

BETWEEN : WARPUT NATHRIT (First Appellant)
KALTHO SOLRA (Second Appellant)
KALWAS SOLTAR (Third Appellant)
LORRIS WELLS (Fourth Appellant)

JUDGMENT

This is an appeal from the Judgment of the Island Court concerning land "Lowetwet" Title 631, Hog Harbour, by the four appellants.

The decision of the Island Court in this case was that rights to the land "Lowetwet" are divided between Warput Nathrit (first appellant) and Lorris Wells (second appellant). The boundaries are as follows:-

1. The land which Lorris Wells acquires is:-
The boundary begins from Peris down to a tree named Newas at the edge of the sea and from Newar to the bottom of the hill and up to the Natora of the cliff to the flat ground on the top, up to Lorris' Nabanga near to Pasvu's boundaries.
2. The land which Warput Nathrit acquires is:-
The boundary starts from Newar near to the sea up to the spring water, then to the big stone on the other side of the hill, right to the Nabanga where N' Kenrelrel's grave is situated. Warput and Lorris Wells' boundary meet there.

From this decision, the appellants Warput Nathrit, Kalwas Soltar and Kaltho Solra appealed to the Supreme Court. Warput Nathrit, because he claimed he was the customary owner of all the land, Kalwas Soltar and Kaltho Solra because the Island Court rejected their claim. Lorris Wells was satisfied with the Island Court's decision and did not really dispute the decision.

The dispute concerning this land commenced in 1981 at the Village Court consisting of Chief Mark, Noel, Harris and others between Warput, the first appellant and Soltar, father of the third appellant. It was then decided that "Lowetwet" belonged to Warput, the first appellant. Soltar claimed the land through Nunoc, alleged to be one of the parties to a deed of sale of the land in 1920 (on the deed and plan marked "A"). It has been repeatedly contended by Warput that Nunoc stole the land and sold it with two others to the Thomas Brothers and that one of the witnesses Sethy, still alive, was persuaded by Nunoc to sign as a witness.

From the decision of the Village Court there was an appeal to the Area Land Committee in 1982. The Committee divided the land equally between the four appellants. Following the decision of the Committee the Minister of Lands made a distribution order on the 2nd June 1982 in favour of the four appellants.

From the declaration of the Minister, Warput, the first appellant, appealed to the Island Court contending that he was the sole custom owner of the land "Lowetwet" Title 631 at Hog Harbour.

From the outset of this appeal, I made it clear to the parties that the boundaries of Title 631 according to the land plan stop at the face of the cliff and therefore the Island Court erred in granting land on top of the cliff to the successful parties and that I was unable to consider such land in this appeal.

In the appeal I asked each applicant to give evidence and after cross examination by the other appellants to call his witnesses who also were the subject of cross examination by the other appellants.

The first appellant to give evidence was Kaltho Solra. He contended that he was the custom owner of Lelek B on the deed and plan Exhibit A attached. That he claimed the land from his grandfather Thotelte on his father's side. That Norbesi was his grandfather on his mother's side. That Solra was his father and Krec was his mother. That his father died in 1943 when he was six years of age. That he never saw his grandfather. He contends his father was born in Lowetwet. That he was born in 1937. He stated that his father told him he was born in Lowetwet when he was five years of age, when they were living at Hog Harbour. He contended he used to visit the old village site at Lowetwet on top of the hill. He said he was interested in the land on top of the hill as it is more fertile than that below. Under cross examination by Warput (appellant 1) he said his grandmother on his mother's side came from Port Orly but his grandmother on his father's side came from Lowetwet but he did not know her name but that his grandfather Norbesi on his father's side ran away from Lowetwet when the white man came. That his grandmother told him that. He was then cross examined by Kalwas and said it was not true that Thotelte (grandfather) was from Vatevuth even though both Soltar and Warput alleged that. He said he was not claiming the land sold by Nevsoror i.e. Lelek B on the deed and plan "A". (The plan was shown to the witness but he could not understand it).

I allowed Mr Wass to make a statement for the witness. His view was that the witness made a mistake about the date of his birth as at the Island Court he said he was 14 or 15 years when his father died.

The first witness for Kaltho Solra was Sam Wass who stated he came to confirm that Thotelte is the true custom owner of part of Lowetwet because he said he was living there before he came down to the Mission at Hog Harbour. He said he heard this from old people and that Kaltho told him he was born there. This witness was not convincing and kept changing his evidence. Further he did not know any of Kaltho's history on his father's side. I am afraid I could not accept any of his evidence. I formed the impression that he was told to give certain evidence and badly attempted to do so.

