

Snr Admin

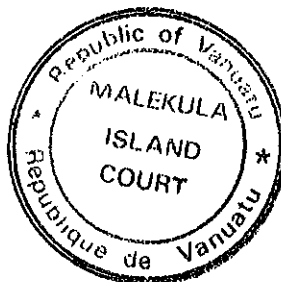
IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU
(Land Jurisdiction)

Land Case No. 03 of 1993

- BETWEEN** : KALORIB ALLANSON
Original claimant
- AND: FAMILY EDWIN
Counter claimant 1
- AND : BOYD LESINMAL
Counter claimant 2
- AND : MARK OBED
Counter claimant 3
- AND : SUSAN KILMAN
Counter claimant 4
- AND : DONALD MALINGMEN
Counter claimant 5
- AND : FAMILY REGENVANU
Counter claimant 6
- AND: MAKLEN MALBURI
Counter claimant 7

Coram : Senior Magistrate Edwin Macreveth
Island Court Justice Kalman Hapsai
Island Court Justice Fredy Malres
Island Court Justice Evelyn seth

Clerk: Wendy Raptigh



JUDGMENT

This is the written decision for the Ambet land claim heard from the 20th to the 28th of April, at Lakatoro. Oral decision was delivered on the 28th day of April, 2009. The land in dispute is situated at the central and eastern part of the island of Malekula. It is located between Port Stanley and Litzlitz village. The advertisement caused by the principal disputant invited 7 parties to file a counter claim. The parties in contention over the land are all claiming land ownership.

Its boundary is generally described to commence at the sea passage of Locor at the mouth of Selewelele creek stretching out around the island of Socolemb and back to the sea passage of Ambet. It then follows Ambet creek westwards right behind Tovorun nasara joining up Selewelele creek running south eastwards down to Nocfar on the south and ending at Locor at the sea coast. For specification purposes regarding its boundary limits, refer to the advertised map attached herein.

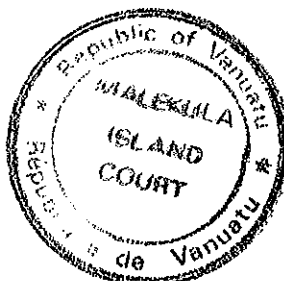
Before embarking on the subject matter and to guarantee better understanding of the reasoning of this judgment; a brief discussion of the relevant laws and custom processes and usages of the contested area are outlined below.

THE LAW, CUSTOM AND HISTORY

The area of concern has a land policy in place approved by Maltur- Ran -Nefat Area Council of Chiefs representing the central part of the island of Malekula. Such land guideline was launched on the 25th of February, 2004 and took effect on the same date. There is also significant information gathered from the hearing regarding customary principles of land ownership.

Briefly, the relevant law under Article 73 of the 1980 Constitution stipulates that all land in the republic of Vanuatu belongs to the indigenous custom owners and their descendants. Article 74 provides that the rule of custom shall form the basis of ownership and use of land in Vanuatu. Article 95(3) states that customary law shall continue to have effect as part of the law of this jurisdiction.

Turning to the customary practices, generally the island of Malekula is predominantly a patrilineal society. There are two main tribes in the island of Malekula, namely *Big nambas* and *Smol nambas*. The inhabitants of the area of dispute belong to the small nambas society. Ownership of customary land is communal or collectively owned based on common descent, residence within a nasara and participation in common activities. A tribe or bloodline is identified with the land through the nasaras. Individuals within the clan are closely tied up



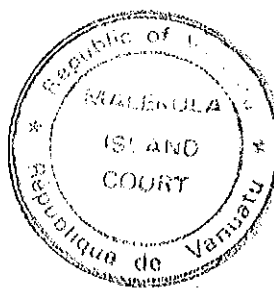
with their territory by affinity and consanguinity through blood and marriage. A group of persons belong to a family line and a territory is sometimes identified with a totem such as a plant, a stone, an animal or others.

It is the common trend that the first person to explore, live and control a land boundary would eventually become the original chief of the territory. This chief on behalf of his tribe or family would normally regarded by the community as the original custom owner of the land. He would become the paramount chief or sometimes referred to as *big faea* of the land boundary. All members of his tribe or group communally own undivided interests in the land.

The tribe which forms the land owning unit is normally based on blood relationship, meaning, they are all related by blood, having descended from a common or original ancestor. This family unit would be regarded as the big faea having a single bloodline. In practice, the first person and his family to arrive at the disputed land and built a nasara there, are the custom owners of the land. It makes no difference whether they left again for some other reasons, they would be designated as the custom owners.

The paramount chief has control and authority over his land boundary. It is a political monarchy type of organization whereby the supreme chief normally exercises authority over his subordinate chiefs residing within his land territory. Any incoming tribes accepted into the area would remain under the control and authority of the principal chief. Such clan would be placed under the guardianship of his assistant or subordinate chiefs. After exchange of custom processes, such a clan may be allocated a parcel of land specifically for subsistence use only. Any tribe would be allowed to take part in namangi ceremonies and other custom processes in the land. But, such event cannot entitle such individual chief to claim ownership over the place. All subordinate or assistant chiefs also referred to as *smol faeas* are accountable to the head chief in respect of every social affairs.

Chiefs are usually nominated on the basis of custom values, wealth, bravery and other common characteristics. The land owning chief and his subordinates would all have nakamals and nasaras. A man earns his chiefly title or name by way of performing a *namangi* (magi) or pig killing ceremony. The common chiefly name is *Mal*, *Mel* or *Mulon* a naming word that would procedurally be received by a man at an ordination during a magi feast. There are different stages of status in hierarchy for a chief to acquire. Pig killing ceremonies would normally occur at a nasara. The first ever built nasara of a tribe becomes the original nasara. A nasara is usually identified by man made features like erected stones, natural plants such as namele palms and other identical phenomena.



Land is traditionally transferred or inherited patrilineally from the chief or original ancestor to the eldest son who would normally bear the responsibility for providing equal distribution of the deceased father's land to other siblings, relatives and kinships. This is a male predominated system which is twinned with the land tenure system handed down from generations to generation.

