

IN THE EFATE ISLAND COURT
OF THE REPUBLIC OF VANUATU LAND CASE NO.01 OF 1997

BETWEEN:	FAMILY MALASIKOTO - Original Claimant
AND:	FAMILY LAKELEOTAUA KALOKANUE NAKMAU - Land Claimant No. 1
AND:	FAMILY ELMU LABUA KALTAMATE - Land Claimant No. 2

JUDGMENT

Hearing Date: 19th July 2004.

Judgment Date: 22nd day of July 2004

Coram: Magistrate Nesbeth Wilson

Justices: Mrs Lucy Sandy – Island Court Justice
 Mr Makal Kalsong – Island Court Justice
 Mr Raymond Marongoe – Island Court Justice

NEM BLONG LAND CLAIM : PANGONA (Long Mele, Efate)

Kastom blong usim blong harem land kes ia

Before kot istat blong harem kes ia, themi bin lukluk long kastom we bae kot ifolem long kes ia. Kastom we olgeta patis oli kat we isemak hemia ifolem man or blood (patrilineal) be ino woman or naflak (Matrilineal) blong kleimem kastom ownaship blong land ia. Mo storian we bae ol parties oli talem long kot blong pruvum se who nao iract kastom owna blong graon ia bae i kam aot nomo long kastom blong yumi long Efate in particular hemia we ol man Mele oli folem.

Komposision blong Kot

Long wan Amendment Act No.35 blong 1989, Parliament i bin pasem se anda long seksen 2 blong Aelan Kot Act, CAP 167, taem we Aelan Kot isitaon blong harem dispiut long land bae wan Magistret i mas sitaon wetem trifala Aelan Kot Jastisis. Anda long seksen 2(a) blong Act ia, wan Magistret olsem bae ino save sitaon sapos Jif Jastis ino kivim authoriti long hem. Folem hemia Kot i wandem talem long ol patis se olgeta we oli deal wetem kes blong Pangona land oli qualifae evri wan.

History blong kes ia:

Samtaem long June 1997 Family Malasikoto oli filem land case mo pem fees blong olgeta long kot long saed blong land ia Pangona we hemi situated long Mele. Island Court Clerk hemi publishim notise blong land ia long wan manis, hemia period blong 30th September 1997 iko kasem 30th October 1997 according long law blong Island Court CAP 167 long Order 6 Rule 8 mo 9. Taem Family Lakeleotaua Kalokanue Nakmau mo Family Elmu Labua Kaltamate oli counter claimnem land ia mo oli faelem kes blong olgeta mo pem fees samtaem long October 1997.

Samtaem long February 17 2003 kot ibin holem conference wetem olgeta patis long kes ia. Long taem ia kot iexplain long ol patis se after long Land Tribunal Act ibin enated ikat wan provison long law ia we italem se ol kes we oli stap finis long Island Kot, nao istap long ol patis blong oli chose sapos oli wantem tekem kes blong olgeta iko long Land Tribunal or remain long Island Kot. Ol patis everywan long kes ia oli wantem se bae Island Kot bae iharem kes blong land ia Pangona.

Kes ia ibin listed blong hearing long Namba 19 July 2004. Long date ia Land claimant namba wan (1), Family Lakelotaua Nakmau ibin mekem wan application blong talem se Famili ia iwantem cancelem court case blong olgeta blong kam part wetem family Malasikoto long Pangona land olsem tru custom owner long Pangona Land. Long sem day ia Kaltamat Thomas Labua long behalf long family Elmu Labua

Kaltamate hemi mekem wan nara application blong talem tu se olgeta tu oli wantem cancelem kes blong olgeta againstem Original Claimant we hemi Family Malasikoto blong oli kam part wetem family Malasikoto mo Lakelotaua Nakmau long claim tugeta olsem tru kastom owner blong land ia Pangona.

Kot iacceptem application blong olgeta be ibin explainem long olgeta se naoia bae kot isave harem wan representative blong olgeta blong presentem long kot history blong land ia then bae oli ko visitim land tugeta. Kot iexplain tu se long taem blong visit blong land bae every patis oli save storean long ol justices long olgeta tabu ples, nasara blong olgeta mo boundry blong land ia.

