

**IN THE SUPREME COURT OF SAMOA**

**HELD AT APIA**

**BETWEEN** **EKALESIA ASOFITU I SAMOA**  
**I SISIFO (INC)** a body duly  
incorporated under the Incorporated  
Societies Ordinance 1952

**PLAINTIFF**

**A N D** **VILAI TUAUU, KOME KURESA,**  
**FAAFETAI KILIFI**  
**SIALAULELEI KURESA**

**DEFENDANTS**

**Counsels:** TK Enari for Plaintiff  
P Fepuleai for Defendants

**Hearing:** 21,22,25,26,27 & 28.8.97

**Decision:** 23.12.97

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**JUDGMENT OF VAAI, J**

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The church known as the Ekalesia Aso Fitu i Samoa i Sisifo (Inc) (hereinafter referred to as the church) was incorporated in Samoa in August 1983 under the Incorporated Societies Ordinance. Its objects was to profess the beliefs of Jesus Christ and to foster the teachings of the Bible among all people of Samoa. Similar churches were set up and registered in New Zealand, American Samoa, Australia and the United States of America. Each one had its own set of rules and by-laws and therefore independent of each other. Its members were some of the Samoans who were originally members of the traditional Seventh Day Adventist Church but decided

to break away to form a church organised and administered by Samoans. Heading the breakaway groups were Mose Ueese of the United States of America, Arona Ueese of Western Samoa and Lilia Vaotuua of New Zealand. Mose and Arona Ueese are brothers, and Lilia Vaotuua is their brother-in-law.

Under its rules and by-laws the church is managed and controlled by a Board consisting of the Ministers, all Elders, departmental leaders, a treasurer and Secretary. Pastor Arona Ueese being the senior Minister of the church at the time of incorporation was the chairman of the Board pursuant to the Rules and By-laws.. He held that position from 1983 until 1991 when he was transferred to American Samoa. He and others purport to represent the church as the plaintiff in these proceedings.

The defendant Sialaulelei is a founding member of the church. She was appointed Treasurer. Her husband Kome Kuresa is also a founding member and one of the defendants in these proceedings. He was elected to the Board upon incorporation. Defendants Faafetai Kilifi and Vilai Tuauu are also founding members of the plaintiff although they were not signatories in the application for incorporation. They maintain they are still current Board members of the plaintiff, and are both pastors of the Church.

In August 1986 members of the church were invited to a fellowship and gathering in Corona, United States of America. Members of similar churches in New Zealand, Australia and American Samoa also attended. This fellowship has been loosely referred as the Worldwide Conference. Mose Ueese also known as Namulauulu Moses Wales was the leader of the Corona Church who invited other

church members to attend. Obviously the purpose of the fellowship held in Corona, USA was to set in motion the establishment of a worldwide body to affiliate all the Churches in the different countries under one umbrella. Throughout the fellowship Mose Ueese was referred to as President. He was not formally elected but he was subsequently acknowledged and accepted as President. Although it was agreed that such a worldwide body was to be set up it does not appear to have been legally constituted in that it has no set of rules or by laws and its jurisdiction over the individual churches and its members is in limbo. The only thing certain about the umbrella body is that Mose Ueese is its President. Consequently the rules and by laws of the church remains unchanged and no amendment has been effected to accommodate for any resolutions of the world body. In any event whatever the jurisdiction of the World Body has over the individual churches, the management and the control of the church registered in Samoa is vested in the Board of the Church.

In or about 1989 the church members initiated fundraising activities to finance the purchase of a parcel of land at Motootua. A raffle was organised and raffle tickets were sold in Western Samoa as well as in American Samoa, New Zealand and the United States. A restaurant was also set up and members of the church took turns in organising and running of the restaurant. Substantial contributions in the form of foodstuffs were received from the American Samoa and second hand equipments were donated by the Corona Church in the United States of America to assist with the restaurant. Cash contributions were received from similar churches in Henderson New Zealand and American Samoa, to assist in financing the purchase of the land. Motootua was to become the headquarter of the church. Several parishes were established in Savaii and Upolu and Motootua was considered the ideal location for

the headquarter. Unfortunately problems developed within the church around the same time as the fundraising activities. As a result of the ongoing problems and frictions which did arise two rival factions developed within the church - one faction headed by Arona Uelese and the other faction to which the defendants belong.