The only exceptional condition to the general principle of land ownership is that in circumstances where there are no more surviving male heirs to the land then, ownership will pass on to the matrilineal offspring. This is typically seen where a woman's children having bloodline to the extinct patrilineal line are given land ownership.

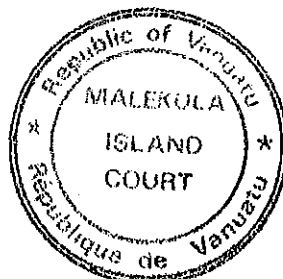
Boundaries of land in the past and present are normally indicated by natural features, such as trees, rivers, hills, man made features and other geographical phenomena. Tribes barely traveled to other faraway land due to tribal wars over territorial conquest and other social problems.

Beside the application of law and custom principles, the court in determining the issue of ownership has reminded itself of the relevant provisions stipulated under the Island Court Act, Cap 167. For instance, in deciding the evidence before us, the court must be guided by section 25 of the Island Court Act. That particular section provides direction that in any proceeding before the Island Court, it shall not apply technical rules of evidence but shall admit and consider such information as is available. Section 10 of the same Act stipulates that subject to the provisions of the act, the Island Court shall administer the customary law prevailing within the territorial jurisdiction of the court so far as the same is not in conflict with any written law and is not contrary to written justice, morality and good order.

Given the basic understanding of the traditional processes and the law, the relevant information submitted before the tribunal is as follows.

Original Claimant

Allanson Kalorib is claiming the advertised land as customary land belonging to his ancestral chief Malsangavul. Chief Malsangavul and certain tribes migrated from Venjerjer to Darmalap due a ravaging illness. This tribe took with them their secret or tabu stones known as nevet mesang and nevet nous. Malsangavul had been traveling during this movement accompanied by his three wives by the name of Lelegsolip, Letangmar and Lematete. Malsangavul and wife Lelegsolip later died and were buried at Darmalap.



After his death, his tribe again resettled a new place called Lenglef. Around that period the widowed wife Lematete returned to her original nasara of Potun at Uripiv island. Letangmar remarried Maltenembat from the nasara of Potnebang. Their children remained at the nasara of Lenglef for the rest of their lives. To name a few descendants among others are, Tein, Lokinmal, serverg plus others as listed created the nasara of Lenglef and Tovorurum. On the 31st of October, 1912 the very last namangi Nato Ibal was staged at Tovorurum attended by local and incoming tribes. Tovorurum is a company nasara.

His clan has been occupying certain parcels of land like Batdovo, Nejeram and others for cultivation purposes. His father Allanson had cleared the sea passages of Locor and Ambet which were the usual access route to the sea and nearby islands used by his ancestors. Lokinmal descending from the second wife Letangmar espoused Leah giving birth to Turken, Allanson, Titus and Ketty. Due to the early arrival of the Presbyterian missionary to the area his tribes including others from other surrounding nasaras have moved down to Litzlitz. A family tree is provided.

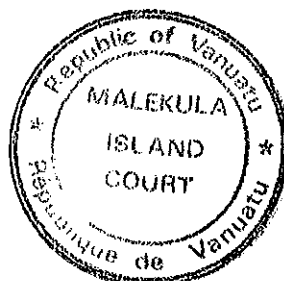
In response to other counter claimants he submitted the following statements.

He contended that family Regenvanu is claiming through the matrilineal line of their grand mother whom bore their father at Uripiv Island. He stresses that following Malekula culture, any person claiming via the matrilineal bloodline would be barred from claiming land ownership.

Turning to Mark Obed and Donald Malingmen, he argued that both claimants have no right to claim the land areas which they occupy at date. Mark Obed could only claim the passage of Ngalie while, CC5 should claim the area occupied by Gaston Rory of Vao.

With respect to CC2's claim he stated that Boyd Lesinmal is originated from Markatambal nasara. He cannot claim the nasara of Tovorurum because it is a nasara jointly formed by various tribes.

He added that Susan Kilman comes from the nasara of Amilbrong. Her mother Letang had wedded a man from the nasara of Maleru. Upon the husband's death, Lokinmal who had married Letang's mother invited Susan and Letang to Lenglef nasara where they resided. They are related to some extent since Letang would call his grand parent as the third father. Susan cannot claim the nasara of Maleru given the fact the there are surviving bloodline of the land as confirmed by the village court decisions issued in 2001 and 2002.



He objected that Family Edwin has no right to claim the land because their ancestors were chased out to Uripiv island and later sought refuge at Suaro island. They were invited by Johnny Melteknunrie around 1937 to Litzlitz village.

Witness Gideon Ata led evidence that Ketty Ata is Allanson's brother. Ketty and ancestor Ata also took part in the last namangi in 1912 representing Metenesel nasara by laying three stones at Tovorun nasara. There are number of different tribes whom had been involved in this final pig killing event. The listed tribes provided by Kalorib Allanson is correct.

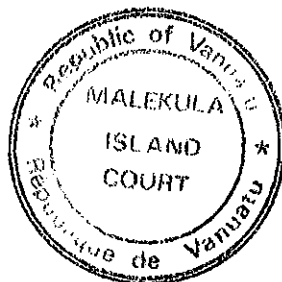
Jaiah Julun stated that his mother, Annie Julun is a cousin to Allanson. His forefather Tain and Joshua are the sons of chief Malsangavul. Her mother had told her that the nasara of Lenglef belongs to his uncle Allanson. Following this long time connection while, educating at Litzlitz around 1951 he has been involved in the planting of coconut palms situated by the Commercial Center. He believes that Allanson and his tribe are the rightful owners of the land.

Counter claimant 1

Jonathan Edwin on behalf of Family Edwin is claiming through the patrilineal lineage of his earliest generation Malturvet as the founder of the nasara of Tovorun. He claims that he has originated from this stone Melevkos which produced the first two humans, a female and a male. They were nurtured by a lisepep (alien). At their adulthood, the male was named as Malturvet while the lady named as Leturvet. Malturvet is interpreted as 'stampa blong ples' man of the origin. This early couple had a twin female and male which upon their adulthood decided to marry each other again. Following this unaccepted marriage, they were sent away in exile by the lisepep.