History blong land we Representative blong Malasikoto ipresentem:

Silas Vatoko long behalf blong Malasikoto mo nara two family, Family Lakelotaua mo Kaltamat Thomas Elmu hemi presentem short history blong land ia. Hemi talem se istat wetem Malasikoto Kaltava Lulu Kalpapres Nawota. Hemi talem se olfala ia istat long wan village long Ilama mo iko daon mo walkabaot long land ia Pangona. Hemi bin stap planem ol tree olsem Natapoa olbaot olsem mark blong kraon. Hemi bin stap long wan kef we oli kolem Valealapa mo mekem haos blong hem long ples ia mo mekem fes settlement blong hem. Hemi aot long Valealapa iko antap long hill long wan ples oli kolem Yonimala, hemia kolosap long Kolapau. Hemi ko pas long Isala we istap kolosap long Tukutuku mo hemi faenem wan man wetem woman blong hem mo wan pikinini gel blong tufala. Hemi askem tufala sipos hemi save tekem gel ia blong kam waef blong hem. Tufala iagree nao olfala Malasikoto ia itekem gel ia mo tufala ikam bak long Valealapa. Tufala iout bakeken mo go long wan ples oli kolem Siwene mo Tepukariki we long ples ia ikat wan kef oli kolem Valeariki. Long ples ia nao tufala ites kat two pikinini we nem blong tufala (boy) Valca mo (gel) Leimaki. Oli bin out long Valeariki oli ko long Imere Tenuku. Hemi talem se family ia ikat fulap storian be bac oli talem taem we ikat question.

After hemi ko walkabaot long ples mo nemem olgeta ples ia hemi no bin mitim any man so hemi kolem land ia Pangona.

After representative blong family Malasikoto ipresentem brief history blong olgeta kot iaskem olgeta wetem help blong tufala nara family blong lukluk long map mo raetem nem blong ol ples we oli ting se hemia nao Pangona istat mo iko finis long hem. After oli raetem olgeta nems ia kot iadjournem kot mo explain se olgeta Justices oli mas visitim land in accordance wetem O.18 r.9 blong Island Kot Act CAP 167, we italem se *"In every case where the claim is in respect of land, the court shall visit the land before reaching a decision in the cause"*. Kot iexplainem long ol parties se hemia long every case we oli faelem long kot. Whether oli harem fulwan or no be oli mas visitim bifor oli mekem wan decision long hem.

Long 20 July ol justices wetem three family ia everywan oli visitim land ia together. Taem oli visitim land ia ol families ia oli storean long olgeta tabu ples wetem ol nasara blong olgeta mo tu oli shoem boundry blong land ia. Charlie Kaltava Malasikoto (representative blong Malasikoto family) ishoem wea ples great great bubu blong hem Malasikoto Kaltava Lulu Kalpapres Nawota ibin pass long hem mo putum nem blong ol ples. Taem we mifala igo insaed long land ia ol patis oli shoem olgeta namele tree we oli laen up iko antap long hill mo oli storean se taem befor ol people blong olgeta oli katem ol big big kanu blong olgeta antap long hill then oli puhum ikam daon follem olgeta namele ia mo oli singsing custom singsing kasem solwora. Mifala go kasem long wan ples we oli kolem Honiara afta mifala igo further mo long wan nara ples we oli kolem Mantoto mo long ples ia nao mifala istop mo Charlie Malasikoto itokabaot history blong ples ia. History we Charlie Malasikoto istorean long hem se taem ol man oli ded spirit blong olgeta oli ko long ples ia. Taem we spirit blong olgeta iko long ples ia se ikat three fala waves iraes long ples ia. Nem blong olgeta Sigotara, Vilaoli mo Mataumuri. Sigotara ikarem hed blong spirit ia iko kasem Jipeniu, after Vilaoli mo Mataumuri ikarem hed ia iko pas long Isala, then iko pas long Lakenasei mo iko antap long hill

mo putum hed ia long wan stone we oli kolem Fatu Kolapau we naolia area ia tu oli kolem Kolapau.

Afta long ples ia ol patis oli tekem mifala iko antap mo shoem ston ia long Kolapau. After oli tekem mifala iko long wan nasara we hemi nasara blong family Malasikoto, hemia istap long area blong Lakenasei. Nem blong nasara ia hemi Malasei. After long hemia oli tekem mifala iko long narafala nasara we Lakelotaoa istorean se hemi nasara blong family Lakelotaua Kalokanue Nakmau. Hemia istap long area long wan ples we istap between Kolapau mo wan nara ples oli kolem Yonimala. Nem blong hem hemi Vlaoa. Hemi shoem tu wan stone we hemi talem se hemi mark blong Nasara.

Taem blong kam bak ol patis oli shoem wan ston we oli kolem Vaturara mo oli storean se ikat wan kef istap insaed long stone ia we iko kasem long solwora. Oli bin shoem tu wan nara kef long taem blong visit long land we bubu blong Malasikoto ibin ko mo mekem fes settlement blong hem after, itekem waef blong hem Toumarapongi. Storean blong three fala family ia long taem blong visit long land ishoem se Olfala ia istat long Tewaramasau mo iko kasem long Kolapau, iko raon long Isala then I kam daon long solwota mo kam kasem Tawaramasau bakeken mo givim olgeta nem blong ol ples we ipas long olgeta.

