

**IN THE MALAITA CUSTOMARY
LAND APPEAL COURT**

CC NO. 5/95

BETWEEN: 1. Nester Kelaho of Luaniua - Appellants
2. Ben Naiauli “ “

AND: 1. Peter Hanumea (Deceased) of Luaniua - Respondents
2. Lilian Kemai “ “

IN THE MATTER: AIPURANO HOUSE HOLD.

JUDGEMENT

The matter before the Customary Land Appeal Court (Malaita) was an appeal against the Local Court CC No. 1/95 held at Luangiua on the 9th day of February 1995 in respect of Aipurano Land.

Before any matter concerning ownership of land in custom must as specified under the 1985 Act which states it clearly, that such issue should be brought before the chieives, leaders or elders within the vicinity of the disputed area. If so is the issue before this Court (Aipurano) had been resolved by the chief. If it was, then are there any forms been filed before the Local Court.

From Court records, there was an unaccepted form being filled out by the chieives dated 12th day of January 1994. Thereafter Local Court consisting of members and the court clerk from Luangiua sat and delivered their judgement infavour of the defendants 1. Peter Hanumea (deceased) 2. Lilian Kemai who are now the respondent now in this matter before the CLAC.

The plaintiffs Nester Kelaho, and Ben Naiauli before the Local Court CC No. 1/95 who are now the appellant were not satisfied with the Local Court's decision and lodge their appeal which contains thirteen (13) appeal points before this Court CLAC.

The issue before this Court (CLAC) are of importance which the Court will consider them carefully. The Court had deliberated on each of the appellants appeal points, and noted that most of the points are directed towards the participation of the chieives during the chieives settlement held on the 12th day of January 1994.

Appellant trace that most of the chiefs involved are related to the respondent. Later upon cross examination by Court whether Appellant had any connections with either of the chiefs, she also admitted, that there are a few others that are related to them.

All the appeal points as from one (1) to ten (10) are matters which are mere complaints about the chiefs.

In these regard any parties which are not satisfied with any chiefs settlement, the 1985 amendment act creates an avenue that such matter be brought before the Local Court as a fresh matter. These Court (CLAC) notes these process had been done so, the appellant now stated this in the Local Court because they disagreed with the chief's settlement.

This Court also noted that from Local Court records, the Court invited any objections as to any of the members which the plaintiff Nester Kelaho and Ben Naiauli, now the appellants had raised no objections.

On the other hand the defendants Peter Hanumea (deceased) and Lilian Kemai now respondent raised objections against one of the Local Court members Mr. Ini Paia.

After considering the appeal points as from one (1) to ten (10) this Court dismisses them. Since all are matters against the chiefs and not concerning any error made by the Local Court and their decision.

Thus the CLAC only notes that there are only three (3) appeal points that are related to the Local Court decision which the appellant have to prove.

Point 11 appellant stated that the president was biased, because he had no way to appeal against the decision.

The CLAC notes that this does not have any weight as to whether the president is biased, when they the Local Court had made their decision, because for a Local Court to form a quorum it must consist of three (3) members, which a majority of two should have the decision according to their findings.

Appeal points 12. The appellant trace that Ini Paia the Vice President was biased **because father related** to the respondents mother in Haresuupu house hold. Respondent stated though they are related but not to Aipurano house hold also Court (CLAC) also note that the respondent had also objected Mr. Ini Paia. There is no evidence to prove this therefore points 11 and 12 also dismissed.

Appeal point 13 Appellant stated that one of the Local Court members Mr. Raymond Paipi was biased, since Raymond father was related to the respondent in Haresimono house.

The respondent said that this matter is not concerning Haresimono house but Aipurano.

This Court (CLAC) knows from records that if such connections are known, the Appellant should have made an objection against any of the members before the Local Court when members are introduced, which shows no objections were made during Local Court sitting.

If such connections could or may cause doubt, it's better to raise such objection in the beginning, the Court notes it was a suspicion and does not weight in support so the Court also dismissed point 13.

DECREE

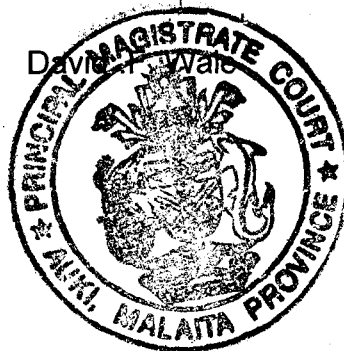
Local Court Decree hereby upheld.
That is Peter Hanumea (Deceased) and Lilian Kemai are the rightful owner's to control Aipurano Land its Properties.

Each party bears their cost.

Right of appeal explain (3) months.

Dated. 1/05/07. Members: 1. Adam Kwaireaa _____
2. Jackson Leaafuna _____
3. Joseph Sihui _____
4. Thomas Mahanita _____
5. Smith Ragi _____

Clerk/Magistrate:



David Kwaireaa