These two persons and their descendants afterwards created the nasara of Venave. The nasara of Selecocogas is a smaller nasara remaining under the nasaras of Tovorun and Venave. It was set up by two different tribes of Tovorun and Venave tribes settling at Tovorun after moving to Venave. A family tree is made available tracing his past generations to the present.

He went to list identical or customary properties numbered 1 to 39 as unique to his tribe. For illustration, his tribe possesses the spirit of demat and a bread fruit tree virus known as navum. He explained that there are 6 land territories in place governed by six paramount chiefs belonging to the Naman language. His ancestor's land boundary includes a certain parcels of land already decided by this Court in Land Case no. 2 of 1995.



In defence to other defendant's claim; he explained that due to tribal war and other social disasters many tribes from other nearby land territories had come to seek refuge under Malturvet's descendants such as paramount chief Maltasi, Lapenmal and Malmelive being bloodline of the big chief of Tovorun. The claimants to the land are refugees and strangers to the land.

He provided that Allanson comes from Banganevenu land boundary and was allowed to settle the nasara of Lenglef. Boyd Lesinmal is originated from Ameliagose land boundary. His grand parents were accepted to live at a place known as Tokovet. Donald Malingmen's tribe traveled away from a place called Livok Lingarak area. He was received by his past ancestors and placed under the nasara of Tovolop. Markpesen Obed came from his original nasara of Amelbod and was allowed to settle at Tovolop.

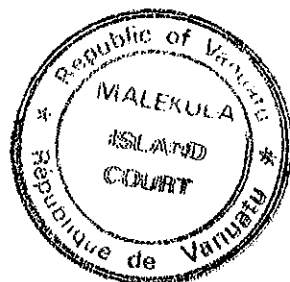
Family Rengenvanu are natives from the nasara of Amelbor, inland Bushman bay plantation. From there, they moved to Pontindir and later on to Uri and Uripiv island. He questions as why this family had not joint the dispute ever since as early as the 1960's and even during the 2001 and 2002 village courts.

He added that this person known as Malsokvanu claimed by Susan Kilman is a tabu person belonging to family Lesinmal's tribe. Malsokvanu comes from the nasara of Ameliagose, at Lambubu. Susan's father is a Frenchman called Eugene Kartel. While, Counter claimant 7, cannot claim land ownership in substitute of pigs offered in the funeral ceremony of Malweretun. He refers the court to the land policy guide in particular Rule 3.10 (e).

In his conclusion, he argued that the village courts of 2001 and 2002 have made the same decisions confirming the above contentions.

The oldest witness, chief Willieprass Meltemal of Amelisgose said that family Edwin are the original owners of Tovorun nasara. His father had very friendly relationship with CC1's forefathers. Due to that historical connection, the father of Isaach and chief Owen jointly had their ceremonial circumcision at Ameliagose. Kalorib Allanson's original nasara is Banganevenu. While, CC2 is from Ameliagose whose ancestor had escaped from an infectious disease to Tovorun and were received by dominant chief Malmelive.

The second witness chief Malsaoli Robert told the court that CC1 has always been recognized as the indigenous native of Tovorun nasara. Food items or custom gifts from cultural events are usually offered to CC1 as representative of the nasara of Tovorun. Jeffrey Semo made a similar statement.



Counter claimant 2

Boyd Lesinmal in his presentation told us that there used to be a huge rock known as Melvetragrag located at Ameliagose. This stone has a human like spirit which enables itself to move about. Two humans, a female and a male have been transformed from this stone. The male was named as Ragragvanu while the lady became known as Leragragvanu and are the earliest ancestor of Ameliagose.

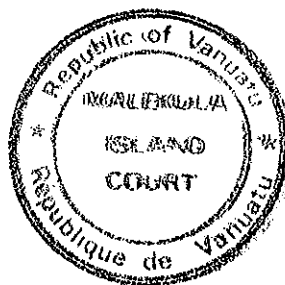
At later stages of their living discovered burning fire ignited from two tree branches. They copied the skill. It follows later on that a man and his sister from Venave also noticed fire smoke from Venave. Upon their curiosity decided to investigate the cause, whereby they ended up at Ameliagose. They became friends and later made agreements to marry each other. Ragragvanu wedded the lady from Venave while, the sister espoused the guy from Venave.

He clarified that his claim is based his historical movements from the nasara of Amil Markatambal down to Tovorun nasara. His ancestor Nowerak created 2 other nasara beside Markatambal, Gorgor and Geval. There are no more surviving descendants of the two nasaras at date except from Markatambal known as Malgo whose chiefly title is Malgovanu. Malgovanu had two brothers Malsogvanu and Malburevanu. Due to wetness of the land Malgovanu and his family traveled eastwards to the area in dispute where they finally settled. Chief Malgovanu with the assistance of Malburvanu, Papu Dimih, Maljugsae, Saminmal or Sairus and Lesinmal natives of Markatambal founded the nasara of Tovorun. Malgovanu became the principal chief of Tovorun.

A genealogy chart is produced tracing his family up to 7 generations. He said that there are 3 other unknown generations from his tribe. Ambet passage is his family's point of access to the sea.

Due to the introduction of the gospel message in the area many tribes from Tovorun have moved down to Litzlitz for education. Lesinmal later baptized as Johnney remained at the nasara of Tovorun until the closing festival in 1912. Family Edwin was living at the island of Uripiv during that occasion. After the ceremony, Lesinmal stayed on until two of her children died. He was advised to leave Tovorun if he wants to have surviving children. Acting on this instruction, he left for Uri island with his two wives. He also settled at Suaro was later invited to Litzlitz by his brother Malterong where he resided with his descendants to this day.

To reinforce his claim he told the court that Ambet used to be a stream. Lesinmal had prohibited his wives Lemile and Annes not to swim at the stream of Ambet. However, the wives have been disobeying him. For such non compliance,



Lesinmal foretold his wives the stream would dry up upon his death. It happened as told and today Ambet is just a dried creek.

His only witness Paul Lesinmal, briefly and generally stated that the whole claim forwarded by CC2 is correct.

