

IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU

Civil case 248 of 2016

BETWEEN: MALCOLM EPHRAIM

Of Tenmaru village, North West Malekula

AND: ROBSEN ISACC

Of Lecan village, North West Malekula

Coram: Justice Douglas Fadal
Justice Robert Niptick
Justice John Wesly Tawi

Clerk: Collyne Maki

Court Venue: Lakatoro, Court House

Date of Judgment: Monday 21 March 2016 February 2016

Claimant: Present
Defendant: Present

JUDGMENT

An application was filed by the claimant seeking before the court against the defendant coconut property. The claimant stated in his claim and in court that his claims cover only coconut plantation that his great grandfather Melu planted. He stated that Isacc had planted four (4) stems of coconut and his grandfather Ephraim had stopped him not to plant anymore and had exchange the four coconuts with a land called NAWENAHIRAIN for Isacc to work on. The claimant further stated that it (coconut plantation) has been used for four generations by his families until on the 24th of January 2016 the defendant approached them at the plantation and threaten the claimant and his families not to use the plantation. The claimant has five witness in which during cross examination in court all confirmed that the defendants had planted only four stems of coconut and it has been exchanged with a piece of land namely NAWENAHIRAN.



The defendant's spokesperson Mr Pierre Rueben responded and mentioned that the coconut property belongs to the defendant because he planted them but he was forced out by the claimant's family some years ago that made them move and stop using the plantation. His witness Mr Max Arnampath stated in court that in accordance to their custom that once Melu died all his property goes back to the Chief and also stated that it is not possible to exchange coconut with a piece of land and was not aware that there has been an exchange of the coconut and the land NAWENNAHIRAIN.

FINDINGS

- The claimant's five (5) witnesses confirmed in court that the defendant only planted four stems of coconut
- The claimant's five (5) witnesses confirmed in court that the four coconut stems have been exchanged with the land NAWENNAHIRAIN which is part of the custom exchange
- The defendant confirmed he is now working on the piece of land namely NAWENNAHIRAIN

UPON THE FINDINGS THE COURT DECLARES THE FOLLOWING ORDERS:

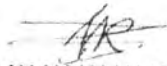
ORDERS

1. The defendant Mr Robsen Issacc to restrain from using and trespassing onto the plantation which belongs to Malcol Ephraim and his families
2. The claimant has the right to file an enforcement case to be heard before the Senior Magistrate if the defendant failed to obey the court order
3. If either party does not agree with the Judgment within 30 days upon receiving Judgment, the right to appeal to the Magistrate Court has stated in the Island Court Act CAP 167 section 22 Subsection (1) stated " *Any person aggrieved by an order or decision of an Island Court may within 30 days from the date of such order or decision appeal therefrom to (b) the competent Magistrate's court in all other matters* "



Dated at Lakatoro this 21 March , 2016

BY THE COURT



Justice Robert Niptick



Justice John Wesly Tawi



Justice Douglas Fadal