Ol ples mo ol mining blong olgeta:

Land:

Pangona imin se Wan body we ino kat hed.

Samfala ples insaed long Pangona we ol patis oli givim mining blong ol:

Kawene imin se taem we man ided spirit ikrae we ikrae nogud

Mantoto imin se thousand blood idrop

Jipeniu imin se tekem everi samting ikam togeta

Lakenasei or Malasei imin se nakamal blong hem
Kolapau imin se drae hed

Findings Blong Kot:

Afta long visit blong land mo afta ol patis oli storean long land ia long olgeta justices mo tu Kot ilukluk long olgeta documents we ol parties oli bin presentem long kot mo tu Kot ikonsiderem history we wan, representative ipresentem long Kot, Kot ifaemem se family Malasikoto hem nao hemi true kastomary land owner blong land ia Pangona. Kot ifaenem tu se Family Lakelotaua Kalokanue Nakmau mo Family Elmu Labaua Kaltamate Thomas tufala ikat raet long sam boundries insaed long land ia Pangona.

Nao ia kot imekem ol declaration mo ol order olsem:

Declaration

Folem ol resons ia kot istap deklarem tedei se: -

1. Land ia Pangona istat long Creek ia Tewaramasau iko long Tamasertano, iko antap long Kolapau, iko across long Lakenasei, then iko daon long hill afta iko atap mo go raon long Isala, iko down mo ko raon long Kaleka, iko daon long Itai Warakamu, iko long point long Jipeniu, iko long Mantoto, Honiara, Kawene, Manaturei, ikam long Vaturarave, ikam long Temangonu mo kam back long Tewaremasau.
2. Family Malasikoto hemi true kustomary landowner blong land ia Pangona.
3. Family Lakelotaua Kalokanue Nakmau mo Family Elmu Kaltamate Thomas oli kat raet long land ia Pangona tu be tufala istap long under long authority blong Family Malasikoto.

Order

After long declaration ia kot imekem olgeta orders olsem:

1. Olgeta we oli no patis long land ia Pangona be oli stap kat access or stap mekem ol development long land ia bae oli mas kat permssion long Family Malasikoto together wetem family Lakelotaua Kalokanue Nakmau mo Family Elmu Kaltamate Thomas blong oli continue wok long ples ia.

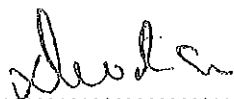
2.

Olgeta we oli no patis long land ia Pangona be oli wantem go insaed mo mekem wok long land ia oli mas kat permission long family Malasikoto together wetem family Lakelotaua Kalokanue Nakmau mo Family Elmu Kaltamate Thomas fas taem.

3. Any man we iwantem leasem any graon long Land ia Pangona oli mas negotiate wetem Family Malasikoto we hemi kastom land owner together wetem family Lakelotaua Kalokanue Nakmau mo Family Elmu Kaltamate Thomas we tufala tui kat raet long land ia.

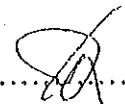
4. Folem sekson 22 long Island Kot Act Cap 167 olgeta paties oli gat 30 deis blong appeal sapos oli no hapi long decision ia.

Detem long Port Vila long 22 dei blong July 2004.


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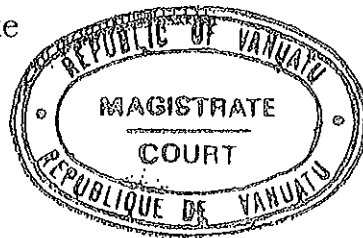
Nesbeth Wilson

