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IN THE MALEKULA ISLAND COURT  
OF THE REPUBLIC OF VANUATU  
(Criminal Jurisdiction)

Civil  
Case No. 2840 of 2018

**BETWEEN: JEFFRY WILLIAM**  
*Claimant*

**AND: MANSEL DAVID APIA**  
*Defendant*

**Date of Hearing:** 13 March 2019

**Date of Judgment:** 15 March 2019

**Venue:** Lakatoro Court House

**Before:** Justice Douglas Fadal, Justice Joses Lingi, Justice Patisson Peter

**In attendance:** Mr. Jeffery William (Claimant), Mr. Mansel David Apia (Defendant)

**Clerk:** Collyne Tete Maki

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**JUDGMENT**

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Kes ia emi registered bifo long Malekula aelan kot follem *Island Courts ACT CAP 167 section 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 mo tu;*

*Guided by the Island Courts (Civil Procedure) No 28 of 2005 Rule 1 subsection 1 to 7 stated" Starting of a civil claim"*

Issue we I stap bifo long kot emi:

Blong kot I faenem maot whu long tufala parties ia Jeffrey William we emi kleima mo David Apia we emi defendant nao emi stret bladline blong WILLIAM MALJUNG MEN.



## BACKGROUND BLONG KES

*Kleimen blong kes Jeffry William blong Tautu vilij emi representem Family William Maljungmen long Tautu vilij Central Malekula. Donald Maljungmen emi spokesman on behalf blong Jeffrey William. Long kleim blong kleima emi statem long kleim blong em we emi filem I kam long kot se:*

Melteknour emi gat 3 pikinnini we fes bon emi Lulmal we emi ded mo no gat any survival pikinnini, secon bon emi Maljungmen we emi gat 1 Pikinnini we emi William mo Davunmal we emi nambatri son emi gat 1 pikinnini we emi Taur.

William we emi gat tri (3) woman. Fes woman blong em we emi blong Urviv Island we I bonem Tamau Maljungmen and later mama blong em emi ded we I mekem ol apu blong Tamau oli lukaotem em kasem we emi ko bak long Tautu mo ded long 1982.

Son blong Davunmal we emi Taur emi maretem Lenumbere we tufala I gat Willie Bae we emi ded mo sista blong em Liemande. Taem Taur emi ded long 1921 we ol man Laravat oli sutum em afta long 3 yia blong Taur we I pass away, William emi maretem Lenumbere bakegen mo long taem ia emi statem se Lenumbere emi kam blong liv wetem William we emi gat bel finis mo emi bonem Apia long 1924.

Emi further statem se taem Apia emi stap gro I kam antap I gat 3 fasin long kastom we Malsolip William I should mekem long Apia be emi no mekem olsem,

1. Circumcise,
2. Adoptem wan gel blong Apia I exchange wetem sapos emi wandem maret mo;
3. emi no gem birthright long Apia.

Emi statem se risen why emi no mekem ol kastom pefomance ia long Apia from we emi save gud se Apia emi no son blong em.



Spokesman blong Jeffrey William we emi Donald Maljungmen emi Mekem wan amendmen long long kot long saed blong family tri we emi Annex 1 we oli putum se Jeffrey William emi ded be reality emi no ded emi laef nomo. Emi further mekem tu additional long family tri Annex 1 mo talem se Tamau emi gat laef blad we 2 sons Benjio mo Wenjio, Jeffrey William fes bon blong em emi Williamson mo Jason emi fes bon son blong em mo Denny emi fes bon son blong Jason, Kennery fes bon blong em emi Haukenson mo fes bon blong Haukenson emi Hansford.

I gat tri (3) witness nomo we I kam bifo long kot blong kot mo ol parties I cross examinem olgeta I gat Jeffrey William blong Tautu vilij we emi kleima for family William, Jif Robert Niptick blong Unmet vilij mo Johnetty Balbang blong Vinmavis vilij.

1. Jeffrey William emi talem long kot se David Apia emi no pikinnini blong William emi talem se ol pikinnini blong William emi Tamau, Jeffrey mo William we fes bon emi Tamau. Emi talem se olfala ia William emi gat tri woman mo nambatu woman blong em Lenumbere emi gat bel finis long David Apia mo I jes kam stap wetem William. Emi statem tu se ol family oli bin coveremap wan secret parcel or Nambutnumnum kasem we dispute I stat nao oli karem maot or unrappem parcel ia I kam long klia. Emi further talem tu se ol kastom fasin we William i should mekem long David Apia olsem circumcise, exchange long woman mo birthraet emi no bin mekem from we David Apia emi no stret pikinnini blong em. Ol birthright blong em(William) emi gem long Tamau, Jeffrey mo Kennery. Be long saed blong graon emi no sherem mo putum long nem blong any wan mo trifala I gat equal sharing long ol graon mo ol kastom properties blong William.
2. Johnetty Balbang blong Vinamavis vilij West blong Malekula we statemen blong em emi emi kam blong witness long kot mo talem long kot se long yia 1994 samtaem long manis November mo December em mo woman blong em I bin ko liv wetem David Apia smol taem blong waef blong em I stap ready blong deliver long Norsup hospital. Wan dei em mo David Apia tufala I stap ko



long karen blong David Apia afta nao David Apia I talem long em se em (David Apia) i no blong Tautu em I blong smol nambas be I stap nomo long Tautu from we Tommy I adoptem em. ( Annex 4 emi statement blong em)

3. Robert Niptick emi kam blong witnessem long kot se emi bin wan Jastis long PRV land kes long 1985 we I claimant mo defendant oli bin wan nomo long Land kes we Jeffrey William nao emi bin spokesman blong kes and David Apia emi bin ko long witness box mo Kenney Williams i bin backem ap olgeta long kot on behalf blong family William long saed blong ol questions. Emi further talem long kot tu se risen why kes I stap long nem blong David Apia emi from we David Apia nao emi bin pem fee blong land case and clerk I bin putum long nem blong em be emi representem family William. (Annex 15 emi statement blong em)

Kleimen emi filem tu long kot ol nara witness documents be I no gat any cross examination long olgeta from we oli no present bifo long kot.

