

**IN THE MALAITA LOCAL COURT**

**Land Civil Case No. 1 of 2008.**

**GTR NO. B731645**

**LAND IN DISPUTE: RONGOAKOA & BAKOABU AS GIFTED LAND.**

**Hearing Date: 22/08 2011.**

**Venue : Auki Court House.**

**BETWEEN:** 1) Sale Idumae of Kona Vge, West Kwara’ae **Plaintiff**  
2) John Suifasia (spokesman - not related to land.)  
**AND:** 1) James Baubau **Defendant**  
2) Lemuel Lihwiwa (spokesman – related to land.)

**JUDGEMENT**

**1. ISSUE**

The issue before this Court is to determine the ownership of Rongoakoa and Bakoabu land between Sale Idumae (plaintiff) and James Baubau (defendant). The High Court civil Case no. 371 of 2004 has allowed the lower Court (Malaita Local court) to rehear Rongoakoa & Bakoabu Land dispute.

**2. WINNING THE CASE**

The probability of gaining this case lies on the custom evidences tendered by the lines of (plaintiff) and defendant to the Court for judgment. Whose tendered custom facts are worthy to believe, then as such, the decision would be in favor.

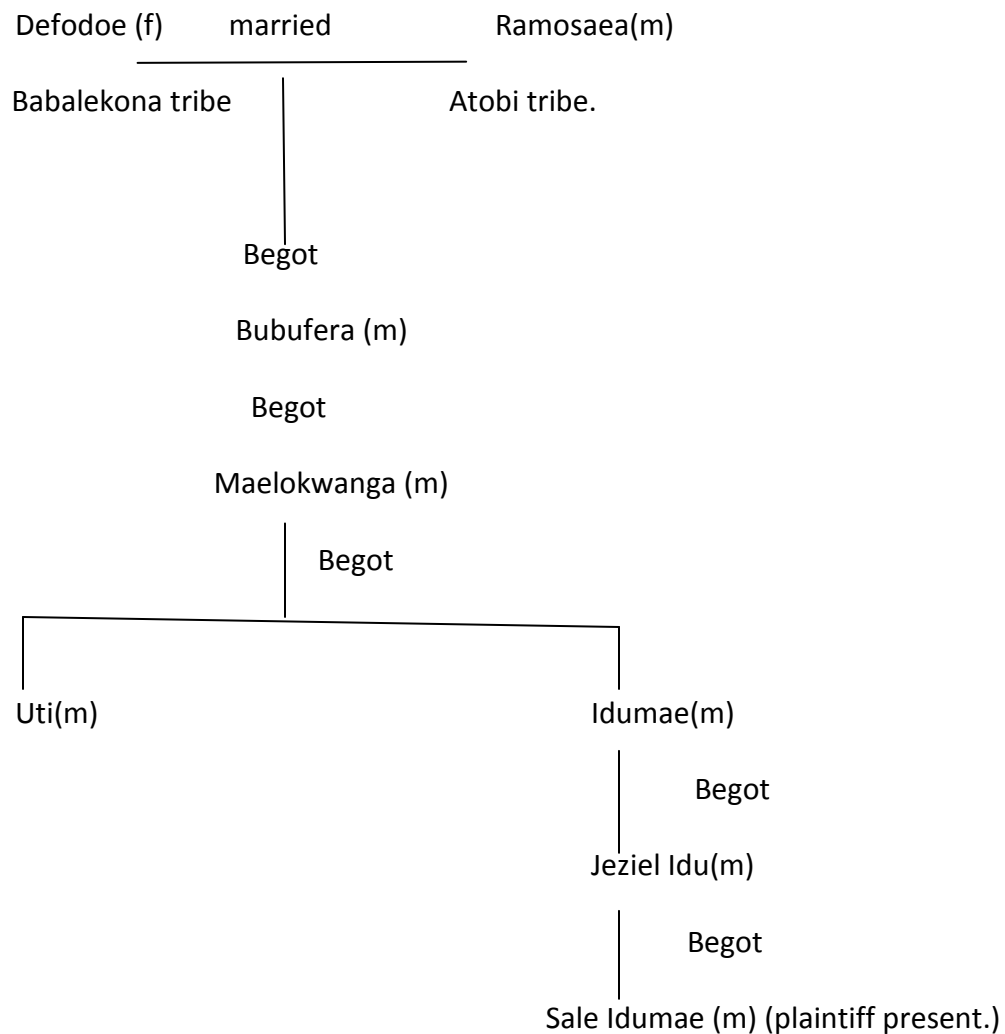
**3. CHIEFS SETTLEMENT**

The group of Aimela chiefs namely (1) Cosmo Maefolia (2) John Still Meke (3) Alfred Asimae (4) Martin Giin Matanani have processed the Rongoakoa & Bakoabu land in favor of James Baubau on 25<sup>th</sup> July 1994 at Auki Seaview. However, because of the limited powers of the chiefs, Sale Idumae brings this case Civil Case No. 1 of 2008 to this Court to hear. This Court is a neutral body and makes sure that the plaintiff’s and defendant’s side are treated fairly or equally.

