

BETWEEN: FAMILY LAKELOPOI

- Plaintiff

AND: MANAREWO KALTOLU LULU

Original Claimant

AND: PIERRE NIKARA

- Land Claimant 1

AND: LAKELO TAUJA MANAWORA

- Land Claimant 2

AND: MASAI FAMILY

- Land Claimant 3

AND: FAMILY MARIKI LANGA NI VATE LAPA

- Land Claimant 4

AND: MELE COMMUNITY

- Land Claimant 5

This is an application to joint as party to the Land Case No.10 of 1993. The Plaintiff's family applies to become party to the case on the grounds that they were not aware to the claim made in 1993. That they are not aware of the publishing of the claim.

After the plaintiff's representative presented his application before the court the Claimant's representative who had attended the Court posed some questions to him in relation to the publishing of the notice when making objections to the application. They also raised question of the 30 days notice.

Having heard all parties present the court finds that the notice has been posted. There had been meetings held regarding the disputes on the said land. There had been a conference held in Court regarding the said land. The Plaintiff said that his family's generation had been working on the land therefore they should have seen the notices that were posted on the land. The land case had been lodge 10 years ago and the hearing date is next week on the 10th day of February 2004.

The Court before making its ruling on the matter, had gone through Order 6 rules 4 to 9, read and explained the provisions to the parties. Particularly rule 8 and 9. Rule 9 provides for the 'Period of Publicity' and rule 8 provides for 'Publicity in Land Cases'.

Rule 9 states that "*Such publicity as is mention in Order 8 shall continue for a period of 30 days as from the date the notices were posted on the land*" This provides for the Period of Publicity and it does not mean that when the period of 30 days is up then nobody can be made a party to the case.

Rule 8 provides for when an interested person can join as party to the case. It provides as follows: - "*When the subject matter of the claim is land the clerk shall by notice posted on the land and by other appropriate means, advise the public of the date of the hearing of the cause an of the names of the parties, and the clerk shall inform the public that all persons having an interest in the proposed cause shall as soon as possible apply to the court to be joined as plaintiffs or defendants, as the case may be.*" Of course Order 8 rule 2 provides for 'Non-Joinder or Mis-Joinder of Parties but yet the Court has to be satisfied that the party may be likely to be affected by the result thereof, have not been made parties, that is for the Court hearing the substantive matter to decide.

The period to apply to be joined as party to the case is not 30 days but within a reasonable time. The period is "*...shall as soon as possible apply ...*" Therefore within a reasonable time would may be up to 6 months, if the application comes before the Court after 12 months or later on then the reasonable time will not be considered but the court may listen to reasons and if the court is satisfied that the applicant has a valid reason then the court may allow the applicant to be joined as party.

In this case the court could not accept the application as within a reasonable time therefore must hear the applicant's reason for the late application together with the grounds of the application. Having heard the application the court has found any basis to accept the Plaintiff's family to joint in as party to the Land Case No.10 of 1993. Thus the application is refused.

DATED at Port Vila this day of February 2004.

BY THE COURT



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NESBETH WILSON
Magistrate