Counter claimant 3

Mark Obed held that his ancestors are indigenous natives of the land of Amelbod. They have migrated to the area in dispute. The nasara of Tovolop has been created by an unknown grand father of chief Malemb. After settling there for ages his tribe relocated to another area by setting up the nasara of Maleru thereafter. His clan possesses customary objects known as malaranse consisting of a shark's cave, nevet mesang and a place used for keeping traditional tools.

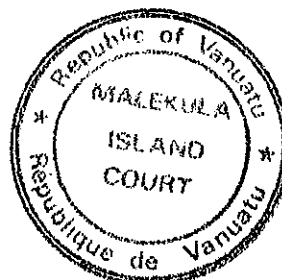
He added that around 1908 a man by the name of Luke brought the gospel into the nasara of Tovolop. A mission school was set up at Lembnal. It was the first mission attended by many local of the region. From there, his forefathers later moved down to the area of Romondo where the school was relocated.

Jameson Abel provided that he is originated from the nasara of Ulkot. His nasara and the nasara of Tovolop had good relationship in the past and share the same land frontiers. He submitted that he believes that the claim advanced by CC3 is true and correct. The second witness, Shem Reuben stated that he as witnessed local villagers seeking permission of CC3 to use resources from the land. He believes CC3 has absolute right to the land in question.

Counter claimant 4

Walter Kilman representing her mother and family claimed that their ancestor Malsokvanu is the paramount chief of the land beginning from Ambet creek to Ameltamat. Malsokvanu's original nasara is Maleru. This chief possesses two magical custom items, a poisonous sea shell known as nirang and a rock use for calling the wind. Malsokvanu espoused Leveti a lady from Marmokor and this couple begat a daughter named Levirkon.

He explained that according to Naman language daughters of high chiefs are usually called Letang meaning princess. Levirkon received this title of Letang during the 1912 Nato Ibal performance. Susan's mother is Levirkon. Malsokvanu died and was buried at Maleru. His graveyard is marked by a namele palm. His tribe staged a pig killing ceremony leading to the creation of Amilbrong. This



nasara is an incomplete nasara because no other namangi had been staged there again after Malsokvanu's death. The widowed wife Leveti re married Malsesre from Amilbot and had a child named Manie Bue. Manie Bue was adopted by Sairus of Markatambal.

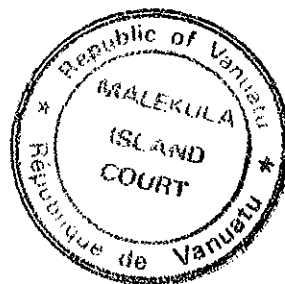
Upon Malsesre's death Leveti espoused Saknabit native of Retelemb and had a son Bue Mani. This couple resettled at Vemareng with Sauli until Leveti's passing away. While, Levirkon remained at the nasara of Tovorun until the closing ceremony of Neto Ibal in 1912. Such magi was not attended by Malmelive since he had escaped to Uripiv island following a quarrel over allegations of having sexual affairs with the wife of a man by the name of Demech.

After this cultural event, Letang left for Malo island to work as plantation labourer where she met a Frenchman by the name of Eugenne Kartel. She was later conceived with a child and upon her return to the area she lived a defacto relationship with Tasongi father of Melten until she gave birth to Susan. Her uncle Mani Bue then invited them to Sokoro island after Tasongi left Levirkon and espoused Timothy's sister. From Sokoro Levirkon and Susan resettled at Litzlitz village. It was there that Sauli chief of Tembogho asked Levirkon to marry him. They lived at Black Gate for the rest of their lives.

He concluded that he believes that her mother has right of ownership to the land given her early connections. There are no other surviving children of Supreme chief Malsokvanu. He added that following this past relation, local occupants of the area have always regarded Susan Kilman as the rightful owner of the land by consulting her permission prior to developments thereon. The government sought Susan's consent for the construction of Litzlitz wharf. Gaston Rory of Vao has also asked her favour to build his home.

Graham James of Limap in his statement stated that this name Nemelive is a chiefly name which is unique to the Limap dialect and area. He believes that this name was changed or substituted with what is known today as Malmelive claimed by CC1. Kalmatak White of Uripiv island said that his mother Lewilipau was a witness of Susan's claim in the village tribunal proceeding of 2001. Her mother's father, Dalrum is a native of Mindu, Limap had long ago invited Malmelive ancestor of CC1 to Uripiv island. Malmelive wedded a woman from Potun nasara by the name of Lesaikon. Behind Lesaikon's death, Malmelive re married Jessy of Pinalum.

Chief William Muramur of Pontindir told the tribunal that her grandmother originated from the nasara of Tovorun. She had told him that Susan's grand father is the paramount chief of the land area located between Ambet creek and Ameltamat.



Chief Bersi Timothy asserted that Malsokvanu and his forefather high chief Lolonmal of Ulkot nasara share the same boundary limit. Malsokvanu is the highest chief of the area commencing from Ambet creek to Ameltamat.

Counter claimant 5

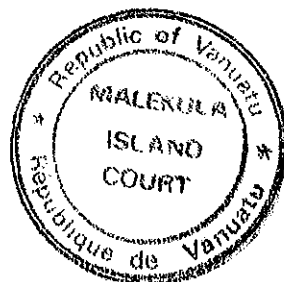
Donald Malingmen is disputing the nasara of Tovolop and its surrounding areas. He stated that his early ancestors are original natives of Venave nakamal by way of adoption of his father Daniel by chief Belenmal of the nasara of Venave.

In his genesis, he held that Melevkos consisting of three rocks had produced the first humans to live the land in which two of them are in the likeness character of humans. These two stones begat a pig which then gave birth to the first twin humans, a male, Mulon and a female, Leyal. It was the descendants of this family who built the first nasara of Venave headed by principal chief Maltengnabat. From there, his past relations moved to a new settlement where they built the nasara of Tovolop. His tribe then traveled southwards to Lacatzcatz river where they stationed other nasaras such as Amelbereg and Ameleimb. Chief Malemb erected the nasara of Vetu. Grandfather Malingamin upon his return from Queensland, Australia learned that their secret rock, Melevkos has been shifted to Limap, Lingarak area.