The second witness for Kaltho was Selru Nohau who stated that Thotelte came from Lowetwet but in answer to a question by the Court he did not know whether he came from Cape Queiros. He was unable to say in answer to a question whether the people of Cape Queiros had not run away at the time of fighting there and had settled at Lowetwet and died and were buried there. In answer to further questions he was unable to state the relationship between Thotelte and Norbesi, whether Thotelte had a brother who died at Cape Queiros or where Soltar was from. I was unable to believe this witness.

Obed Toto, another witness for Kaltho stated that Thotelte is from Lowetwet because he had his nakamal there on top of the plateau. He said he got the information from his father and Kaltho's uncle Jack. He said Kaltho is related to Norbesi but he did not know where Norbesi came from. He further did not know whether Thotelte's wife came from Sakau Island. In answer to a question whether if long long ago a stranger ran away from his village to another village, would the chief of the village he went to give him a piece of land, he replied that if the man stayed a long time or if he married into a family the chief may give him a piece of land. This question seemed to suggest that an ancestor of Kaltho ran away to Lowetwet and stayed there and may have acquired some land by that method.

It was purely a hypothetical question and cannot be of any assistance and I gave no weight to it.

The second appellant was Kalwas Lebang. He stated he was born in Lowetwet in the bush up on top in a village called Vartharsaru but left it when he was a child. His father's name was Saultar. He contends that he claims the land because of what his father told him. He said he remembers he lived on the plateau which he described as Lowetwet. That his uncle Warsal was sick so his parents and himself left and came down to the Mission. That he never returned to live there, only to hunt. That it was some years before the American forces arrived in Santo that he and his family left the Plateau (U.S. forces were in Santo in 1942). He said he claimed the land because of the three persons who sold the land. The vendors were Nunoc, Varsu and Nevsoror. That Nunoc was his grandfather and Nevsoror his great grandfather but that the third vendor in the sale of the land was not his grandfather. That they sold the land excluding the plateau. This was told to him by his father Saultar. He was cross examined by Warput and asked whether Nunoc stole the land and he denied Nunoc stole the land and went on to say that he did not steal it because he signed. This, of course, is no proof that he did not steal the land. He said that his father told him that his grandfather sold the land and that Varsu was related to someone called Loreneth. I find it difficult to understand how the land was sold by Nunoc, Varsu and Nevsoror. In other words I have to ask myself why did Varsu join in with Nunoc and Nevsoror to sell land to the Thomas Brothers unless he was part owner of the land, or is the allegation by Warput that the land was stolen by the three and sold to the Thomas Brothers true? I will deal with this matter later.

The witness stated that Nevsoror came from Sakau Island which makes me ponder as to the authenticity for him being a party to the sale of the land in Lowetwet.

He later said that when the three persons sold the land his father was living on the plateau on top and worked for the white man below. Again I have to ask myself, if the witness's family are the custom owners of the land why did Nunoc have to join with Nevsoror and Varsu to sell the land? The latter two are suspect in so far as they came from outside to the land and would have no rights to the same. The only reason for such a partnership seems to be a dishonest one and one that I find suspect and cannot accept. Why for instance did not Wasre and Philiar alleged brothers of Nunoc, join with Nunoc to sell the land? They all lived on the plateau if what is stated is true. In answer to questions by Mr Wass for Kaltho he said Thotelte and Solra lived on the plateau but they were from Cape Queiros. He said there was a war at Vatevuth and Norbesi ran away to Lowetwet. That many people ran away to Lowetwet, they stayed and died there. His father told him this.

Kochek, an elderly elder in the Presbyterian Church gave evidence in support of Kalwas's claim. He stated that Kalwas is the custom owner of Lowetwet because Saultar, the father of Kalwas told him so. He stated he went to see Saultar when he was sick in 1985 and that he died in 1986 (Kalwas's son corrected the date and said Saultar died in 1984). He alleged that the sick man told him of his family tree but that he did not write down what he was told until two weeks before the 22nd March this year when he asked Lorris Wells to write it out for him. I just did not believe this witness on this matter. Again he said Saultar did not speak to him about any land. Why then may it be asked was he giving details of his family to the witness. It was suggested to him that Saultar told him that he sold many lands and that he confessed to the elders and some of the families that he stole some land and sold it. His reply was that he never confessed to have stolen land from that area. He later stated that this was the only family tree told to him. Again he said Wasre and Nunoc, sons of Bur, married but that Philiar, another alleged son did not marry. The evidence before the Court was that Philiar married two old women. In reply to many other questions his answer was always "I do not know". He was not a convincing witness and I did not believe he was telling the truth.

