

IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU

Civil case 01 of 2014 (16/1985)

BETWEEN: CHIEF JOSIAH JOE
Ast CHIEF JOSHUA MAEL
CHIEF MAKI MORRIS
CHIEF HEDLY HOLOUN
Tahi village Paama

Claimants

AND: CHIEF HOLU RUEBEN (Vutekai village, Paama)
CHIEF SAUL TIMOTHY (Nou village Paama)
CHIEF STEVEN TEKAKE (Asuas village Paama)
JOSEPH DAVID (Wailep village Paama)
ELDER AISON (Lulep village Paama)

Defendants

Coram: Justice Morris Knos
Justice Roy Morrison
Justice Andrew Vuravur

Clerk: Collyne Maki

Court Venue: Liro

Date of Judgment: Tuesday 14 June to Friday 18 June 2016

Claimants:

CHIEF JOSIAH JOE - Absent
Ast CHIEF JOSHUA MAEL - Present
CHIEF MAKI MORRIS - Absent
CHIEF HEDLY HOLOUN - Present

Defendant:

CHIEF HOLU RUEBEN - Present
CHIEF SAUL TIMOTHY - Present
CHIEF STEVEN TEKAKE - Present
JOSEPH DAVID - Absent
ELDER AISON - Present



JUDGMENT

An application was filed by the claimants on the 21st day of August 2014 seeking before the court that the meeting organised by Tamaso Council of Chiefs that was held on Tahu village on the 13th

The spokesperson Mr Joshua Mael on behalf of the claimants present stated in court that the reason why the claimants filed the case against the defendants within the Paama Island Court is because: -

1. The defendants entered Tahu Community Nakamal on the 13 of November 2011 is not proper according to custom
2. The meeting being held at Tahu Nakamal and appointed Asiah Avock as a Chief is not proper in accordance to custom procedures
3. The defendants have no respect for the four existing chiefs and Tahu community and entered the Nakamal and a meeting was held at the Nakamal was not proper in accordance to custom
4. The meeting being organised by the Tamaso Council of Chiefs was held after the closing of the session and,
5. The four existing Chiefs have been issued fines by the Tamaso Council of Chiefs is not proper according to custom

The spokesman stated that before the meeting was held on the 13th of November 2013 there have been correspondences issued by the Tamaso council and the claimers in which the first letter was dated 07 of June 2013 stated that the Four Chiefs and Tahu Community have requested a meeting of understanding. The Tamaso Council of Chiefs which was done by the Chairman of the council Mr Saul Timothy with no signature dated the 24 of September 2013 on the letter responded and stated that there won't be a meeting of understanding but there will be a court. He further stated that another letter was issued on the 8th of October 2013 by the claimants stating that they and the community still request for a meeting of understanding. The Tamaso Council of Chiefs in which the secretary Mr Morris Philip



stated that Tamaso Council of Chiefs will not accept meeting of understating but will proceed on with a court hearing. Another letter was issued by the claimants dated 06th of November 2013 that seeks to find out that what the issue to be discussed by this court was and who were the parties to be part of the court hearing? They clearly stated on the letter that they will not attend court on the 13th of November 2013 because it seems that the council is working to cause disturbance within the community and further stated that they (claimants) will file a case against the Tamaso Council of Chiefs for the issue to be dealt with by the court of law. A response from the Tamaso Council of Chiefs stated that the court to be held is to sort out issues between the community leaders.