He still considers his tribe as the original owner of the land given the following events. First, Chief Malemb had given permission for the construction of the first ever mission school at Lembnal prior to its relocation to the area of Romondo where Chief Malemb and other forefathers were buried. Besides, the area has been in use for subsistence farming by his ancestors since time immemorial. A bunch of bamboo cane growing at Locor is owned by his ancestors. The pool known as Romondo is an identity to his clan. Among others, Boyd Lesinmal at the death of his father Buemenmen had offered his tribe a pig representing the nasara of Tovolop. He tendered a family diagram in illustration of his past to his present relations.

In reply to other claimant's history he provided the following statements.

He gave evidence that the nasara of Maleru was inhabited and created by natives of Amelbot, the original place of Mark Obed. He argued that CC3 cannot claim ownership of Tovolop and its land territories. The primary disputant is also barred from his claim over the nasara of Lenglef given the fact that his ancestors have migrated from Banganevenu land boundary. The nasara of Tovorom is a nasara communally created in 1912 by various local and incoming chiefs headed by chief Lesinmal of Markatambal. Both Lesinmal and Edwin were not present at



the Nato Ibal ritual in 1912. The nasara of Amelbrong is not a complete nasara according to its name. Susan is the only surviving bloodline of Levirkon.

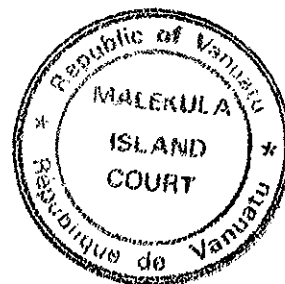
Witness, Kepson Ismael stated that his grandfather Luke sought permission from chief Malemb to set up the first ever Presbyterian mission school at Lembnal. Alan Philip provided that while educating at Litzlitz between 1948 -1951, he heard his uncle Daniel telling him that the land territory beginning from Romondo to Lacatzcatz river belongs to his tribe. While, Douglas Fatdal testified that this stone known as Melevkos has long ago been deposited at his nasara of Logorga. It was brought there by some of their ancestors who have migrated from the nasara of Amileimb and Tovolop.

Counter claimant 6

Cecil Regenvanu appearing for family Regenvanu in his presentation led evidence that Bati Emilbor is the paramount chief of Bushman bay land boundary. This chief had good trade relationship with paramount chief Nesrok of Tovorurum. Bati had two sons by the names of Wusore and Maltanabit. Chief Nesrok on the other hand, also had a son, Buta who in turn had a daughter named Letangmelu married to Wusore. Buta also had another son called Dulibai whom fathered Malsumbai. Malsumbai had two sons, Malingmen and Regen. The basis of his claim is via the matrilineal lineage of Letangmelu daughter of Buta, whose father is the head chief of Tovorurum.

He explained that Wusore had two wives Letangmelu and Peleng. From this polygamy marriage he had two sons, Nesrok and Wusko. Nesrok remained behind with his cousin father Moltanabit while, Wusore including the spouses and son Wusko left Amilbor, Bushman Bay and settled at Uri island. They afterwards resettled at Uripiv island. These two descendants produced later generations however, Nesrok's family was totally wiped out due to witchcraft practice at Tovorurum. Despite the situation, there remains surviving offspring of Wusko at Uripiv island at date. Grand parents Malingmen and Regen had made a customary testament that upon their death, members of their tribe must return to Tovorurum to take possession of their original land.

Witness, Morten Malmemel testified that his ancestors from the nasara of Ameliagose had amicable relations with family Regenvanu at Bushman's bay which is their access route to the sea. Lesangsolip could not bear children and so, in 1966 his father gave her a herbal medicine enabling her to bear children. He agrees that the ancestors' names listed on the family tree as proper.



Counter claimant 7

Marklen Malburi is claiming the land areas of Romondo. He provided in his history that a man by the name of Malputaiw is native of Romondo area. He had in the past sailed across to Uripiv island where he married a lady from his nasara Potunbaur. This couple had a son Malweretun. Upon Malweretun's death his tribe from Potunbaur took charge of the funeral ceremony by providing pigs in honour. Following this event he now claims ownership over the area of Romondo to Ambet creek.

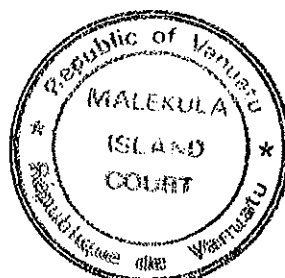
His witness, Navin Maklen generally provided that Malputaiw did come from Latjij, known today as Litzlitz. Joshua Reia beside his useful statements advanced during examination made a similar statement.

ANALYSIS OF MATERIAL & FINDINGS

In this matter, the primary claimant and the majority of the parties are disputing the ownership of the whole advertised boundary. They are all claiming to be descendants the paramount chief of the area. Most of these claimants have migrated into the area from time immemorial. All have resettled Litzlitz village since or before 1912.

First and foremost, the primary disputant in principle has the burden of proof to substantiate his claim with clear and relevant evidence. That is to establish available information that he or she has ascended from the original indigenous of the respective land in contest. Also he who asserts a fact must prove it by way of evidence. This Tribunal's outmost objective is to find available evidence proving that someone is the original ancestor of the land in dispute where he created the earliest nasara thereon in accordance with the custom practice and usages.

Traditionally, a chief from other foreign land territory would culturally be disqualified from claiming ownership of another land having its own paramount chief and people. This is the common rule long practiced from the past to the present. Part 2 of the Custom Rules adopted by Maltur Ran Nefat Area Council of Chiefs and their people provides the rules of custom forming the basis of land ownership. Part 2.1 stipulates "*Tru land ona, emi fes man we history blong hem I kamaot stret long nasara ia, hem nao I save tekem raet mo taetol blong kraon ia mo hemi kam hae jif long boundary blong kraon*". Also Part 3.10 (f) forbids moving clans to own land of their refuge if there are existing indigenous people of the land. It says "*Man I no save tekem kraon long movement olsem , ronwe from war, or trabol blong woman , religion etc... mo stap long nara ples sapos ol man ples ia I laef yiet*". Those principles would fall in line with Article 74 and 73 of the Constitution.



