

(Civil Jurisdiction)

BETWEEN: SAMUEL MATAVARI

Claimant

AND: HARRY BOVAVUM

Defendant

Coram: Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mr George F. Boar for Appellant
Mr Saling N. Stephens for Respondent

Date of Hearing: 20th April 2007
Date of Decision: 20th April 2007

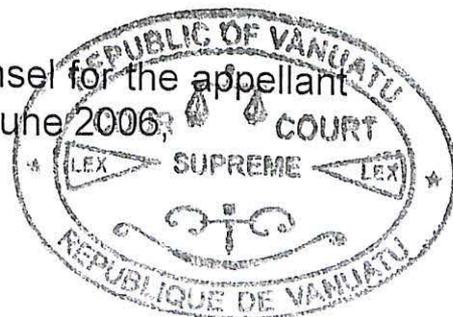
DECISION

This is a simple appeal against the decision of the Magistrate's Court dated 23rd May 2006 when the Court vacated its orders of 22nd February 2006 and dismissed the entire claim of the appellant.

The appeal was founded on 2 grounds that –

- (1) The Magistrate had erred in law and fact in holding that Tauna Land was part of the piece of land in dispute in the Island Court proceeding of 1993 for which there was a decision as to customary ownership.
- (2) Since Naone, Arona and Naru lands were pieces of land in dispute before the Island Court and the Court had made its determination as to ownership, the Magistrate had erred in law and in fact in finding that Tauna Land was already decided by the Island Court.

Having heard submissions from Mr Boar of Counsel for the appellant in support of the grounds of appeal filed on 29th June 2006,



And upon hearing submissions in response by Mr Saling Stephens, of Counsel for the respondent,

And having considered the same in the light of the evidence filed by both the appellant and the respondent, and having regard to the documents contained in the Appeal Book filed dated 27th February 2007,

The Court hereby finds that:-

- (1) There was no finding in the Magistrate Court that Tauna Land was part of the land in the Island Court proceedings.
- (2) There was no finding by the Magistrate Court that Tauna Land ownership had already been decided by the Island Court.

The Court agrees with the submission by Mr Stephens that the appellant's two grounds of appeal are frivolous and vexatious.

The Court rejects the submission by Mr Boar that the case of Josilito Wokon and Others CC Appeal Case No. 23 of 2006 has any relevance to this case.

The Court therefore hereby decides that this appeal be dismissed with costs to the respondents to be agreed, if not determined by the Court.

The effect of this decision is that the decision of Magistrate's Court is upheld.

Therefore it follows also that the appellant's application for stay must be dismissed with costs to the respondent.

DATED at Luganville this 20th day of April 2007.

BY THE COURT


OLIVER A. SAKSAK
Judge