#### 4. PLAINTIFF'S SIDE

1. The (plaintiff) Sale Idu claims that Rongoakoa and Bakoabu portions of land was given to them through their great-grand father Maegaua to her daughter, Defodoe (f) a woman of Babalekona land. Maegaua was a man from Babalakona tribal land.

#### 2. Plaintiff's Genealogy



### 3 **Map**

The plaintiff's map is as referred to plaintiff's map exhibit No. 1. It starts at 1) Fafarakwasi at the sea coast, follows the sea coast to Afoloa, then follows the Ailali stream to Faumanisi, then to Gwalu'u stream. From then it follows the Kwakasina stream to Fafarakwasi point to the sea coast as it is first started.

### 4 **Tabu Sites**

The plaintiff claims Rongokoa as a tabu site of Akolonimae (war shrine) and Bakwaabu as a maoma fire site (feasting fire). The priest (fata'abu) offered sacrifices at the tabu sites was Kwangolo.

### 5 **Properties**

The plaintiff has many properties such as coconuts, gardens, cocoa and sago palms.

### 6 **Documentaries**

The plaintiffs support their claims by the following documents as plaintiff exhibits numbers. 1 – 12.

1. Pltf exhibit no. 1 customary land dispute.
2. Pltf exhibit no. 2 boundary map.
3. Pltf exhibit no. 3 Native Court civil case no. 4/60
4. Pltf exhibit no. 4 Local Court civil case no. 13/83.
5. Pltf exhibit no. 5 Letter of payment for CLAC appeal.
6. Pltf exhibit no.6 reply letter from Mahlon Toito'ona.
7. Pltf exhibit no. 7 MD/CLAC/84/C2
8. " " no. 8 H/court civil case no. 19/84
9. " " no. 9 Bakoabu & Rongoakoa
  
10. " " no. 10 Eviction Order CC 19/04
  
11. " " no. 11 High Court Order.
  
12. " " no. 12 Summary of submission.