Another man named John Pore gave evidence on behalf of Kalwas. He said he came to Court to say that land in the bush at Hog Harbour was sold to Kalwas's father i.e. Saultar. He said his father told him so. That Kalwas's land is all bush at Hog Harbour. That he went to the bush at Lowetwet from time to time to hunt pigs with Kalwas's brother, Nur but there was no discussion about ownership of land. This witness was not very helpful. Any relevant questions put to him resulted in answers "I do not know" or "I can't remember".

The third appellant, **Lorris Wells**, stated he claims the land through Varsu. That Varsu's father was Ket. That a daughter of Varsu was Warsilieth who married Pethul and had one daughter called Poleana who in turn married Tommy Wells, his father.

He told the Court that his Aunt Warneren, the eldest sister of Warput told him that Ket is the custom owner of part of Lowetwet and that he came from a village called Limthenthat on the plateau above the land in dispute i.e. Title 631, Hog Harbour. He said he was ten years old when she told him. Warneren is alleged to have told Lorris Wells and his family that there is a piece of land belonging to Varsu beside Warput's at Lowetwet. He further stated that she was an old woman who was good at story telling. She said Varsu had land at Limthenthat and that a white man had bought a piece of it down below. That Limthenthat ran from the sea to the plateau the other side of Burns Philp's land at Loreneth. If this is true then the land in dispute is called Lowetwet and Limthenthat or has Warneren told too good a story and mixed up the properties? This certainly is the first time that Limthenthat covered the whole of Lowetwet. Further this witness stated that Warneren did not point out the boundary to him. The witness mentioned that on the 29th April 1977 there was a big meeting at Hog Harbour with Mr Stobber of the Lands Department and that after the meeting, Saultar, father of Kalwas, showed the boundary to him. He said this was the first time he knew the boundary. That at the Area Land Committee meeting on the 20th April 1982, he claimed the land and that the Committee divided the land into four pieces. That he was to get the piece next to Loreneth, then Warput, then Kalwas and then Kaltho. It seems clear to me that the Area Land Committee did not consider the custom ownership of the land. They merely thought each claimant should have a piece and so divided it equally among the four claimants. I must totally reject that solution to resolving custom ownership. If a person does not have a customary right he is not entitled to customary ownership. The method adopted by the Area Land Committee was the easy way out of a dispute but not the method visualised under the Constitution.

This witness was unable to say whether Bur, Ket and Risser were related. He did not know the name of Ket's father. He did not know when he died. He did not know Ket's wife's name and he did not know whether he had a nakamal. His whole evidence is centered on the alleged information given to him by his Aunt Warneren. His claim is for Lelek "A" on the plan attached. I asked the witness why he has not claimed a third share of Lelek "B" as Varsu was one of the three parties to the sale of that land. His reply to me was that no one told him about it which remark struck me as rather peculiar. If Warneren was able to tell him about Lelek "A" she surely must have known of Lelek "B" too and tell him about that as well. Why did she not tell him? Was it because she did not tell him anything or that what she told him related to land at Limthenthat on the plateau above Lowetwet? I have to bear this in mind when considering the evidence given by all the witnesses. From the evidence of all the witnesses, I had a distinct impression that Varsu was not a man from Lowetwet but from L'Vargan and Lelak and that he only came there because of trouble elsewhere and then only to the plateau above Lowetwet. Further evidence which I accepted, was that Varsu died at Warput Nathrit's nakamal up on the plateau. He was very sick of T.B. before he died and was buried by Warput's people.

The fourth appellant, Warput, claimed to have the following family tree: That his great grandfather on his mother's side was High Chief VUTHALATH who had one son who was Chief N'KENRELREL who had three sons and one daughter. The sons died but the daughter whose name was ARTICUTH survived. In time it is alleged that she married NATHRIT and they had four children, Chief Jimmy or Timmi, Thigaru, Nwarmeran and Warput, the appellant.

The appellant stated that his grandfather WARTEHAL came from Lovelet which is west of Lowetwet. That his grandfather married a girl called NWARHERI whose father was TAR and came from Loreneth.

The appellant stated that Chief N'KENRELREL used to say that if anyone married his daughter ARTICUTH, the land would be their responsibility. That his father NATHRIT married ARTICUTH and they lived on the land and NATHRIT had a nakamal there and became a big chief. That he and his brothers were born there.

