

IN THE GHORENA LOCAL
COURT, WESTERN DISTRICT

LAND CASE NO: 01/2009

Between : Robert C Kimisi &
Silas VIZIPTU

Plaintiff

and : Alex Laenol Qora

Defendant

IN THE MATTER OF: MIQA LAND OWNERSHIP

JUDGEMENT

This is a dispute about the customary rights and ownership over the miqa land between Belobelo tribe and Raura Wagena tribe in south west vella la vella, Island Western Province.

The nature of the dispute is two (2). 1. Belobelo tribe claiming the total whole miqa land starting from vituvitu point to oula River. 2. Whilst the Raura Wagena tribe claimed and defend the Raura Wagena miqa Land Block "A" in which it was within the miqa land starting from Rumavatu to oula River. After chiefs hearing, the plaintiff bring this matter to Ghorena Local Court who have Jurisdiction to hear and determine the issue of ownership on miqa Land. The Ghorena Local Court based on custom, land, and genealogy to convene and hears this case.

BRIEF BACK GROUND OF THE CASE.

The dispute over the miqa land commence sometime in 2003. The matter was first referred to chief. referred to chief hearing.

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for settlement, however, the plaintiff did not agree to attend hearing. The plaintiff then chose to appoint the Maelean house of chief to hear the case. The south east vella Council of chiefs has held a land dispute enquiry into the same miqa land between the same parties on July 27, 2012 at maravari village. It is proper for the plaintiff's side to refer the dispute to the Local court, and not to run across to another Council of chiefs, that is what the law expressed in Local Court Act. Therefore, the plaintiff filed this matter to Local court claiming the ownership over Miqa land starting from vituvitu point to Oula River.

PLAINTIFF'S EVIDENCE.

1. The plaintiff, Mr Robert Kimisi in his belief, stated that he and his tribe Belobelo has proved the right of ownership to the whole miqa land. His right was existed from Elasa, oboli, oboli to Jimmy Dido to Jimmy Dido to Daniel Bula and Daniel Bula to Belobelo tribe.
2. The plaintiff says that Elasa was the original miqa tribe born oboli at miqa table land, which confirms that she is from miqa tribe. He also stated that oboli born Jimmy Didovali were son of oboli who owns the miqa land starting from vituvitu point to Oula River.
3. Plaintiff claim the whole miqa land, through customary right of the patrilineal tribe on how they own the miqa land. He further mentioned that during the time of Jimmy Dido he transfer to Daniel Bula and to Belobelo tribe.
4. He says that the hanging of oboli, is just to protect miqa land, that's why shedding of oboli's blood is more ^{powerful} important than any other thing according to custom.
5. Plaintiff ^{tell} told the Court that his mother for Jim, sake asked his cousin brother Bisoe the son of Molu to hang her just to secure the miqa land for him, otherwise different

tribes like Savezani, Kaneporo and Wabena would like to intentionally take it away from Jimmy Dido. That is how shedding of oboli's blood is the greatest sacrifice on land, is much more than normal vella land purchase.

Plaintiff did mention to court that they have four (4) chiefs to look after blocks of land within Miqa land, they are Opupareana, Dudukaoso, Solalakaoso and Tetepareana. He says that each chief is to look after certain part of the land, he indicate Goselado to Karve is look after by Opupareana, Dudukaoso is look after, Vituvitu to Karve, and Solalakaoso is look after Karave to Goselado area. Plaintiff also exhibited 3 Balawa for the 3 chiefs that had lived and was made chiefs and their power, as chiefs, this was passed onto Belobelo Tribe.

Plaintiff produced to court their Combine Genealogy from Jimmy Dido's parent of Miqa to his daughter oboli and then to Jimmy Dido, who then transferred the ^{land} right to Belobelo Tribe and now that is our papupapu. The Genealogy indicate the Miqa land transaction from Jimmy Dido which is our authority or Matebangara, and the right of owning the Miqa land commenced there since the land was not given to, by any Belobelo Tribe Member, we confined our inheritance from Jimmy Dido.

In 1909, Jimmy Dido after capturing Sito of Sabe who murdered Binskin wife claimed back the Miqa land as a reward for the captured of the Notorious Warriors. When Jimmy Dido captured Sito the government like to compensate him but he refuse to have the payment but he asked them to give back the land from Vituvitu to ~~owner~~ owner. Plaintiff produced to court a written "will" the oldest record to show the evidence that Jimmy Dido had intend to pass the Miqa land to his half brother, Mr Daniel Bula to Belobelo Tribe.

During the site visit on 29/4/2013 at Dudukaoso block

of land, the plaintiff's side led the Court to site visit on the said block of land where there ~~was~~ is Sope, posa Jiru, sagemite, Koju, Jim Dido's Burial, pitakonimulcaoi mui, half Balasa, Jinkei, Jilcu, Venu, zorauruhill, punasape, oula, small hills, large hills, miqa resting place and lake place for cross being fed. These are proof of probability to prove the ownership of Miqa land from vituvitu to oula's river by By Belobelo tube which stated by plaintiff's evidence.

