

**IN THE ISLAND COURT (LAND)
OF THE REPUBLIC OF
VANUATU – Lakatoro, Malekula
(Custom Land Jurisdiction)**

Case No. 19/369 IC/CUST

**IN THE MATTER OF: SECTION 45 OF THE CUSTOMARY LAND
MANAGEMENT ACT**

AND IN THE MATTER OF: LEMBAT & MATAN-MAVUS

**AND IN THE MATTER OF A DECISION OF: FARUN BLACKSAND JOINT VILLAGE CUSTOM
LANDS TRIBUNAL, DATED 14 SEPTEMBER 2010**

**BETWEEN: Asus Jack
Hosea Simon
Dixon Naus
Malekula**

Applicants

**AND: FARUN BLACKSAND JOINT VILLAGE CUSTOM
LAND TRIBUNAL
Malekula**

First Respondent

**AND: Malembat Kikis Alfred
Kalsen Airanglel & Family Titer Ronald
Dixon Joshua Hosea
Aslis Jack
Buasbul
Taylor Edward
Malekula**

Second Respondent

Coram:

Ms B. Kanas Joshua, Chairlady

Counsels:

Mr Edwin Macreveth, for the Applicants

Mr Daniel Yawha, for the 1st Respondent

Mr Sammy Aron, for the 2nd Respondent

WITHDRAWAL ORDER


1. In a conference on 25/9/23 the first and second respondent raised some points to clarify the Withdrawal Order of 21/9/23, in regards to the second respondent, Taylor Edward. Mr Macreveth had applied to withdraw the application for review on 21/9/23, and the application was granted. However, the withdrawal order was revoked as there were discrepancies that affected one of the second respondents, namely Taylor Edward.
2. Mr Yawha is acting for Taylor Edward and was absent at the time when Mr Macreveth applied to withdraw the matter. It is only fair to allow Mr Yawha the liberty to answer the application to withdraw, in Mr Macreveth's absence.



3. On 14/9/10, Farun Blacksand Joint Village Custom Lands Tribunal ("FBJVCLT") delivered a judgment which included Taylor Edward. The applicants then applied for a judicial review at the Supreme Court¹, however, Mr Edward was not a party in the case. An order to quash the decision of the South West Malekula Custom Area Land Tribunal ("SWMCALT") was made based on the consensus of the 3 parties, namely, Hosea Simon, Kapi Jack Asus and Dickson Naus, who are the applicants in this review.
4. The order that has been quashed means that it is only the decision of SWMCALT that is no longer valid. In effect, this means that the decision by FBJVCLT (dated 14/9/10) still remains valid. Under the Customary Lands Tribunal Act ("CLTA") if parties are still not satisfied with decisions of the island land tribunal, a judicial review can be applied for in the Supreme Court. The hierarchy of tribunals shows that disputes are first heard in the village land tribunal, which can then be appealed to the sub-area land tribunal to area land tribunal before reaching the highest tribunal which is the island land tribunal.
5. In applying the facts to the hierarchy, it shows that the Farun decision was appealed to the island land tribunal. It did not go to the sub-area and area land tribunals before that but to the Supreme court for judicial review.
6. The order by the Supreme Court was conceded to by the following defendants:
 - South West Malekula Custom Area Lands Tribunal,
 - Hosea Simon,
 - Kapi Jack Asus, and
 - Dickson Naus.
 Taylor Edward, was not one of the defendants in the judicial review case. He did not challenge the decision by FBJVCLT which declared that he and his family members were the rightful owners of Matanmavus (or is liberally referred to as Tanmavus).
7. As a result of Order 2 in the judicial review case, the application for review was filed before the Island Court (Land). This is the application of withdrawal that has been granted. With this withdrawal there is no decision to be reviewed.
8. Thus, in withdrawing the application for review, in essence, the applicants are insinuating that the decision of Farun nakamal is valid and it is accepted by them. Accordingly, the decision made by Farun Blacksand Joint Village Custom Lands Tribunal, on 14 September 2010 is still valid.
9. No costs shall be awarded.

Dated in Lakatoro, on this 25th day of September, 2023

BY THE COURT


 B. Kanas Joshua (SM)
 CHAIRLADY



¹ Judicial Review Case No. 3 of 2014.