I have to consider the position of the land he referred to. From the evidence before me most of the parties had some connection with the land on the plateau above Title 631 but none of the parties claimed to have any nakamals, nasaras or graves on Title 631 except the claim of Lorris Wells and Saultar by virtue of the deeds of sale alleged to be false documents, in so far as it is claimed that the vendors stole the land and sold it to a white man for a very small sum of money. The allegation throughout the whole appeal is that people were frightened because of wars in certain areas and fled for safety to the plateau above Title 631 because it seemingly was safe there with deep bush where they could hide if necessary. Even today people are being frightened from their homes and settling in other countries, Africa, Mexico, Afghanistan, Vietnam. The world is full of wandering people seeking sanctuary in some safe country and no doubt hoping in time to settle and have a home of their own. Such must also be the case in the area under claim.

It is admitted by the appellant that his father NATHRIT went to Fiji to work and returned after a few years and continued to live on the plateau even before the American forces arrived in Santo which was 1942. He stated that there was no one on the plateau when he left to come down to the Mission but that there was a white man on the land below. He said he did not give permission to anyone to sell the land nor did his father or mother. He stated that his father NATHRIT and he went to see Nunoc one of the persons who sold Lelek "B" and asked him why he sold the land. That they saw Nunoc at the house of the British District Agent because Nunoc worked as a cook there. Nunoc is alleged to have told them that when he was a child he made trouble and ran away to N'Kenrelrel's nakamal then got on a boat and went to the white man's country. That when he returned he found that N'Kenrelrel had died and that white men were buying land in the area so he decided to sell one of N'Kenrelrel's pieces of land. Nunoc is alleged to have said that many natives were selling land in the area.

I have to consider carefully whether the allegation of Warput is true or false. The names Varsu and Nevsoror also appear as vendors. I am satisfied that the name Varsu is the person alleged to have sold Lelek "A" to Mr Witt. Lorris Wells suggests to me that they are two different people because in one deed of sale the name is spelt as Vasu whereas the other is spelt as Varsu. This mistake in spelling could easily be caused by the author of the deed of sale writing the name as it sounded to him. I reject Lorris Wells' contention.

Again I have to consider whether Lelek "B" was the alleged land sold by Nunoc and referred to by Warput. There is no evidence or even a submission that Nunoc entered into an agreement with two others i.e. Varsu and Nevsoror to sell a piece of land. The evidence was that it was reported that Nunoc sold a piece of land which resulted in Nathrit and Warput going to the British District Agent's house and inquiring from Nunoc whether he sold a piece of land allegedly belonging to Nathrit. If Nunoc did say he sold a piece of land, was it Lelek "B" or some

other piece of land? Saultar denies that Nunoc stole land but again there is an allegation that Willie Pepi a witness to the deed ran to Nathrit and told him Nunoc had sold land and further that another witness still alive called Sethy told one of the Justices of the Island Court and the Clerk of the Island Court, Serah Atingting that he did not want to witness the sale of the land by Nunoc but that Nunoc persuaded him. Both these people are witnesses to the sale of land by Nunoc, Varsu and Nevsoror so it must be this land that Nunoc is alleged to have admitted stealing to Nathrit and Warput. It is indeed strange that no mention was made of Varsu and Nevsoror as parties to the sale, by Nunoc when he is alleged to have admitted selling a piece of land to Nathrit. One would expect him to say - Yes, I sold a piece of land but Varsu and Nevsoror were also parties to the sale. Again why did Nathrit and Warput not ask Varsu and Nevsoror why they sold the land. No denial has been made that Warnerren, Warput's elder sister told Lorris Wells that Varsu had a piece of land down in Lowetwet. I would have expected Warput to say that Warnerren would not say such as it was not the truth.

Warput submits that his title as customary owner arises from Vuthalath who is alleged to have had one son called N'Kenrelrel who as I have stated had three sons and one daughter called Articutth. There has been a bold statement that the three sons Gos, Workuvu and Tacneli are all dead - I have no evidence other than the statement that such is true and if true whether either of them married and had children who could have claimed the estate. I then have a statement that the daughter, Articutth, married Nathrit, the father of Warput and that N'Kenrelrel is supposed to have said anyone that marries his daughter will have the property. Warput says his father told him this. I have to ponder and say to myself can I really believe all this. Warput was cross examined by Saultar on behalf of Kalwas for some ten hours but was able to answer all questions in a satisfactory manner. I did not entertain any doubt as to the truthfulness of his evidence.