DEFENDANT'S EVIDENCE

The Defendant based his case on the chief hearing decision made on the 30th December 2003. The land in dispute was basically known as Miqa Wasena land block "A". The Defendant stated that the boundaries in disputed land are the one that has been submitted by his tube boundary description on his main submission. Defendant says that it is wrong for the plaintiff to include in this case the extension boundaries that does not reflect their claim of ownership over disputed area. The Defendant says judgement of this case must be based on the claims reflected on the 2003 Chief's hearing and the boundaries thereof.

The defendant says it is very evident that Chief Donald Kaki of Wasena tube had gone through numerous ^{customary enquiries} and testimonies to declare the truth of ownership and history of his tube over Miqa land that it belongs to Wasena tube.

The defendant's says that the various chiefs who bear witness over miqa land were undeniable proof of the true declaration, that the said miqa land belongs to wasena tube.

The defendant further said that the declaration by the very chief of Belobelo tube such as Thomas piko and Rubeth Bula is a living evidence of proof that the land belongs to Wasena.

The Defendant says, Wasena tribe was originated from Chaisaul, they drifted to vella la vella and land at ququzo point, and chief soka of Reresare at the same time granting the absolute mercy (2 large custom money) accommodate the people of Wasena. Chief soka and his allegiance of responsibility through receiving the custom money is to look after the people of Wasena tribe, moreover the Wasena lady called Vana. It is because of the custom obligation the chief of Reresare made the commitment to purchase the land for Vana from the Sarapito tribe and Miqa tribe was done. The defendant says that the evidence given Belarige, one of plaintiff's witness is the false one. He says how the Wasena tribe acquired Miqa land was consistent of vella custom practice and culture. The evidence given by his two witness, Nelson Tempats of Sarapito and Margareth were undeniable proof over the transaction of Miqa land. And also the Reresare tribe displayed a very vital role on behalf of Vana to acquire land for her. The defendant on his submission says that the land was acquired from chief Sisiba of Miqa tribe through custom land transaction customary money and food given to Chief Sisiba of Miqa tribe to acquire land and chief Sisiba accepted the transaction and land was given to Wasena tribe (Vana). The marriage of chief Sisiba to Vana had strengthened the ownership of land to Wasena tribe. The children of Vana were truly the children of chief Sisiba of Miqa and have right over Miqa land. In his ~~evidence~~ submission the existence of Wasena tribe to Miqa land come in very early before the existence of Belobelo tribe and the existence of Belobelo tribe to Miqa land was just five or six generation after the existence of Wasena tribe, they came into Miqa land after missionaries established their station. even the existence of Jimmy Dido in Miqa land was much later than the acquiring and settlement of Wasena tribe.

These are the proof of probability to prove the ownership of Wagera Miqa "Bloc A" which stated by Defendant.

Wagera tube will continue to enjoy what was acquired for us by our forefather and we will continue to defend our rights as long as we live.

Defendant in his final submission declared that since that time till today we are the rightful owner of Wagera Miqa Land Bloc "A".

COURT ANALYSIS:

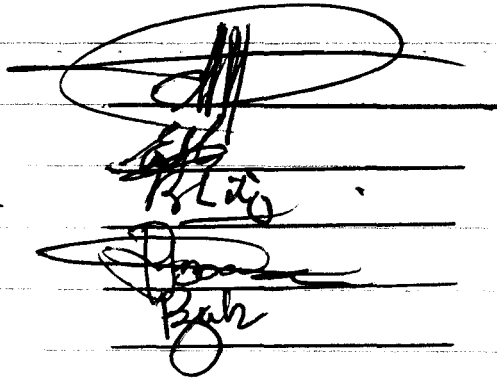
In considering both parties evidence, we remind ourselves that the burden of proof in civil case is on the balance of probabilities. That is, we have to weigh both parties evidence that is before us.

It is our believe that, in our dispute land, Genealogy our custom must always connected to each other in order to prove ones claim.

The statement of the plaintiff could not be considered true, because all the evidences are baseless. According to custom Genealogy the true version of Miqa Genealogy, Elasa was the last Miqa tribesman born oboli oboli was the secondary right of Miqa tube. In vella custom, the customary right of the patrilineal tube on how they own miqa land is totally wrong. The court believes finds that Rumadonga & Kamavum ~~and all their~~ all their Generation are from Belobelo, to connect this two Genealogy by birth is impossible. In vella custom the death of oboli is nothing to do with miqa land It ~~is~~ is not warranted for her to protect miqa land, she hang herself because of her husband's attitude to her two sisters. *

The four (4) chiefs who looks after the land were name after the land, in custom the chiefs cannot name after land. The land is land itself, this does not prove the truth to court.

Signed: Reddy Amon - President
Edmond Ale - vice
Oda Lilo - member
John Kapata - "
Rochester zetu - clerk



Handwritten signatures and initials, some crossed out with horizontal lines.

Dated at Gigo on the 10th day of May 2013.

ROA - Explained (3 months)