

SUPREME COURT  
SANTO

JUDGMENT

In this case I am satisfied having heard the evidence of many witnesses that TOKAL adopted AMON when he was a small child in Malakula. He later brought him to Malo. I am also advised by my custom advisers that AMON is a true son of the family.

JAMES LEO, the custom owner of land at Analuvugon, Malo, states he thought he sold a piece of land to TOKAL for £300 in 1968 which was paid to him in instalment over a period of one year.

ANDREW DANIEL, another witness said he was present when the first payment for the land was made.

ISSAC KENDER said that AMON gave money to TOKAL and with that TOKAL bought the land. AMON had £260 and he gave it to his father TOKAL. He stated that the land belonged to AMON. He said some of the money was borrowed from the Womans Club. It was £50 and AMON gave it to TOKAL and then AMON went to Noumea. He said this all happened in 1971. He said he saw money given by TOKAL to JAMES LEO.

JACETH, another witness stated that TOKAL looked after AMON when he was a child and that TOKAL made a special ceremony for him when he adopted him. Again he stated that £260 came from AMON and £40 from TOKAL. His view was that AMON should share the land with his brothers but it was AMONS decision whether he should give land to the three brothers. JACOB HAWA, a witness also was of the view that AMON should share the land with his brothers.

Then AMON, the adopted and eldest son gave evidence of borrowing the £260 and giving it to TOKAL his father to buy the land. He explained where he got the £260. Having carefully observed AMON when he gave evidence I was impressed by his answers and was satisfied he was telling the truth. He said he was dis-illusioned with his brothers as they did not seem to be satisfied with his division of the property. He stated he had given land to JIMMY, RICHARD, SAM and ANDRE and wished that to remain but it was for those four to look after the interest of the three remaining brothers. He said he did not wish to give any of the bush area to the brothers. In cross examination it transpired that when the case was before Mr Norris the Senior Magistrate, he had divided the bush area in equal sections, one half to AMON and the others half to the brothers. Neither AMON or the brothers had appealed against the decision of Mr Norris and I therefore find that the decision cannot be disputed now. AMON stated in evidence that he abides by that decision.

I therefore am of the opinion that the land as divided remains, that is :-

1. JIMMY to have the land at North West corner.

2. RICHARD to have the land next to him in the North and set out on plan Exhibit 1.
3. ANDRE to have land as marked on plan Exhibit 1.
4. SAM to have the area set out in plan Exhibit 1.
5. The land marked FROLD on the plan to be the property of AMON.
6. Half the bush area to belong to the TOKAL brothers as set out on Plan Exhibit 1 who must divide it as they so wish.
7. The remainder of the land belongs to AMON.

The cost of the Survey to-date Exhibit 1 to be paid for and the final Survey to be paid for, by AMON and the TOKAL brothers. One-fifth (1/5) (VT 2 000) of the cost by AMON and 4/5 (VT 4 000) to be paid by the TOKAL brothers.

If any infringement is made by either AMON or the TOKAL brothers on the other land after the final Survey has been made, it shall be considered to be a Contempt of Court and the parties may be called upon to show cause why they should not be punished for such contempt.

I made no order as to compensation by either party as I consider the TOKAL brothers had a right to some land from their father and brother AMON.

*Frederic G. Cooke*

Frederic G. Cooke  
Chief Justice

3rd June 1986.