

The Local Courts (Amendment) Act 1985, provides that no local court has jurisdiction to hear and determine any customary land dispute unless the Local Court is satisfied that such dispute had been first referred to the custom chiefs.

Accordingly, this dispute has been referred first to the chiefs in which the chiefs had given its judgment for Joseph Taupongi who is the defendant in this case. This was on 12th July 1988 at Lavagu village.

Alick Tuhaika complainant in this case was not satisfied at the ruling of the chiefs takes further proceeding of the dispute before this court.

A number of areas of land in dispute involved in this case namely,

Tebolaghi  
Tebulungata  
Onepaba  
Gholi  
Soma  
Hokai  
Tengangoguaa  
Lavaningagu  
Geibago  
Onesagagho &  
Magoghitamu

The case of the plaintiff is that he is a descendant from Hakasigimata who had settled and more than all owned Tetugianga. He denied Taupongimata being the owner of the said Tetugianga.

Down through the descendants of Hakasigimata, it was Temoa who first brush Tegiku. He went down further and named the geneologies of Temoa, namely Hakanoa, Puia, Ponie, Saomago, Temoa, Pouika, Temoa, Moah Tangihenua, Teikahoki, Teboia and Phillip Tekiou.

Maitaki the younger son or one of the youngest son of Moah Tangihenua got a son named Sau'uhi and he is i.e. Alick the son of Sau'uhi.

Sau'uhi and Teboia were adopted respectively in which Tetuha adopted Teboia

and taken to Hutimogu and Sau'uhi was adopted by Tipaika as his son. This had come about when their fathers died and both Sau'uhi and Teboia were only little boys. Sau'uhi attended his state of manhood when Tipaika sent him back and settled at Teatuvai.

On his arrival at Teatuvai i.e. Sau'uhi the areas of land namely Tegiku, Ghongometa and Teogupua etc. were occupied. Moah the father of Benjamin was at Teatuvai when Sau'uhi arrived. Both argued over the ownership and finally Moah gave up and declared the land as of Sau'uhi included the road leading down to the seaside. This is of course is the Bagika'ago area. Sau'uhi owned all the areas, did farming and held a lot of feasts. By 1935 he had given these areas to the people of Baitupu. Sau'uhi went on further and settled at the road area called, Onepaba.

He was with his father i.e. Alick, settled and farmed in this land up to 1938 when christianity was brought to the islands i.e. Rennell & Bellona. The people of Baitupu in 1938 planted coconuts at Tebolaghi road leading down to the seaside. Baiabe and his brothers planted coconuts at Matahenua and Teosi planted coconuts at Tehetau at the seaside. It was brought to the attention of Sau'uhi who disagreed at the planting. Sau'uhi and Baiabe agreed and respectively divided Bagika'ago in which Baiabe owned the western direction and Sau'uhi the eastern direction to reach Magoghitamu. The western direction reached Tebahakamagu. Sau'uhi planted coconuts at Gholi, Hokai, Geibagho & Tehetau. He was disputed by Togaka and Malacham Tahua the father of Joseph Taupongi who is the defendant in this case.

From 1946 - 1969 permission to fish and collect trochus shells were obtained from him and his dad.

Until 1987 the defendant and his brother Asia disputed his ownership.

The case of the defendant Joseph Taupongi is this.

Taupongimatua the originator of his tribe got two sons namely, Moah and Hakasigimata. Moah settled at Temuginuku and Hakasigimata at Tetugiaga.

The son of Moah was Teagaimagu and Hakasigimata's sons were Hakanoa and Moah Tangihenua. Both lived with their father at Tetugiaga. Differences between these brothers which had caused Moah Tangihenua to leave and settled with his cousin brother Teagaimagu at Temuginuku. It was then the ownership of

Bagika'ago was transferred to him from his cousin brother.

His first settlement was at Tegiku.

The geneologies from Moah Tangihenua were Hakanoa, Puia, Moah, Pouika, Moah. It ceased when Pouika and his son Moah were murdered in tribal wars. Tekiou of Temuginuku took over the ownership then down the list to Teikagei, Sau'uhi, Tagosia, Teikagei and Giusaga & Malacham Tahua father of the defendant. These were the people known, Teluga.

Various activity of this tribe e.g. feasts etc. were taken, held and blessed at the temple at Gotokanava which was the temple of the Temuginuku and the Teluga.

Moah Tangihenua owned Tegiku inherited it from Teagaimagu the owner. At one stage the said Teagaimagu received a gift from deity, a whale shored at Tuhumavai within the disputed areas. His grand grand fathers settled and owned Bagika'ago without any disturbance from the people of the plaintiff. He strongly denied people of the plaintiff being on the lands.

It was not until Sau'uhi the father of the complainant who was adopted by Teikagei, when he was murdered i.e. Teikagei, would like or intend to own all the disputed areas.

This had caused argument between Sau'uhi and Togaka resulted that their respective canoes were damaged. Further damages followed in which Malacham Tahua cut down a coconut tree at Geibagho.

From 1966-7 they had fished for crayfish and sold them to a company's ship sansation, and also to the Coral Sea company. His father died in 1972 and took over full responsibility in the lands. Permission to fish in those areas were obtained from him. Complainant did not dispute him. He claimed the complainant is descended from Saomago of Tegano (East Rennell) and not the people of Teluga. He emphasized various activities carried out by people in the lands as proof of his ownership.

We have considered both cases and accept both descended from Taupongimatua. We could not distinguish Taupongimatua and Hakasigimata. Hakasigimata was the son of Taupongimatua.

Though we agree that both could have separated and owned their respective lands, it is evident before us that the lands respectively owned were the areas disputed. We also found on the evidence before us that arguments occurred between the grandfathers of the parties within the areas involved in this case. We also found on the evidence before us that argument occurred between the grandfathers of the parties within the areas involved in this case. We also accept both sides planted coconuts, farmed and fished in those areas both at the seaside and inland.

The arguments between the grandfathers of the parties occurred mainly at the time of Sau'uhi, Togaka, Malacham Tahua, Moah the father of Benjamin etc. There is no evidence before us that Moah and Hakasigimata sons of Taupongimatua were argued over the ownership of those areas.

We are of the opinion that they were in good term and we are also in our opinion that could be their father whom we accept the original owners of the disputed areas did not divide the lands among his sons but rather jointly shared the ownership and lived happily.

Since no evidence from the parties to explain the relationship of Moah and Hakasigimata in respect of their ownership in lands disputed, this is our opinion.

Time has changed situation in our society in which the respect of family no longer maintained. This was not so in the days of our old people where respect and support in our family circle was highly recognized. This is what has led us to uphold our believe that the kindness, support and respect in the time of Moah and Hakasigimata has dramatically changed by this new generation, which in this case, the parties.

Having considered all we have mentioned we quashed the decision of the chiefs and award or divided the ownership of the lands among the parties in which the plaintiff Alick Tuhaika to own beginning at Tebolaghi stretching to Onesagagho and Joseph Taupongi to own beginning at Onesagagho stretching and reach Magaghitamu.

The boundary of each respective awarded areas in Onesagagho road.

The sides of the said Onesagagho road are the ending and beginning of each awarded areas.

The respective awarded areas stretching from the seaside to the inland covering other disputed areas in this case.

No order for costs.

President

Clerk.

Eddie Muna 30/9/88.

Dated this 30th day of September, 1988  
at Tupuaki Sub-Station, West Rennell.

Decision to be delivered on Monday 3.10.88 at Lavagu 10 a.m.

Resume 3/10/88 - Lavagu.

Parties attend. Decision delivered.

R/A explained.