There was evidence that Nathrit actually went to Fiji with Varsu because of some trouble at the village NDIFUN-SERA at Hog Harbour, where he came from and that when he came back from Fiji he, Nathrit, was afraid to return to his village and Varsu asked him to go with him to the plateau at Lowetwet and he did so with the agreement of the chief. That Warput was born there on the plateau and was one year old when his father died there. This is a completely different story to the one submitted by Warput and indeed if true, Warput has placed before the Court a tissue of lies. I find this allegation difficult to accept as Varsu is alleged to have come from L'Vargan or Lelak. However, Warnerren, the sister of Warput's alleged statement to Wells and family that there was some land by the sea belonging to Varsu is difficult to accept. Again I entertain doubt as to that allegation and accept that Varsu came to the nakamal of Nathrit when he suffered from T.B. and that he died and was buried by Nathrit on the plateau.

I have listened carefully to you all and have the greatest sympathy with you all in attempting to establish customary ownership to the land in question. Having heard you all I decided to visit Sethy, the alleged witness to the deed of sale dated the 8th October 1927 and took a statement from him in the presence of Mrs Naviti, the Registrar of the Court. I have attached to my Judgment a sworn affidavit made by me as a result of the visit to Sethy on the 6th June, 1989. I found Sethy to be lucid in his speech and to answer my questions in a straight forward way without any hesitation. I formed the impression that what he told me was the truth and I accepted it as such.

He told me that only Nunoc, the British District Agent, Mr Salisbury, himself being a policeman at the time and a prisoner called Willie Pepi were present when the deed of sale dated the 8th October 1927 was executed. That Mr Thomas was not present and that both Varsu and Nevsoror were already dead many years. He said he was not actually a witness, that it was said to him - you are a witness and his name was added to the deed and an "X" put for his mark but that he could write then and if he was a proper witness he could have written his name there. That

Willie Pepi was a prisoner working for the District Agent and his name was added as a witness. He says he thought Nun gave the names of Varsu and Nevsoror to convince the Districts Agent and said they were in the bush. He said Nun was lying as the land did not belong to him. That Nun went to Noumea for a long time and when he returned he had no money, so he sold the land to get money. He said he knew Varsu. That he was the chief of Lelek. This corroborates what the deed of sale of 7th October 1906 states -i.e. "I Varsu, native of Lelek" That he heard when he died, he was put in a hole in a cave on top of the plateau at Lowetwet. That he did not think Varsu was alive in 1906 and that Varsu and Vasu are the same person. He said Varsu may own land on the plateau above Lowetwet but not below. That Varsu was the grandfather of Lorris Wells. That he knew Nathrit who married Articut and that N'Kenrelrel was the grandfather of Warput. He said if Varsu owned land by the sea he would have heard of it as he was first a policeman and then an assessor of the Court.

On the 27 June 1989 I formed the opinion that I must in all fairness to the claimants call Sethy to give evidence to substantiate the affidavit I made. Further that each claimant is entitled to ask questions on the matters in the affidavit. Warput first asked questions of Sethy which did not differ in anyway from what Sethy stated in the Affidavit.

Kaltho declined to ask questions.

Lorris Wells questioned whether a person who owns land on the top, does it run down to the sea. Sethy said that was not true.

Kalwas : Sethy said he stood by what he said in my Affidavit that Nathrit father of Warput went to see Nunoc about stealing the land and that Nunoc told him he stole the land to make money.

I later discussed the case with the two custom advisers MALAKAI VILE and MARK ALICK. The first stated that he did not hear anything about real custom in this case. Mark Alick question whether Lorris Wells was entitled to land because he was a relative of Warput having accepted bride price. Warput denied this but if such did take place it is up to Lorris to ask Warput for some land.

In conclusion :-

(1) I was of the opinion that I could not accept Kaltho Solra's claim to Title 631 because he did not convince me that he had any right to that land. In fact, in evidence he was not claiming the land alleged sold by Nevsoror i.e. Lelek "B" on the document and plan marked "A" attached. He said he was interested in the land on top of the hill as it is more fertile than that below. He may well have a claim to land on top of the hill and indeed I showed him Title 2563 plan 1112 B (attached marked "B") which indicates that he was a purchaser with two others of land on top of the plateau from the French Government in 1970. That, of course, does not make him part customary owner of that land. He called three witnesses which did not advance his case in any way. In fact they did the reverse and gave evidence to suggest his ancestors came from Cape Queiros and Sakau Island.

