

BETWEEN: ELISE MALJUNONG

Claimant

AND: COLLEN TAUR

Defendants

Date of Hearing: 26 – 27 February 2020
Date of Judgment: 28 February 2020
Before Justices: Alina Lienmal (Chairperson), Kalangis Mele, Robert Niptick
Clerk: Collyne Tete Maki
In Attendance: Claimant – Elise Maljunong
Defendants – Collen Taur

JUDGMENT

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:



1. *Whu long tufala parties ia emi entitled blong usem nem ia Nebekrow ?*
2. *From wanem risen nao tufala parties ia I stap dispute from nem ia Nebekrow?*
3. *Nem ia NEBEKROW emi wan jifly taetol nem or wan Kastom ne?*

BACKGROUND BLONG KES

Mr Elise Maljunong blong Rano vilij, Northeast Malekula we boe blong em Kenson Maljunong emi spokesman blong em long kot. Kleim blong em bifo long kot emi statem se emi kleim nem ia "Nembekrow" from we emi part blong family tri blong em. Emi talem se defendan emi no gat raet blong kleim from nem ia from we emi man Tautu village mo kam long Rano long smol aelan mo stap kleim long nem ia Nebekrow we I no blong em. Emi further talem se papa blong defendan emi bon long Tautu mo afta jes kam stap long Rano and emi kam long Rano follem mama blong Baipa nomo.

Emi talem tu long kot se emi no save long wan jajmen we defendan emi kleim se emi karem raet blong em tru long vilij kot decision blong counsel of Jifs long Rano long yia 1993. Emi talem tu se i bin pat long kot ia long 1993 be kot I neva proceed from we I gat wan protest (disturbance long kot) mekem se kot I no proceed long hearing. Be oli sek se I gat jajmen long kes ia. Emi talem tu se Nebekrow emi no gat pikinnini be emi neva adoptem wan pikinnini.

Emi further talem se Nekebrow taem emi killem pig emi tekem nem ia " Malili Santo" mo emi statem tu se taem we emi stap long mainlan emi stap long nasara Amelmelmerek be taem emi ko long smol aelan then emi setem map Amelwelele.

Evri witness blong Mr Elise emi gat 4 witness we trifala long olgeta oli kam blong talem long kot se Nebekrow emi neva adoptem Baipa olsem son blong em emi tekem bak mama blong Baipa nomo afta we Taur emi ded mo wan witness emi kam blong talem se Council of Jifs long Rano oli neva gat wan kot hearing blong talem se Baipa emi adopted by Nebekrow from we I gat protest nao mekem se I neva gat kot and emi talem se jajmen ia emi no wan tru jajmen.

Defendan we emi Mr Collin Taur blong Rano village emi kam talem long kot se emi kleim nem ia Nebekrow tru long adoptsen we emi mekem long papa blong em Baipa afta we papa blong Baipa we emi Taur blong Tautu vilij emi ded Nebekrow emi tekem bak mama blong Baipa mo Baipa I ko bak long Rano. Risen why Nebekrow emi tekem bak mama blong Baipa from we woman ia emi stap wetem Nebekrow fastaem be tufala woman blong Nebekrow



tufala wokem rao wetem em mekem emi ko long Taur long Tautu vilij and bonem Baipa afta Taur emi ded. Emi statem tu se rise why Nebekrowm emi adoptem Baipa from we emi no gat wan pikinnini nao emi adoptem Baipa.

Emi talem tu long kot se Malekula Aelan kot bae emi no mas harem kes ia from we Aelan kot emi bin harem kleim blong Collin Taur tru long Lan kes blong Amelprev we I stap long Rano mo kot I mekem ol faendings blong em tru long Council of Chiefs decision blong yia 1993 mo recognisem adoption blong Collin Taur tru long man ia Baipa. Emi continue talem se even afta long decision blong Aelan kot ia ol parties oli no even apil agensem decision ia kasem we oli kam filem bakegen long aelen kot blong kleim Kastom nem ia Nebekrow. Emi further talem tu se afta long decision blong vilij counsel Elise Maljunong emi neva mekem wan apil agensem decision ia.

Afta we kot I harem toktok blong olgeta parties' mo ol witness kot I faenem maot se:

COURT FINDINGS

Elise Majunong

Follem toktok blong em long kot emi talem se:-

- Emi confemem long kot se oli neva apil agensem decision we Rano Counsel of Jifs I mekem long 1993 mo gem maot decision long Baipa
- Emi confemem tu long kot se afta long Lan kes blong Amelprev we I stap long Orap emi neva apil mo challengem kot findings long decision ia long Supreme Court.

Collin Taur

- Emi bin pruvum long kot mo soem long ol decision we emi fillem I kam long kot se emi bin kleim tru long semak man ia Nebekrow we Malekula aelan kot I mekem findings long em finis mo no gat wan man I challengem long apil I ko long Supreme kot
- Kot I faenem maot se findings blong Aelan kot long Amelprev lan kes emi base long nem ia Nebekrow

OVERALL FINDINGS BLONG KOT

1. Malekula Aelan kot emi harem finis kes long nem ia Nebekrow be long Lan kes blong Amelprev mo I gat wan decision finis I made long kes ia



2. Supreme Kot mo Kot blong apil I bin upholdem decision blong Aelan kot long lan kes 10 blong 1984 we emi blong Amelprev lan
3. Malekula Aelan kot I no save mekem wan nara decision ova long nem ia Nebekrow from we semak kot blo loa ia nomo emi harem lan kes blong Amelprev
4. Kot I faenem maot tu se I no gat wan apil agensem decision blong vilij counsel we I stap long yia 1993 mo Elise Maljunong tu I neva apil agensem decision ia

Afta we kot I mekem ol findings ia kot I mekem oda se: -

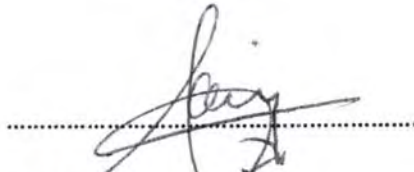
COURT ORDER


1. Civil case 3 blong 2015 emi dismissed.
2. Elise Maljunong sapos yu wandem faet from Nem ia Nebekrow bae yu mas ko filem kes long Supreme kot we I gat pawa blong harem kes blong yu.
3. Any parties emi no agri long kot decision ia emi gat 30 dei blong emi apil I ko long Magistrate kot.




Dated at Lakatoro this 28 day of February 2020

BY THE COURT


Justice Alina Malapa


Justice Robert Niptick


Justice Kalangis Mele

