

Judgement

Having heard the stories and evidences of both parties, the court is satisfied to determine this case of claiming ownership over Ovau Island by plaintiff **John Alisae Bakele** of Toumua Village, Fauro, Shortlands.

Interestingly, however, whilst the plaintiff dwell into expressing his customary understanding of owning Ovau Island, the defendants were so reluctant to dispute that claim and insisted to rely on the previous Local Court decision in Land Case 06 of 1988 and CLAC decision in Civil Case 03 of 1989 over the same Ovau Island. The defendants believe that the plaintiff in this case is a party in these proceedings where ownership had already been determined.

Since that this court is a subordinate court of higher courts, it would be an error in law for it to proceed in deciding the customary evidences in this case when in all of these times, Ovau Island was being determined of it's ownership by a higher court.

In that, the issues before this court to determine would be:-

- a) whether the CLAC decision is binding to both parties; and
- b) to consider determination of ownership, should the above decision is not binding.

Court history of Ovau Island

According to court records, the issue of Ovau Island took it's course from 1987 to 1991 during which time, it began from Chief Hearing, Local Court, CLAC (W) and the High Court of Solomon Islands.

1987 - Famao Council of Chiefs - Korovou.

Parties:	Lawrence Alisae	Plaintiff
	Paulino Bakele	"
	Crisanto Mule	"
	Philip Rigon	"
	-v-	
	Bernard Piloa	Defendant
	Dominic Otuana	"
	John MacDonald	"
	Philip MacDonald	"
Claim:	Ownership of Ovau Island.	
Evidences:	Genealogies, places & properties.	
Decision:	<i>Paulino Bakele was the Chief consultant who must not do anything as he wish but must consult the other three Chiefs of Kariki, Samanago and Mania.</i>	

The Accepted Settlement Form II was filled and signed by both parties without Lester Sogabule and Lawrence Kibule, because they disputed this Chief decision.

Date: 17/02/87.

1988 – Shorlands Local Court, LC/06/88 – Korovou.

Parties: Lawrence Kibule Plaintiff
 Lester Sogabule “
 -v-
 Lawrence Alisae Defendant
 Paulino Bakele “
 Claim: Ownership of Ovau Island.
 Evidences: Genealogies, Maps & Survey.
 Decision: “.....have equal right.”
 Date: 10/03/89.

1989 – Customary Land Appeal Court (W), CC 03/89 – Gizo.

Parties: Lawrence Kibule Appellant
 Lester Sogabule “
 -v-
 Lawrence Alisae Respondent
 Paulino Bakele “
 Claim: Ownership of Ovau Island.
 Evidences: Genealogies, Maps & Survey.
 Decision: “.....appeal succeeded and awarded Ovau Island to the appellants as customary owners.”
 Date: 14/08/91.

1991 – High Court Land Appeal Case 04/91 – Honiara.

Parties: Lawrence Alisae Appellant
 Paulo Bakele “
 -v-
 Lawrence Kibule Respondent
 Lester Sogabule “
 Claim: Appeal against CLAC decision 03/89.
 Evidences: Court Delay.
 Decision: “.....dismiss the application.” An “Out of time” application.
 Date: 14/08/91.

Current Evidence

The court heard the submission talks about the movement of the people of Mono to Fauro. Chief Biloko and Telekana and then to Raku and Chief Rigon to Karakara, Kuritaemasi and Maralao. The plaintiff did not mention in his submission his connection or relationship to these Chiefs. But according to the genealogy (PLX.1), his Baumana Clan are descendants of Patu who married Raku and born Bioso, and then to Pinu to Segori to Peter Alisae who had two children; Birigita and Ring. Birigita bore the plaintiff.

Even though this is a new and confusing genealogy, it all starts off from Patu who suppose to marry Rama and not Raku as is in this current genealogy. Again, this genealogy broke it's link from Patu but later rejoins the original one as from Peter Alisae who is the brother of Mackenzie, Mangila and Paulino Bakele who was a party with Lawrence Alisae in the previous court proceedings.

The court sees Peter Alisae was the son of Patrisio Gorae, the son of Rigon Tula. Plaintiff also admitted being present in the 1987 Chief Hearing, when questioned in his submission.

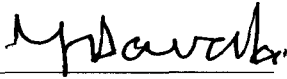
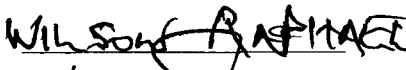
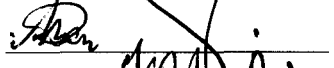
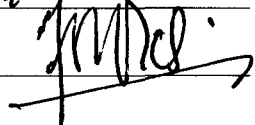
Binding Decision

Nevertheless, the outsets of previous and current evidences are clear, in that, the plaintiff in this case is a party in the previous proceedings of Ovau Island. This has given this court the mandate to find the first issue is proved beyond the "balance of probability" and that the CLAC decision of 03 of 1989 is binding on both parties to consider the second issue of further ownership.

Decision

Case dismiss. CLAC 03/89 decision remains standing.

Dated this 15th day of January 2008.

Taylor Davala	<u></u>	President
Wilson Raphael	<u></u>	Member
Albert Taro	<u></u>	Member
Francis M Molia	<u></u>	Clerk

Appeal:

Aggrieved party to appeal to the Customary Land Appeal Court within 3 months from today's date.