(2) Again I was of the opinion that Kalwas did not place evidence before me that convinced me he was the customary owner of Title 631, Hoq Harbour. He gave evidence that his ancestors lived on the plateau and had a nakamal there. Having such, this is not absolute proof of customary ownership. He stated that he based his claim on documents and plan "A" i.e. the deed of sale between Nunoc, Varsu and Nevsoror and Mr Thomas. Gogent evidence was given by Warput that Nunoc stole the land sold it to Mr Thomas. This was denied but from my affidavit attached marked "C", the evidence of Sethy made me doubt the ability of Nunoc to sell the land. Sethy clearly stated that only Nun of the Three alleged vendors was present at the signing of the deed by placing his mark "X" thereon (Deed and plan attached marked A). He said Varsu and Nevsoror were both dead some time when that deed was executed. He further stated that Nunoc

did not own any land and that even Mr Thomas was not present at the signing. When looking at Exhibit "A" it is clear to me that the same person wrote the names Nun, Varsu and Nevsoror. The Exhibit "A" stated the area to be 60 acres whereas the area on the Court plan marked "E" attached is 163 acres. I cannot with confidence accept the document marked "A". I consider it is a false document and not worth the paper it is written on. I reject it totally.

Such being the case, I rule that Kalwas has no customary rights to the land Title 631, Hog Harbour.

As regards the appellant Lorries Wells, I find the document on which he places his claim to be highly suspect. (The document is marked "D" and attached). It states the vendor is a native of Lelek whereas the cogent evidence before me was that he came from L'Vargan and ended his life on the plateau. There are no measurements given to the area claimed. There is only one witness who was a Mr Thomas, later alleged to have purchased it from Mr Witt, the purchaser from Vasu. In written deeds a witness is required to write his address and occupation. Both are absent. It is alleged by Sethy that in his view Vasu was not alive in 1906. Again Lorries Wells bases his claim on what Warnerren, the eldest sister of Warput and alleged to be his aunt, told him. Warput denies any relationship with the Wells family. This indeed is slender evidence in establishing his claim. It was said she did not show him the boundaries. All she said was that Varsu has land down there by the sea. At the time she was on the plateau above Title 631, Hog Harbour. It is so easy to make such statement but if a person wishes a Court to accept such as the truth, corroborative evidence is required but which was not forthcoming in Lorries Wells' case.

I have to with regret state that I am not satisfied with the legality of the documents or indeed if made by Varsu or Vasu, that he had the competence to make such a document in that he did not have any right to land within Title 631, Hog Harbour, the subject of the dispute. I therefore hold that Lorries Wells is not the customary owner of any land in Title 631. He may be entitled to a right to use the land but that depends entirely on the customary owner granting him such.

The final appellant is Warput. I have already described how he set out his claim to this land. He was subjected to over ten hours of cross examining by Saultar on behalf of Kalwas but in my opinion he answered all questions in a convincing but fair manner. I was much impressed by his behaviour throughout the hearing of the appeal and was convinced that he was telling the truth. I have, no doubt, having given the greatest of care to all the evidence and submissions by each appellant that Warput is the true customary owner of Title 631, Hog Harbour.

I therefore ~~set aside the decision of the original court~~ and hold in favour of Warput as the true customary owner of the land in question i.e. Title 631, Hog Harbour.

I order that Lorries Wells, Kalwas and Kaltho Solra within one month from this date, remove any fences, gardens, cattle or the like from the land, failing to obey this Order they will be held to be in contempt of Court and liable to a fine or imprisonment or both.

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Attached to this Judgment is :-

- (1) The survey plan of Title 631, Hoq Harbour.
- (2) The alleged deed of sale between Nun, Varsu, Nevsoror and Mr Thomas.
- (3) The alleged deed of sale between Vasu and Mr Witt.
- (4) A copy of Title 2563.
- (5) An affidavit made by me of my interview with Sethy, The alleged witness to document (2).

Finally, I must state to the unsuccessful claimants that all hope to land is not lost. From evidence produced before me, it would seem that some, if not all of you may have customary rights to the land on the plateau above Title 631. If you think you have such right then you should make an application to the Area Council of Chiefs. If you do not agree with their decision you can appeal to the Island Court and Supreme Court.

Dated at *Santa*.....this *27* days of June 1989

Frederick G. Cooke
Frederick G/ Cooke
CHIEF JUSTICE