He further stated that the Tamaso Council of Chiefs disrespect their letters and continuously entered Tahi village and organised the meeting with at the end of the meeting they chose two leaders Chief Aisaih Avock and Chief Titus Hollie to replace the for existing Chiefs which was not proper according to custom. He continuously stated that for a chief to become a chief he has to have the blessings or rights given to him by and elderly chief in front of the whole community and later the ordination to be made. Also mentioned that according to custom if there is a dispute within a nasara both parties should be present in the court for the issue to be sorted out and not one party alone to be heard before the court. The Tamaso Council failed in hearing custom history from both parties the claimant and the defendants from the Tahissa and Haeteau Nakamal and yet appointed Chief Asiah Avock and Chief Titus Hollie to be Chiefs of the said Nakamal. He further stated that according to normal procedures in all organizations in Vanuatu and even in all Islands of Vanuatu including Paama Island there are usually closing sessions and opening sessions of activities. This means all work activities will not process until opening of the New Year session. Tamaso Council of Chiefs after closing of 2013 session they continuously organised the meeting in Tahi Village on the 13th if November 2013.

The witness to the claimants Mr Api Morris Maiyo originally from Tahi village stated and confirmed in court that the letters being issued by Chief Joshua Mael were letters made upon approval of the community and not the claimants themselves and the community members agreed not to be present before the meeting because they



all agreed that they will not be present for the meeting except for the families of the other parties. He further interpreted that in accordance to National Council of Chiefs Act of 2003 section 1 and 3 stated that Custom Chiefs means a person recognised by the community, which shows that the newly appointed chiefs by the Tamaso Council of Chiefs were not recognised by the community and they failed in organising meetings within the community. This shows clearly that the Tamaso Council of Chiefs overlooked the National Council of Chiefs law.

The spokesman on behalf of the defendants present responded that Tamaso Council of Chiefs entering Tahi village on the 13th of November 2013 is proper in accordance to custom because Tahi has been part of a pig sharing that has been shared among 21 villages of Paama Island. The sharing of the pig represents that any problems within any of the villages of Paama island the Tamaso Council of Chiefs has the right to organise and solve this problem. There are two areas under the Tamaso Council, the Northern area called the Tomat Ros meaning peace and the Southern area called the Tomak Mules. Tomat is divided into areas such as Tahi, Liro, Luli and Lulep. If there were any problem within this areas or villages the matter to be dealt with by the village court, then the area court the Tomat and lastly by the Tamaso Council. He further stated that on Tahi village the problem within the community has been dealt with all levels of the Paama court and lastly was the Tamaso Council.

Tamaso Council is classified as the Supreme Court of Paama Island and yet the claimants disrespect the body at not attending attending the village meeting. He further stated that the appointments of the two chiefs Asiah and Titus has taken place and according to custom. The approach that the Tamaso council had made in entering Tahi village is to maintain peace and harmony within the community. He stated also that the Tamaso council of Chiefs highly respected the four existing chiefs even their witness approached the chiefs to attend the meeting but they unwilling fully did not attend the meeting. The meeting being held on the 13th of November 2013 after the closing of the Tamaso session, in every closing of the end of year session the chairperson always state that even it is the closing but if there were any problems raised the Tamaso council of chiefs will solve the problem. He



further mentioned that the claimants did not respect Tamaso council but Tamaso council is a body that respected all.

The witness to the defendants Mr Noel Heyia a police officer stated in court that on the 13th of March 2013 there was a meeting of understanding held on Tahu village. He assisted the Chiefs to talk to the four existing Chiefs of Tahu village but the chiefs refused to attend the meeting and told him that they would sort out the issue within the community. During cross examination he could not state anything of the meeting held on the 13th of November 2013 because at that time he was on annual leave.

FINDINGS

Tamaso Council of Chiefs abides to custom procedures in issuing correspondences before the date of the meeting.

UPON THE FINDINGS THE COURT DECLARES THE FOLLOWING ORDERS:

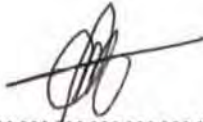
ORDERS

1. The meeting held on Tahu village on the 13th of November 2013 is VALID.
2. If either parties do not agree with the Judgment within 30 days upon receiving Judgment have 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 there from to (b) the competent Magistrates court in all other matters*"



Dated at Liro this 18th of June, 2016

BY THE COURT



.....
Justice Morris Knos



.....
Justice Roy Morrison



.....
Justice Andrew Vuravur

