

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Civil Case No. 31 of 2008

BETWEEN: FAMILY VIRANAMANGA
Claimant

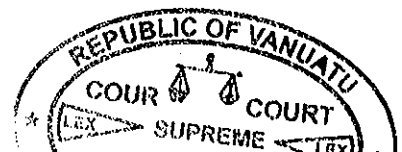
AND: TANGIALO WARD LAND TRIBUNAL
First Defendant

AND: GEORGE KNOX
Second Defendant

Hearing : *11 June 2013*
Before : *Justice RLB Spear*
Counsel : *Stephen Joel for the Claimant*
 : *Alain Obed for the First Defendant*
 : *Bill Bani for the Second Defendant*

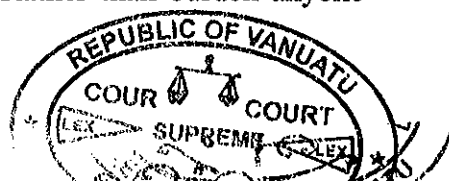
JUDGMENT

1. This is a claim for judicial review brought on behalf of Family Viranamanga challenging the legality of the decision of the first defendant Land Tribunal dated 23 February 2008. That decision related to the custom ownership of land on West Ambae known as Singonavuti and Masalato. The decision of the Land Tribunal was that Family George Knox was the custom owner of that land.
2. The claim is advanced on the basis that the procedures prescribed by the Customary Lands Tribunal Act [Cap 271] were not complied with, the formal process leading up to the decision was irregular and the decision cannot stand as a matter of law.
3. It has been well established in a number of cases that the relatively straight forward processes prescribed by the Customary Lands Tribunal Act must be followed. In this case, it is accepted by Mr Bani on behalf of George Knox and his family and by Mr Obed in respect of the Tangialo Land Tribunal that the 2 blocks of land in question (Singonavuti and Masalato) lie within the boundaries of more than one village. However, the Land Tribunal was convened as a Single Village Land



Tribunal. Additionally, the single village land tribunal was at the instigation of a chief from another and unrelated village. Apparently, the involvement of that chief came about because of a misunderstanding as to whether the principal chief referred to in section 7 of the Act had to be a person qualified to hear a land tribunal case. Of course, that is not so and that is made particularly clear in ss 8 (3) and 9 (3) of the Act.

4. What is required is that the notice of claim is given to the principal chief of the village within whose boundaries the land is situated. If the land is situated in the boundaries of more than one village then the notice of claim must be given to the principal chiefs of those villages. The Act then requires that chief / those principal chiefs to establish either a single village Land Tribunal or a Joint Village Land Tribunal depending on whether the land is entirely within the boundaries of one village or within more than 1 village.
5. Regrettably, the misunderstanding that has arisen here means that the decision cannot stand. It is regrettable because this proceeding was commenced in 2008 yet the point has not been focused upon sufficiently until now.
6. It is accepted by counsel representing all the parties that the processes employed here were not in conformity with ss 7, 8 or 9 of the Act and that the decision cannot stand. It is necessary for the parties to start again and register their claims with the principal chiefs of the villages of Walaha and Tavala and for those principal chiefs then to establish a Joint Village Land Tribunal in accordance with the provisions of the Act.
7. By consent, accordingly, the decision of the Tangialo Land Tribunal of 23 February 2008 is quashed.
8. It is now left for the parties to register their claims with the chiefs of the Walaha village and the Tavala village so that a Joint Village Land Tribunal can be established to resolve this dispute as to custom ownership.
9. As to costs, it just seems that this decision has come about through an unfortunate misunderstanding as to the requirements of the Act. Rather than burden anyone



with the costs of another party, which may be seen as some form of *finger pointing* as to blame, no order of costs will be made. Each party will bear their own costs. This is a case that could have been stopped right from the outset. Unfortunately, that did not occur. This case can simply be put down as a genuine mistake by all concerned.

10. I wish to record my thanks to counsel for the responsible approach that they have taken in this matter.

BY THE COURT