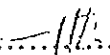
Magistrate


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Lucy Sandy


Aelan Kot Jastis




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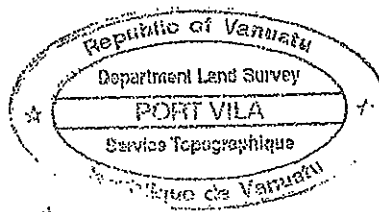
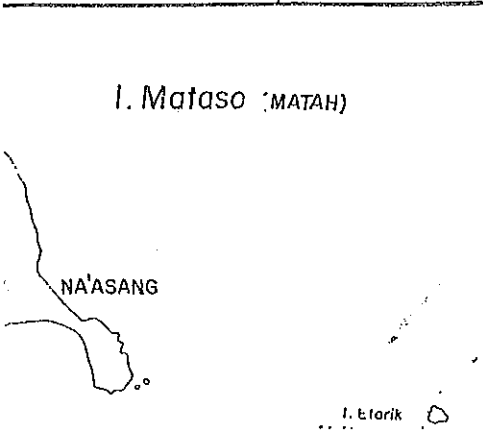
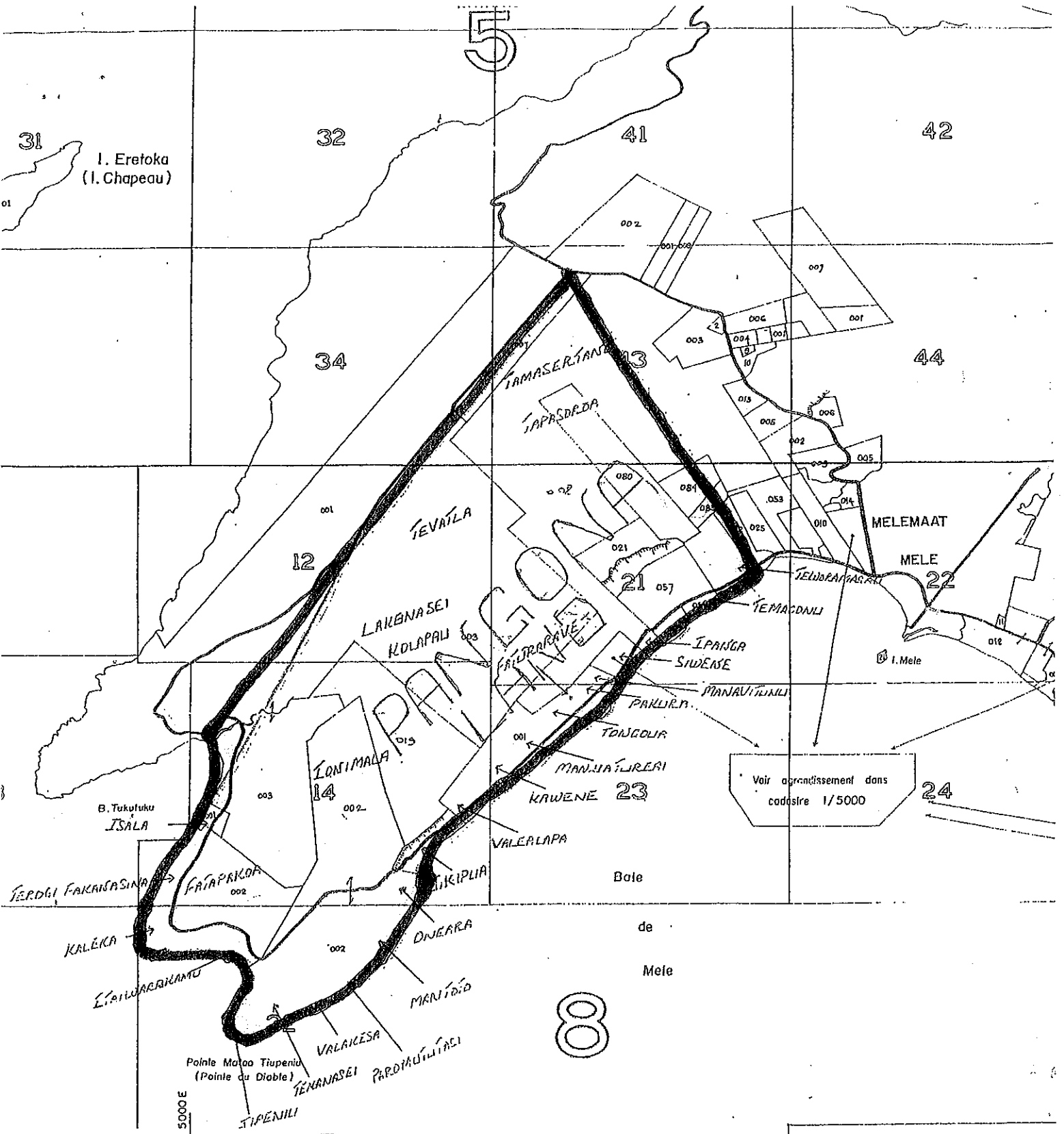
Makal Kalsong

Aelan Kot Jastis

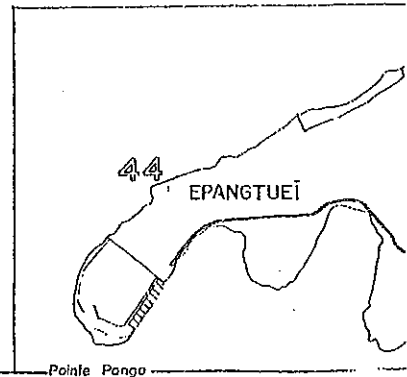

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Raymond Marongoe

Aelan Kot Jastis



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