

BETWEEN: MICHEL KALOTRIP
Of Pango Village – Efate Island
Claimant

AND: VIRA KALPOI
Of Pango Village – Efate Island
Defendant

Dates of Hearing: 28/10/2024, 25/11/2024, 13/03/2025, 23/04/2025 & 19/05/2025.
Date of Judgment: Monday 2nd June, 2025.
Venue: EIC – Court-Room, Joint-Court Ontop, Port-Vila
Before: Justice F. Thomas (Presiding Justice)
Justice L. Sakita (Member)
Justice T. Shem Arlie (Member)
Island Court Clerk: Alida Alain
Appearances: Both parties appeared in person

Copy: Court File

JUDGMENT

1. Main Nature of the Case:

(1) The Claimant, Michel Kalotrip, sought a court order for road access through land referred to as Eknamum at Pango area. This road has served the community for over thirty years for transportation, garden access, and residential use. He claims that this road is also designated by the CDCCC (Community Disaster and Climate Change Committee) and the Pango Efare Siligmol Council of Chiefs as emergency evacuation route during tsunami warnings for nearby residents and member of public to higher grounds.

2. Background:

(1) The Claimant, Michel Kalotrip, filed a civil case citing several issues, including breach of a 2017 agreement with the Defendant, Vira Kalpoi, failure by the Defendant to attend customary meetings or comply with Chiefs' summonses, disputes over a right of way to an evacuation center, and threats related to fencing on the Claimant's land. The 2017 agreement granted Michel access through Eknamum land, owned by Vira Kalpoi, affirming his right to use it like other members of the Pango community. The Pango Efare Siligmol Council of Chiefs confirmed that the route between Etnarik and Eknamum is a public road, used for over 30 years, and must remain unblocked.

(2) On 20 September 2024, the Pango Efare Siligmol Council of Chiefs issued a default judgment against Vira Kalpoi for failing to appear after being summoned. The Chiefs



ordered him to remove chains blocking the road and upheld the right of way as public access to the Evacuation Area.

3. Defendant's Response to the Application:

- (1) The Defendant disputed the application, stating that the road access is not for public use, but for his personal use because he had asked the Claimant to help with the cost of making the road, but the Claimant failed to provide assistance.
- (2) The Defendant further stated that it is not his problem if the people to whom the Claimant sold land (Claimant's clients) and public do not have road access to this particular portion of land. He claimed that there is another public road that can be used.
- (3) The Defendant also claimed that he had a valid reason for not attending the meeting of the Pango Efare Siligmol Council of Chiefs, as stated in the summons, because the land dispute is still pending in the Supreme Court under Supreme Land Appeal Case No. 1 of 2009 concerning Eleo-Eurakot Customary Land. He argued that the Pango Efare Siligmol Council of Chiefs did not have the authority to call the meeting as the case was still before the court.

4. Findings:

- (1) Nature of the Land: The road in question is situated on a small piece of land within the original boundary of Eleo-Eurakot Customary Land. This land is custom land and does not have a lease registration.
- (2) Custom Land Ownership Dispute: The custom land ownership for "Eleo-Eurakot" is currently in dispute and is pending before the Supreme Court in Land Appeal Case No. 1 of 2009.
- (3) Supreme Court Order: In the Supreme Court Land Appeal Case No. 1 of 2009, an urgent application by the Family Marik Kalontan was granted to restrain all parties to the appeal and everyone not a party to the appeal from undertaking any development work upon any part of the land. The only exception is for persons who are already as of March 24, 2010, registered as lessees of any part of the land.
- (4) Failure to Comply with Supreme Court Order: Both the Claimant and the Defendant have failed to comply with this order, as they are undertaking development work on this non-lease registered custom land. The Defendant built the road access at his own cost and the Claimant was selling land to his client for usage.

5. Orders of the Court:

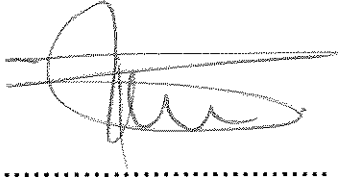
- (1) The application for road access is **not granted**.
- (2) The Efate Island Court does not have jurisdiction to issue orders relating to land that is currently under customary ownership dispute and is subject to a restraining order issued by the Supreme Court in *Land Appeal Case No. 01 of 2009*.
- (3) Both the Claimant, Michel Kalotrip, and the Defendant, Vira Kalpoi, are found to be in breach of the Supreme Court's restraining order dated 24th March 2010, issued by



Justice N. R. Dawson, which prohibits all parties (and non-parties) from undertaking any development work on the disputed Eleo-Eurakot Customary Land, except those registered as lessees prior to that date.

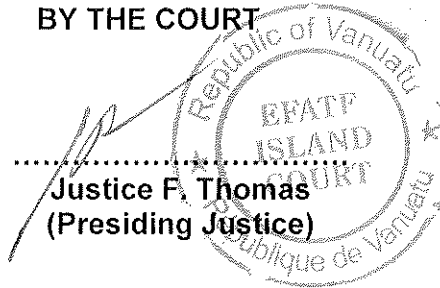
- (4) Both parties have a right to appeal this judgment to a higher court within thirty (30) days from the date of this judgment.

DATED at Port Vila this 2nd June, 2025



.....
Justice Thomas Shem Arlie
(Member)

BY THE COURT



.....
Justice F. Thomas
(Presiding Justice)



.....
Justice L. Sakita
(Member)