeta following raits ia.

Original Claimant - Kot hemi deklarem se hemi gat rait blong ownem mo continue usum graon ia Saurei ibin givim olsem wan kastom fine long hem from trouble blong hem wetem woman blong Tom Kalfaun. **Bae Saurei family and descendants oli no save putum aot family Kaltaki long graon ia.**

Counter claimant 2- Kot hemi deklarem se hemi gat rait blong ownem mo continue usum graon ia follem practice blong kastomari land tenure system we hemi Pumaso we ibin done between hem mo Original Claimant insaed long kraon we original claimant hemi aquirem through long wan kastom fine. **Bae Saurei Family mo descendants oli nosave putum aot Kangai long kraon ia.**

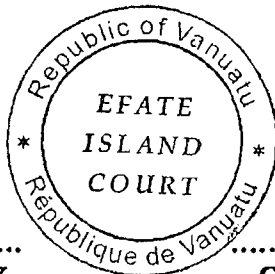
Counter Claimant No. 3 oli kat fulap places we oli mekem kastom long hem we oli kat nasara, nakamal mo ol tapu places be everywan oli stap long ouside long boundary blong Matantopua. Long kastom blong Efate taem yu givim nem long wan jif or wan place hemia hemi nem nomo be ino blong karem kraon long hem. Therefore Claim blong Counter Claimant No 3 hemi fail.

Anyone we hemi no happy long declaration blong kot ia hemi gat rait blong mekem appeal within 30 days.

Judgment ia Island Kot hemi mekem long Monday 26 August 2013.

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**SENIOR MAGISTRATE NESBETH
WILSON**
Presiding Magistrate

.....
CHIEF RAYMOND MARANGOE
Justice



.....
CHIEF JOSHUA HARRY
Justice

.....
CHIEF SAM MARAPAKOA
Justice