*Defendant blong kes emi David Apia we emi blong Tautu vilij long Malekula emi no appear bifo long kot be son blong em Mansel Apia emi spokesman on behalf blong David Apia long kes ia. Long response blong em we emi filem I kam long kot emi statem se:*

William Maljungmen stret pikinnini blong em emi Kennery William ino Jeffery William. Emi statem se papa blong Jeffrey William emi no Malsoplip William emi wan man we I kam maot long vilij blong Mahe antap long bush. Emi further talem tu se David Apia papa blong em emi Taur we I bonnem Leimande, Willie Bae we emi ded mo las bon emi David Apia. Emi statem tu se Meltekrelnour emi no apu blong Jeffrey William olsem we emi talem long kleim blong em from we Meltekrelnour emi great grandpa blong David Apia.

Emi talem long kot se stret family tri blong em emi Annex 8 we kleima emi filem long kot we I stat long Taur. Emi confemem tu se David Apia emi no pikinnini blong



William. Emi further talem se Meltekrelnour emi gat tri boe Davunmal, Maljungmen mo Lulumal. Emi talem tu se David Apia emi gat connection wetem William tru long pupu blong em Taur.

I gat wan (1) witness nomo we I kam bifo long kot blong kot mo ol parties I cross examinem em we emi Daniel Tonel blong Litzlitz vilij Malekula island.

Emi statem long statement blong em se wan statement we emi bin Mekem wetem Jeffrey William mo talem se pupu blong em Leimande emi gat tu (2) pikinnini nomo we emi Willie Bae mo Leimande emi false from we pupu blong em I bonem Taur tu.

Emi talem long kot se emi gat tu statemen from we family Jeffrey William emi bin preparem wan blong em mo tekem I ko long em mo emi signem nomo we emi no save content blong statemen ia. Emi further talem se statement we emi Mekem wetem Jeffrey William emi false and emia we emi Mekem wetem Mansel Apia nao emi tru statmen. Emi further talem tu se long family laen blong Taur emi save apu woman blong em nomo be ol nara wan emi no save.

Defendant emi filem tu long kot wan nara witness documents be I no gat any cross examination long em from we oli no present bifo long kot.

*Afta we kot I harem toktok blong tugeta parties' kot emi faenem maot se:*

JEFFREY WILLIAM

- Jeffrey William emi filem wan family tri I kam long kot we I stat wetem MELTEKRELNAUR we I bonem Lulumal we I ded mo Maljungmen mo Davunmal we Maljungmen I bonem Malsolip William emi tru family tri blong blad laen blong William;
- Witness blong em Johnety Balbang emi kam mo witness se David Apia I talem long em se papa blong em I blong Northwest mo;
- Las witness emi Robrt Niptick we emi wan jastis blong aelan kot we emi pat blong PRV land kes emi talem long kot se PRV land kes we tufala parties I stap faet from emi blong family Williams.



## DAVID APIA

- Emi no bin filem wan blad laen history I kam long kot blong helpem kot be emi respond nomo long ol poens blong Jeffrey William mo;
- Emi no bin filem wan family tri I kam long kot blong soem long kot se emi blad laen blong Jif Malsolip William Maljungmen mo family tri we emi base long emi emi emia we kleima I filem long kot Annex 8 we emi stat nomo long Taur be I no Meltekrelaur;
- David Apia emi kleim tru long bladlaen blong Taur we papa blong em emi Davunmal we Davunmal brata blong em Maljungmen mo Lulmal mo emi agri se papa blong olgeta emi Meltekrelaur olsem we kleima emi putum long family tri blong em mo;
- Emi kleim Nem ia TAUR we I stap long dispute we I gat wan kes emi pending apil bifo long Supreme court;
- Mansel David Apia long cross examination emi confemem long kot se David Apia emi NO pikinnini blong Jif Malsolip Maljungmen William be emi blong Taur
- Witness blong David Apia we emi Daniel Tonel emi bin submittem tu (2) statemen I kam long kot we emi bin signem we wan wetem kleima and wan wetem Defendant we I no reliable blong kot I considerem.



Wetem ol findings ia kot I Mekem oda se:

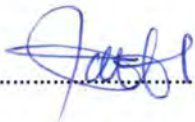
KOT ODA

1. Family TAMAU, family JEFFREY mo family KENERY olio I tru bladlaen blong Jif Malsolip William Maljungmen;
2. Family TAMAU, family JEFFREY mo family KENERY wetem ol descendants blong olgeta oli gat raet blong usem nem ia MALSOLIP WILLIAM MALJUNG MEN;
3. Family TAMAU, JEFFREY mo KENERY bae oli faenem wan legal counsellor blong withdrawem maot nem ia WILLIAM long ol past kot decesions we I stap long nem DAVID APIA WILLIAM long any Magistrate court mo Supreme kot decisions;
4. Family blong DAVID APIA mo ol descendants blong em mo olgeta we bae oli stap kam yet bae oli NOMO GAT RAET blong usem nem ia William
5. Any long tufala parties I no agri long decision ia I gat raet blong apil I ko long Magistrate kot bifo 30 dei.



**Dated at Lakatoro this 15<sup>th</sup> day of March 2019**

**BY THE COURT**



**Justice Douglas FADAL**



**Justice Patisson PETER**



**Justice Joses LINGI**