Turning to the nature of the claim, it clearly stands out that the majority of the parties are disputing the entire advertised boundary. We are as well satisfied that the disputed boundary consists of a single territory governed by a paramount chief. That is supported by the site visit given the presence of the nasaras grouped together in close proximity. As required by law, the tribunal visited certain located items classified as totems or customary properties with all disputed nasaras thereon the land.

Needless to mention however, we have appreciation for a number of parties and their witnesses whom have made honest comments and statements. It is accepted that not all parties will have the ability to produce exact recollection or account of past cultural practices, names and other comparative information.

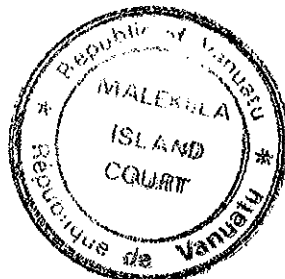
Having made these observations, given the nature of the visit and in consideration of the presented facts, we now present the findings below in the usual order of presentation.

The primary claimant

It is our immediate note that Allanson Kalorib was the original claimant in Land Case no. 2 of 1995 decided on the 30th of June 2004. In that case, he claimed the same chief Malsangavul being his original ancestor. This chief's original nasara is Banganevenu a separate land boundary having its own landlord.

In this case, he is claiming the nasara of Lenglef alleged to have been created by his tribesmen during their early movement from Banganevenu into the area. That fact is not disputed. The immediate issue for determination is whether Kalorib Allanson by custom or law has any right of ownership over the land. The answer to this question would be negative. According to the principles of custom, he generally has no standing to claim the land and its nasaras based on the following grounds.

In principle, Malsangavul as told to being the paramount chief of Banganevenu cannot overrule or exercise power and authority upon other territorial areas of land that would normally be regarded as foreign land. As an incoming tribe, he was accepted into the area where he resided at the nasara of Lenglef. By practice, he would always remain under the control and authority of the principal chief of the land. It is noted that after exchange of custom processes, his clan was allowed to take part in namangi rituals and other custom processes in the land. His tribesmen were involved in the creation of Lenglef and have also taken part in the namangi ceremony staged at Tovorun. But, those events cannot entitle his individual chief or tribe to claim ownership over the land of refuge.



Our assessment of the entire evidence suggests that there existed a paramount chief prior to his tribe's coming. This actuality is demonstrated by the following findings.

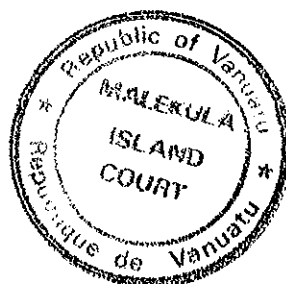
It is quite evident that he is uncertain over the ownership of the nasara of Tovorum. In his statement he had included Tovorum as one of his nasaras. However, at the course of cross examination he had decided to change cause of argument by arguing that no one should claim Tovorum nasara since, it was jointly created and only existed in 1912 during the final namangi ceremony. This evidence reduces his claim down to a single nasara which is Lenglef.

The court doubted his story and we are hesitant to believe him that Tovorum was only created in 1912. Our verification of the sites during the field trip clearly proves that this nasara Tovorum had existed prior to the 1912 closing events. This finding is demonstrated by the surrounding environment of this nasara. All other parties are also in our favour given their statements. He could not also furnish this court with constructive information as to whether he has other smol faea or nasaras headed by subordinate chiefs. Therefore, Lenglef would be a small nasara belonging to the paramount chief of Tovorum.

On the other hand, if he claims to be the paramount chief of the area then, he has to prove it. He could not in this case. A paramount chief in reality would have more than one nasara because he would have other nasara ruled by his subordinate or assistant chiefs. That is only an example of others noticed because he has told the court that Amelbrong belongs to CC4. The examination of the site suggests that it is less likely for two paramount chiefs ruling the land. He cannot claim a single nasara while leaving out the rest to the ownership of other chiefs. Otherwise, such a claim would inevitably not conform or be inconsistent with the custom usage of the area.

His contention that he was the central person involved in the preparation towards the closing namangi ought not to be taken as a conclusive fact. It cannot be construed to mean that he is the paramount of the area. It is common that lower chiefs or other chosen senior ranking figure within a paramount chief's administration are typically given this role of undertaking preparatory arrangements leading up to the event. There is no confirmation of that story too.

Moreover, Part 3.10 (f) forbids moving clans to own land of their refuge if there are existing indigenous people of the land. For ease of clarity that particular section reads " *Man I no save tekem kraon long movement olsem , ronwe from war, or trabol blong woman , religion etc... mo stap long nara ples sapose ol man ples ia I laef yiet*". That is the basis of custom confirmed by Article 74 and 73 of the 1980



Constitution stipulating that all land in the republic of Vanuatu belongs to the indigenous custom owners and their descendants.

Given the circumstances of his case, it is our conclusion that his claim cannot prevail but fall as found.

Counter claimant 1

From the totality of the evidence gathered, we have remarkably noted that this disputant has provided sufficient information regarding his claim. Despite opposing arguments advanced by certain parties we are convinced by the material produced before us that he has established his claim. Here are some of our findings.

The first question posed here is whether Malmelive and his ancestor were the original occupants of the land. The answer is confirmatory in light of the following facts.

Malturvet whom according to his history has been created by this stone Melevkos is the founder of the nasara of Tovorun. This chief and his later ancestors were the original occupants of the land prior to the arrival of other tribes from nearby territories. It transpired from the evidence that there are land territories in place governed by six paramount chief belonging to the Naman language. Due to tribal war and other social problems, tribes such as the original disputant, CC2, CC3 and CC5 have traveled out from other nearby land boundaries to the land ruled by Malmelive's ancestors. The evidence as advanced reveals the following information.