### 7 **Plaintiff Witness NO. 1**

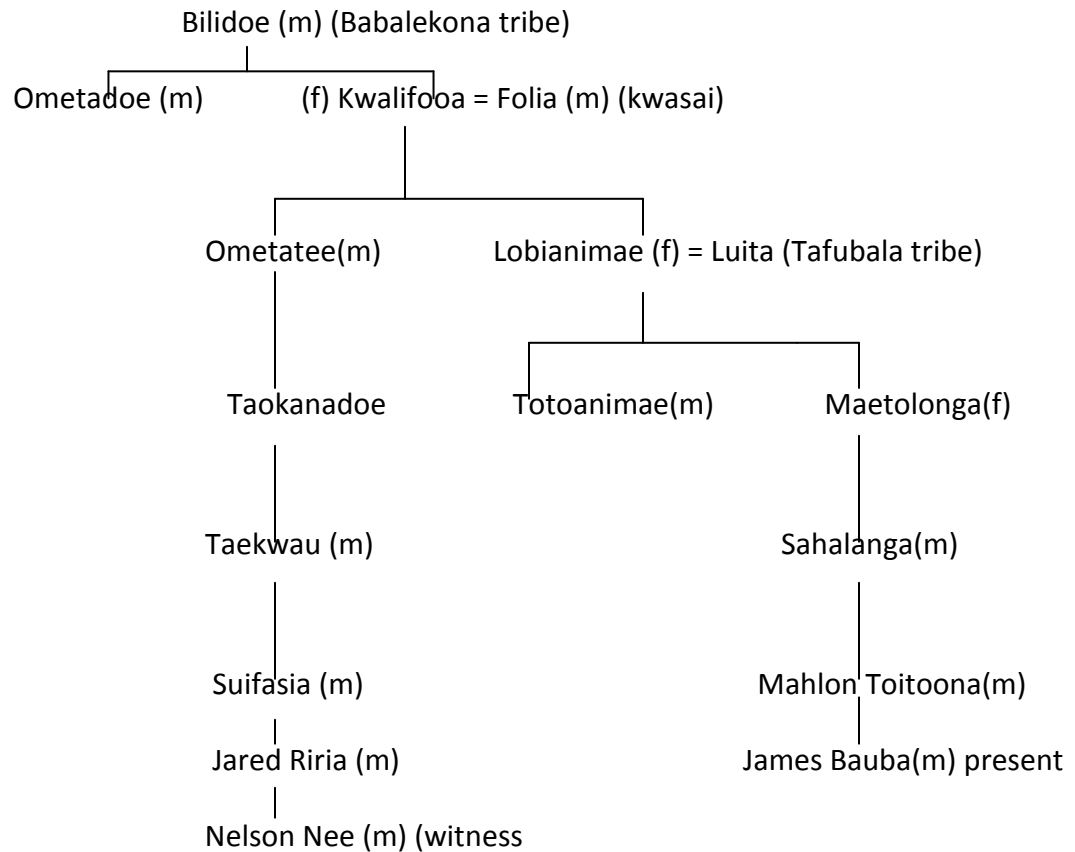
Supports plaintiff's claims.

5 **DEFENDANT SIDE.**

- 1) The defendant also claims that Rongoakoa and Bakoabu land is given to their line by Ometadoe (m). Ometadoe gives the land to Ometatee(m). Ometatee(m) gives the land to his sister Lobianimae(f). The line descendants of Lobianimae(f) from then inherited the land until now. James Baubau and Lemuel Lihwa are the current representative owners of the line of Lobianimae(f) of Babalekona tribe.

The defendants claim that their line is already nine generations living in the land known as Rongoakoa and Bakoabu before any line come and establish in the area. They have six priests in line worshipping in Rongoakoa and Bakoabu.

2) **Geonealogy**



Refer to question 7 by Court and Question 26 by the plaintiff.

3. **Map**

The defendant's map is similar to the plaintiff's map.

4. **Tabu Site.**

The defendant's also claim Rongoakoa and Bakoabu tambu sites.

5. **PROPERTIES**

The defendants also claim that they as well have properties as coconuts, cocoa, sago palms and gardens.

6. **Documentaries**

- 1) Defendants exhibit no. 1 map.
- 2) Defendants exhibit no. 2 coconut plantation.
- 3) Defendants exhibit no. 3 extracting of timber.
- 4) Defendants' exhibit no. 4 Bakoabu and Rongoakoa.
- 5) Defendants exhibit no. 5 Summary.

7. **Defendant witness No. 1**

Supports defendant's claim.

6. **COURT FINDINGS**

1. **HIGH COURT ORDER**

This Malaita Local Court finds that the High Court of Solomon Islands civil case no. 371 of 2004 heard by Palmer C.J. and ordered that the disputes between Sale Idu -vs- James Baubau be only resolved through lower Courts. It quotes;

*"The issues of dispute between these two groups have yet to be resolved through the current customary land dispute resolution process which is set out in the Local Court Act and the Land and titles Act. It is wrong therefore on the part of Sale Idumae to rely on the decision in the land case 19 of 1984 as vesting ownership of the said lands on him and his line as against James Baubau."*

Refer to page 2. Paragraph 7 of the High Court Judgement. It is this order that the Local Court has to rehear the Rongoakoa and Bakoabu land dispute again.