Considerable evidence was given concerning the conducting of the raffle and restaurant and the reasons for the dispute leading to the creation of the two rival factions. Most of it was irrelevant to the issue for determination. I am satisfied from the documentary and oral evidence that the problems which did arise within the church resulting in the unnecessary split was caused principally by its leader Arona Uelese assisted by his older brother Mose Uelese who lurked in the background. Arona neglected to call Board meetings, he made decisions contrary to the Rules and by laws of the church without seeking and obtaining the approval of the Board, he misused church monies, he spent church monies without knowledge of and consent of the Board. As a result the repayment of the church loan with the Bank fell into arrears. He virtually took over the functions of the duly appointed treasurer Sialaulelei Kuresa who is one of the defendants. He kept the bank books. No financial statements were submitted to the Board and the omission to submit financial statements was for the obvious reason. To conceal the misuse of church funds. Pastor Arona was not the shepherd looking after the flock; he was the master to be served and to be obeyed. Accountability and compliance did not exist in his biblical vocabulary. No explanation was given as to why attempts were made to register the church land at Moto'otua under the name of Mose Uelese. No explanation was given why Mose Uelese became actively involved in the running of and administration of the church when he was not a Board member. He was the

which supported Arona Uelese eventually left Moto'otua and set up worship at Vaivase-uta whilst the defendants continue to worship at Moto'otua. At least two attempts were made by both parties to effect a reconciliation and when they failed to settle their differences the present proceedings were instituted by Arona Uelese and his followers.

Arona Uelese and his group purports to represent the church in these proceedings. They want the defendants evicted from the church land at Moto'otua. They claim that the defendants left the church voluntarily in December 1990. To support this allegation they refer to the petition presented by the defendants to the World Conference held at Moto'otua in December 1990. Delegates at the conference were pastors from churches in New Zealand, Australia, United States of America and American Samoa and Western Samoa.. The petition reiterated the problems and the frictions which have arisen within the church. The petitions sought the assistance of the World Conference to remove Arona Uelese as the Minister and leader of the Church. Failing his removal the petitioners threatened to move away from the leadership of Arona Uelese. At this stage it appears to have been accepted by all the member churches that the World Conference had the responsibility of dismissal of church ministers and transfer of church ministers amongst the several member churches. But the dismissal of any member from his or her church was the domain of the Board of each individual church.

The allegation must fail. Firstly Arona Uelese was removed from Motootua and transferred to American Samoa which means the defendants' request was granted and they therefore did not have to leave the church as alleged. Secondly the

defendants as petitioners did not leave or threatened to leave the Church. They stated categorically at page 3 of their petition that if Arona Ueese was not removed they will not leave the church but they will move away from his leadership.

The second allegation which was not specifically alleged in the statement of claim but was raised during the course of the hearing is that the defendants were expelled from the church and written notices of such expulsions were duly received. The defendants do not deny receiving written notices of expulsion under the letter head of the World Conference and signed by Mose Ueese as the President. In retaliation the defendants delivered similar written notices of expulsion to members of the other faction. Written notices of expulsions to both factions blatantly violate the requirements of Rule 21 of the Rules and By-laws of the Church which require the rules of natural justice to be complied with before the decision to expel any member is made by the Board of the church. The World Conference has no jurisdiction over the membership of the individual churches. As a result the written notices of expulsions are invalid and of no effect. This allegation must also fail.

As a result the claim by those claiming to be plaintiffs as representing the Church registered as Ekalesia Asofitu i Samoa i Sisifo Incorporated must fail. The order sought by the plaintiff is accordingly denied. I make no order as to costs.



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**JUDGE**