Allanson comes from Banganevenu land boundary and settled at the nasara of Lenglef. While, CC2 is originated from Ameliagose land boundary. His ancestors were accepted to live at a place known as Tokovet. They were received by chief Malmelive. These facts were reconfirmed by chief Willie Prass Meltemal. The past relatives of defendant 5 have migrated from a place called Livok at Lingarak area. His early tribe was accepted to settle Tovolop area including CC3 native of Amelbod. While, this man Malsokvanu claimed by Susan Kilman is a tabu person belonging to the family of Lesinmal indigenous native of Ameliagose. This fact is supported by CC2, CC3 and various witnesses.

The above facts concerning their movements to the land are not disputed since they were the actual particulars advanced in their claim. Therefore, in application of the basic rules of custom, all migrants to the area would not have the right in custom to claim ownership of Ambet land.



Additionally, having had the opportunity of being provided copies of the village court in 2001 and 2002, we have noted that such informal courts have issued similar ruling over the same grounds of determination.

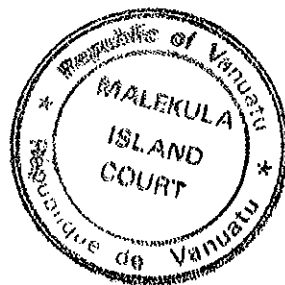
The next issue to dwell on, is whether Malmelive or his tribe are the bloodline of the paramount chief. This subject matter has slightly been answered above but, to add on the answer is positive. We are well satisfied that the disputed land consists of a single boundary exclusively governed by a paramount chief. That is supported by the site visit given presence of the nasaras grouped together in close proximity. We found no information or other probable reasons to suggest that the area was once ruled by two high chiefs.

Another evidence that would proves that CC1's ancestor to be the high chief of the area is the fact that following his reputation and high status, his tribe has always been regarded as the original owners of Tovorurum land. Food and cultural items have always been presented to his tribes as representative of the land of Tovorurum. This fact is reconfirmed by most parties and competent witnesses like chief William Muramur and chief Malsaoli Robert.

The other question is which of the nasaras thereon is the oldest or original nasara. Our finding indicates that Tovorurum is indeed the original nasara of the land. This is proven also by its size and the surrounding environment. Another evidence that would prove this fact is that the last namangi was performed at Tovorurum as acknowledged and confirmed by every party. This is accurate as told because, the last namangi would in custom be stationed at the original or head nasara of the paramount chief in terms of respect and value.

Further, this party has outstandingly identified a number of customary properties which we believe belong to his tribe. Most of these objects were not disputed. For illustration, he had shown the court among others two huge sea clam shells at the pool of Romondo which we noted that none of the parties had ever known.

Turning to the opposing arguments to this disputant, we noted that the main attacking debate is centered on his originality. It was argued that Malmelive had migrated from Limap. Apparently, it would seem that all statements advanced are heavily connected to Dalrum of Uripiv island whom was alleged to have invited Malmelive to Uripiv island. That argument could not be sustained given the evidence of witness Joshua Riea a relative of Dalrum. He has directly told the court that such accusation is entirely false. He had never heard of such a story from his grand father. His statement has turned down the whole allegation giving credit to CC1's claim that he is an original native of the land of Tovorurum.



Added to that it was also told and confirmed by most parties that Malmelive had escaped revenge from the land of Tovorun due to sexual affairs with the wife of Demech where he sought refuge at Uripiv island. This incident had occurred before the 1912 ceremony. This bit of information is obviously another solid proof suggesting that Edwin Malmelive and his ancestors are indeed natives of the land in dispute. Family Edwin has not migrated from Limap as alleged. We also found no persuasive evidence that would indicate that after moving to Uripiv island his ancestors have again migrated to Tovorun.

Given the circumstances of his case, we are convinced on the grounds of probabilities that he has substantiated enough evidence proving his claim. We therefore, have no reservation but to grant his claim as sought.

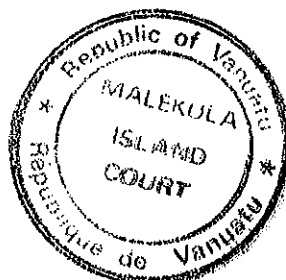
Counter claimant 2

This party's early clan have migrated from the nasara of Amil Markatambal down to Tovorun nasara. Malgovanu's original nasara is Ameliagose. It is not disputed that CC2's ancestors are immigrant to the area. To avoid repetition we have decided not to re iterate the same point of reasoning here. In brief, he has no right in custom to claim land territories belonging to other chiefs. This reality is self explanatory and he cannot exercise authority over the high chief of Tovorun neither claim the land.

We have accepted his story that Lesinmal was the key person involved in organizing the 1912 custom event. Nonetheless, this is an expected process by virtue of the fact that chiefs remaining under a paramount chief would normally be given such a preparatory role. It therefore, cannot be wholly taken to mean that he is the paramount chief.

It is our note also that this claimant had told the tribunal that there are 3 other unknown generations from his tribe. The court is hesitant to accept such assertion and pronounce that this is imagination and a clear fabrication of false evidence. Again, this is utterly another finding that proves that he is actually a recent migrant to the area.

Pursuant to Part 3.10 (f) of the land policies he is definitely barred from claiming ownership of the land since there are surviving indigenous people of the land. For ease of clarity that particular Rule reads " *Man I no save tekem kraon long movement olsem , ronwe from war, or trabol blong woman , religion ect... mo stap long nara ples saposse ol man ples ia I laef yiet*". Article 73 of the 1980 Constitution stipulates that all land in the republic of Vanuatu belongs to the indigenous



custom owners and their descendants. Article 74 provides that the rule of custom shall form the basis of ownership and use of land in Vanuatu.

In whole, this claimant is not an indigenous descendant of the land. His claim is barred in custom and law. For those reasons his claim must fall.

Counter claimant 3

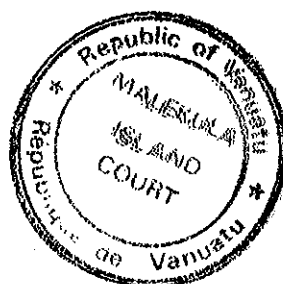
This party is another claimant whose tribesmen have migrated to the area from the land of Amelbod situated at the western part of the island. He would have his own supreme chief with a separate land boundary. In this claim, he is disputing ownership of the nasaras of Tovolop and Maleru claiming them to have been founded by his ancestors after re settling the area.

