

BETWEEN : DENIS PALAUD
(Appellant)

AND : JEAN-CLAUDE DOUYERE
MICHEL DOUYERE
ROBERT DOUYERE
(Respondents)

JUDGEMENT

This is an appeal by the Appellant, Denis Palaud, against the decision of the learned senior magistrate who made the following orders:

Order (1) With effect from 12th December, 1986, the occupation and management of the area comprising title No. 391, Aore Island, otherwise known as the Victor Douyere plantation, Aore, is vested in Jean-Claude Douyere, Mme Gabrielle Douyere, Michel Douyere, Robert Douyere, and the remaining heirs of Victor Douyere, subject to negotiations and agreements made by the afore-named persons with the recognised custom land-owners, Edson Sagari and Robert Sarki.

Order (2) (A) With effect from 12th December 1986, Denis Palaud, together with all members of his family, are forbidden to enter, visit, or reside in or on title No. 391, Aore Island.
(B) With effect from 12th December 1986, Marie-Raymonde Douyere may enter, but may not remain upon, title No. 391, Aore Island, for the sole purpose of removing personal effects in the ownership of Denis Palaud and/or herself, provided that she is accompanied on each and every occasion by one or more of the following persons:

- (i) Jean-Claude Douyere
- (ii) Mme Gabrielle Douyere
- (iii) Michel Douyere
- (iv) Robert Douyere

Order (3) (A) Jean-Claude, Gabrielle, Michel and Robert Douyere will pay compensation in the sum of VT372,685 to Denis Palaud.
(B) In the event that Jean-Claude, Gabrielle, Michel and Robert Douyere wish to retain the tractor situated upon title No. 391, Aore, they are to pay the additional sum of VT250,000 to Denis Palaud. Alternatively, Denis Palaud may remove the tractor at his own expense.

He further authorised the Vanuatu Commodities Marketing Board to pay VT13,563 against the compensation order in his favour.

The Appellant's grounds of appeal were:

1. That 160 cattle should be given to him because he worked very hard to put 234 cattle into the plantation and that he should have half of them.
2. That he should have been allowed to demolish 3 houses which he built on Aore. He contended he built them from his money.
3. That the compensation money be paid to him forthwith and not by

instalments.

on the 4th february 1987 I heard this appeal in ganto and having heard the parties and considered the well reasoned judgment of the learned senior magistrate, I was of the opinion that, if anything, the Appellant was awarded too much compensation. From the figures placed before the court it would seem that in 1983 the copra income was 1,201,970VT and the expenditure 405,750VT and salary 396,000VT leaving a balance for 1983 of 400,220VT. For the year 1984 the income was 1,573,310VT and expenditure 405,750VT and salary 396,000VT leaving a balance of 771,560VT. For the year 1985 the income was 1,075,676VT and expenditure 405,750VT and salary 396,000VT leaving a balance of 273,926VT. Finally, in 1986 the income was 1,163,238VT when the expenditure was 523,417VT and salary 396,000VT leaving a balance of 243,821VT.

Therefore between 1983 and 1986 there was an approximate credit of 1,689,527VT. If the salary of 1,584,000VT were added, the total taking for the four years was 3,273,527VT. A mere 30,000VT was paid to the Respondent leaving the Appellant a balance of 1,659,527VT unaccounted for. I therefore dismissed the first ground of appeal as I considered the Appellant was well recompensed for any animals placed on the estate.

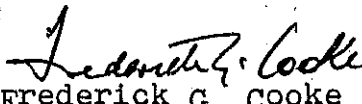
Regarding the second ground of his appeal, I adjourned the hearing of the appeal so that I could visit Aore, and view the building. This I did on the 26th february with the parties. The building was a long shed divided into cubicles. I counted ten reasonably new sheets of galvanised iron, eight feet long and nine of ten feet long. The other sheets were pretty old and the respondents said they came from the demolished family home. The respondents agreed to pay the Appellant 800VT each for ten sheets and one thousand each for the nine sheets, making a total of 17,000VT. A further dispute arose on site as to the ownership of weighing scales which the Appellant said he purchased in 1974 for £30. I valued this at £15 but the respondents intimated they did not want the scales so they were later handed over in court to the Appellant.

sitting in court at 2 p.m., I had the price of the sheets confirmed by the parties and the return of the weighing scales to the Appellant. The respondents undertook to pay 17,000VT to the Registrar of the Court on the 27th february and to pay the monthly sum of 40,000VT to the registrar each month which sum was to be paid to the Appellant's wife, Marie.

The respondents also confirmed that they would sell 100 cattle in March and the proceeds to be paid into court for the Appellant.

The second ground of appeal is allowed as aforesaid. The third ground of appeal is dismissed as the respondents can only pay as mentioned aforesaid.

Dated at Luganville this 26th day of february, 1987.


Frederick G. Cooke
CHIEF JUSTICE