2. **CONFLICTS**

While the plaintiff claims that Rongoakoa and Bakoabu was given by Maegaua of Babalekona tribe to his daughter Defodoe, the defendant also claims that Rongoakoa and Bakoabu was given to his line by Ometadoe, the son of Bilidoe also from Babalekona tribe. The land in dispute was given by Ometadoe to his uncle, Ometatee to his sister Lobianimae where the defendant represents.

Plaintiff witness: I confirmed to plaintiff side and Dw1 confirmed to defendant side.

The Court understands that your both claims of Rongoakoa and Bakoabu as gifted land that cause your current dispute over the said land. For that very reason the plaintiff and defendant strive for the ownership of Raongoakoa and Bakoabu portion within Babalekona customary land.

However, the Court doubts the plaintiff's and defendant's claims as Rongoakoa and Bakoabu as gifted portion because there are not sufficient custom evidences produced by either party lines or their witnesses. The plaintiff and his witness did not tell the Court about how the portion of Rongoakoa and Bakoabu has been transacted to their line and what did the plaintiff's line do at that time or what did Defodoe did for Maegau and his line of Babalekona before or after the portion was given. Likewise, the defendant did not specify his stories of his claim how his line was given the land of Rongoakoa and Bakoabu. He, the defendant, and witness did not tell the Court any custom evidence of how his line was given Rongoakoa and Bakoabu or what did Lobianimae do before, at the time or after the portion was given, from Ometadoe of Babalekona to Ometatee, then to the line of his sister Lobianimae?

And because neither the plaintiff nor the defendant did fulfill the custom norms of gifted land as to their claims this Court cannot treat the Rongoakoa and Bakoabu as given to your lines because both of you (plaintiff & defendant) only give evidence on how you are blood related or link to Babalekona tribe.

However, the Court also understands that there are some common grounds of the plaintiff and defendant lines.

1. The Court confirms that the line of plaintiff is of Defodoe a woman of Babalekona and Lobianimae is also from Babalekona.
2. Both the plaintiff and defendant lines have been cultivating, making coconut plantations, cocoa plantations and planting sago palms etc, for so long in the land.
3. The plaintiff and defendant maps are of similar features.

## **7. SURVEY**

The both parties line claims of Rongoakoa tabu site as of Akolonimae shrine is confirmed by the Court through surveying. The plaintiff line and defendant line did offer sacrifices through Kwangolo (fata'abu) at Rongoakoa for akolonimae. This common sacrifices at Rongoakoa proves that both lines are of female origin of Babalekona. For that reason, Rongoakoa can only be a tabu site of Babalekona and not of Atobi male line or of Tafubala male line.

The Court found no custom evidence is Bakoabu you principal tabu site as you both mentioned during proceedings. It is only a settlement within Babalekona land.

Upon hearing the plaintiffs and witness, the defendant and witness, the documentaries, the questions and answers from and by the plaintiff and defendant and the survey findings, the Court is satisfied and this Court deliver its judgment;

**8. DECISION**

1. The plaintiff Sale Idumae and his line and defendant James Baubau and line are from female's descendants of Babalekona tribe have equal rights over Rongoakoa and Bakoabu portion of land in Babalekona customary land.
2. Any future development in the land must be consented by both plaintiffs and defendants lines.
3. Both parties must respect each other's properties.
4. Property owners have their rights to use their properties in the area.
5. Both maps are accepted.
6. Permission into the land is to be given by both the plaintiff and defendant.
7. Both parties are to be reconciled.
8. Parties bear your own costs.
9. Either of the party lines whom is not happy with this decision has the right to appeal within ninety days (90) as effect from 2<sup>nd</sup> September to 2<sup>nd</sup> December 2011

**COURT OFFICIALS**

1. Rinaldo Talo (Court President)
2. Eddie Wasi (Court Member)
3. Philip Waletobata (Court Member)
4. Billie Anifaesasi (Court Clerk)

Dated this 2<sup>nd</sup> day of September 2011.