

IN THE ISABEL LOCAL COURT
HELD AT TATABA STATION

Land Case No. 3/98

BEFORE: Richard Haile - President
Fredrick Kana - Member
Solomon Manetove - Member

Jeremy Fasi - Court Clerk

ABOUT: TALIGI LAND

BETWEEN: Samuel Manetoali -

Plaintiff

Nelson Saina -

Defendant

JUDGEMENT

It is the duty of the plaintiff to establish before this Court the standard of proof as required in all Civil cases. The standard required is proof on the balance of probability.

The issue before this Court is TALIGI LAND and it is the duty of the plaintiff to prove to the Court that he is the Sole owner of the land.

The Plaintiff's case can be briefly summaries as follows:-

That Taligi land is situated within the Limapogu land. The decision made on 31/10/85 by the Customary Land Appeal Court, Nelson Saina the Defendant has standing on behalf of the Vihuvunagi tribe has no right to own the so called Limapogu land from Suga tribe or Takurau to Rotue including the reefs, refer to the said decision and map which is tender to Court and marked EXSM1 and EXSM3.

The plaintiff's evidence also stated the boundaries of the Taligi land from Bea Tanamuki to the Eastern end of Tatozoma Hill and follows the stream to the bottom of Holibamu. From the stream up to Holibamu, Holibamu to Korugu and Korugu back to Bea Tannamuki and this also including the reefs. The Plaintiff also that within the boundaries are places like Monmohu, Baru, Goma, Taligi and Togihara in the seaside and Saele in the bush. All of these are known as Taligi land refer to the sketched map tender to Court marked EXSM10.

The plaintiff in his evidence also stated to the Court that the disputed came about because the Defendant and his relatives are claiming that the disputed land in question are theirs and they do things without the consent of the plaintiff. Furthermore, the plaintiff stated in his evidence that the Defendant had made complained to the Natural Fisheries Development (NFD) that the Defendant should obtain the bar royalties regarding Taligi as refer to the letter dated 12/7/94 tender to Court marked EXSM9.

The plaintiff also in his evidence justify to the Court about his genealogy from the grass root level up to the present time and it was from this effect the plaintiff came to own the said land In question. The plaintiff further stated in his evidence that they have made three custom feasts according to the Isabel Custom to acquire the Taligi land, and they did and the plaintiff refer to the article of Dr. George Bogese at page 218 last paragraph of Oceania which the plaintiff tender to Court. From these evidence that is why the plaintiff fully claim that he is the sole owner of the disputed land in question.

However, the Defendant on the other hand, has also justify to the Court that he is from Vihuvunagi tribe and he knew everything and the history of the land so called Limapogu.

The Defendant further stated that from 1927 to 1983 the Limapogu land was fraudently owned by Thogokama clan and during that period all the properties were given away simply because they cannot protect their rights.

The Defendant further stated that on 31/10/85 he proceed with a land case and won the case against the Thogakama clam and the matter even went up to the High Court. The Court judgement tender to the Court and marked EXNS1.

The Defendant told the Court that he is the owner of the disputed land and not the plaintiff as he stated in the Court. These are the briefs evidence from the Defendant.

Now the question before this Court is to decide the ownership of the land in question between the plaintiff and the Defendant on the material before the Court.

The first issue the Court will look at is the decision of Court where the Defendant was infavour off which marked by the Court EXSM1 and EXNS1.

Having perused the decision where the Defendant seem to rely on the Court seem to understand that the Defendant is not from the Vihvunagi tribe as he is claimed. According to the understanding that the Court can collected from the judgement the Defendant during that time and ever today he is standing on behalf of the Vihvunagi tribe only or in other words he is pretending to be a Vihvunagi tribe in order to secure himself to own the Limapogu land which the Taligi land is situated in.

The plaintiff have clearly stated that Taligi land is within the Limapugo land where the Defendant took it to the Court. This Court satisfy with the plaintiff evidence that Defendant was standing on behalf of the Vihvunagi tribe during those Court and furthermore the Defendant is not from the Vihvunagi tribe and the decision where the Defendant is relying on as he is from Vihvunagi tribe this Court cannot accept it.

The second issue the Court will look at is the boundary of the disputed land. We have seen from the Plaintiff's evidence that he had clearly stated the boundary of the Taligi land to the Court from each boundry to another. Whereas, for the Defendant, he did not clarify the Court the boundaries of the Taligi. Defendant only mention few places and then said that the disputed land is liked Triangular block and nothing more.

However, the Court became doubtful of the Defendant versions. A reasonable man like him he supposes to come with the truth and explain or tell the Court all his boundary to protect himself. In the meantime, the plaintiff have the benefit of the doubt.

The third issue the Court want to look at is the GENEALOGY. From the evidence produced by the plaintiff we have seen his family tree, on how they came about and how his generation came to own the disputed land in question.

Whereas for the Defendant he has failed to enlight his genealogy to the Court. These are some of the important elements where one has to prove his/her case. This Court is so sad that the Defendant did not provide such information. The Court normally give credit for parties who give such information especially when making decision such information like this plays a great help to the Court. In this instance, the plaintiff have the credit for that.

The fourth issue and it would be the last one is the Acquiring of the land Taligi. Now from the evidence produced by the Plaintiff we have seen that there were three Customary feasts made by the plaintiffs side at different time to acquire the said Taligi land and it was witnessed by Chiefs and some surrounding village people. It was through this transaction that the plaintiff have the right to own the land.

However, the Defendant did not mention anything about the acquiring of the Taligi. What the Defendant stated is that he is the rightful landowner of the Limapogu land where Taligi is inside.

The Court seem not to understand why the Defendant did not come out with such information. It seem that the Defendant did not came out with the truth to that effect.

Accordingly the plaintiff have the benefit of the doubt.

DECISION

After considering the evidence produced by the Plaintiff and the Defendant, the Court satisfy on the balance of probability that the decision is awarded to the plaintiff. The plaintiff is the rightful owner of the land so called Taligi Land.

Each parties to bear their own cost.

Right of Appeal within the three months as from the date you received the judgement.

Richard Haile
President YLC

Jeremy Fasi
Court Clerk