Our assessment of the evidence gathered during the visit demonstrates that there would never existed two landlords in the area. The gathered evidence rather indicated that there is a ruling chief stationed in place prior to his arrival. He was accepted to reside at Tovolop nasara. The visit to the site, clearly reveals that Tovolop is not the original nasara. It is a company or joint nasara built by foreign tribes whom have migrated into the area with locals under the authority of the high chief. That evidence is shaded by the fact that there are many stones laid for namangi purposes compared to the rests of the nasaras.

As emphasized above an incoming tribe he would always remain under the control and authority of the principal chief. He may be allowed to take part in pig killing rituals and other custom processes as told. However by practice, such event cannot guarantee his chief or tribe to claim ownership over the land.

It follows on that our evaluation of the entire evidence suggests that there existed a paramount chief and his people prior to his coming. That truth is demonstrated by these evidence.

First, it clearly stands out that he is only claiming nasara of Tovolop and Maleru leaving out the rests of the surrounding nasaras according to his claimed map. It is less likely for two paramount chiefs to be controlling the area given the closeness of the nasaras and its land territory. This is a clear evidence which proves that he cannot claim to be the paramount chief because there are other nasaras which in our consideration are part of the whole administrative system or kingdom. It was never known by other claimants that the area in dispute comprises of two separate land territories. That inconsistency has directed our mind to conclude that the advertised land consists of a single territory.



On the other hand, and if, we were to believe or accept his claim to being a paramount chief then, the subsequent question posed here is why was his ancestors not involved in the 1912 Nato Ibal rite. If he was the then chief then, off course, by practice and on the basis of respect, he would undoubtedly be invited to take part at such an important event. Further his told history if, Tovolop was the original nasara then of course the 1912 event would have been staged at Tovolop rather than at the nasara Tovorum. It was held at Tovorum because in reality Tovorum is the central or original nasara belonging to the high chief.

Besides the above, he has no information as to which of his chiefly ancestor had created the nasara of Tovolop. Neither has he any information as to who created the nasaras of Maleru and other nasaras of the land. These weaknesses on his part are some of the findings which obviously tell us that the nasaras had existed prior to his clan's arrival.

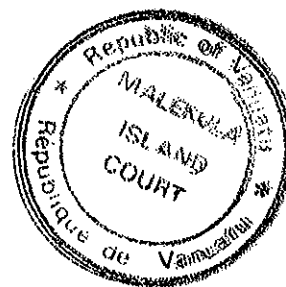
Secondly, his chiefly ancestor Malemb is also disputed by CC5 leaving his entire claim not free of dispute. It remains unclear as to which of the two claimants actually owns this chief.

It is our note also that this claimant has produced an incomplete family tree arguing that the nasara of Tovorum has been created by unknown grand fathers of chief Malemb. This version is unfounded and is inadmissible. Our examination of his evidence over this issue is that he simply has no other past generations before chief Malemb. This is imagination and a clear fabrication of false evidence. Consequently, it leaves his family tree with 4 generations which in our opinion appears to be a very young generation. This is absolutely another finding that proves that he is actually a recent migrant to the area.

His past dealings with the land leading to the Litzlitz wharf agreement cannot be taken that his ancestors are the land owners given the absence of a formal declaration of ownership by a court of law.

More importantly, Part 3.10 (f) of the Maltur Ran Nefat custom rules automatically veto his claim for ownership on the ground that there are living indigenous descendants of the area. That particular rule states " *Man I no save tekem kraon long movement olsem , ronwe from war, or trabol blong woman , religion etc... mo stap long nara ples sapos ol man ples ia I laef yiet*". This rule is supported by Article 73 and 74 of the 1980 Constitution.

In summary to our conclusion, his tribe cannot claim the land given their latest movement into the land. He has his original nasara and land of Amelbod. His entire claim is legally and by custom barred from claiming ownership and for all the reasons discussed his claim is hereby refused.



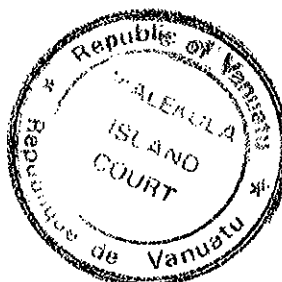
Counter claimant 4

The basis of Susan's claim is by way of the matrilineal bloodline of Letang or Levirkon daughter of Malsokvanu. She claims to be the only surviving issue of Malsokvanu whose original nasara is Maleru. The immediate subject for determination is whether Malsokvanu is the paramount chief of the land. The answer to this matter is in the negative in light of the forthcoming grounds.

First, this figure Malsokvanu is heavily disputed by the majority of the parties. For illustration, CC1, CC2, CC3 and witnesses have re iterated that Malsokvanu is a tribal member of Boyd Lesinmal, CC2 who also claim this same person. His witnesses statements on this issue could not gain adequate weight. Chief Muramur has merely stated that Susan's grand father is the high chief of Tovorurum but could not advance any further evidence in support. Chief Bersi's statement was also presented in a very generalized manner without producing detailed evidence. While, his purported status to being paramount chief is currently under dispute. These weaknesses have reduced the strength of this defendant's claim.

Further by way of comparison to his sworn genealogy tree, we have considered it to be a very young generation. Other claimants such as CC1 and others have more generations. Thus, for that finding it is common sense that this person Malsokvanu should be a well known person of the area. In our circumstance, there cannot be two different chiefs having the same name. In fact, all claimants are residents of the land and have been taking part in different social activities thereon such as staging nasaras, pig killing festivity and so on. For this interaction, we take that there is room for implication that Malsokvanu may be the same person belonging to Boyd Lesinmal. We have noted the village court in 2002 also made the same conclusion to this query. It remains that the available evidence before us is that presented by the majority of the claimants and their witnesses having no acquaintance of this supposed chief. Therefore, the finding fact would be that there never existed a high chief known by the name of Malsokvanu.

The second question to decide is whether Maleru is the original nasara of Malsokvanu. This debate could not stand given the evidence gathered from the site visit. Having made our assessment of the site in terms of its size and surrounding environment, we are of the belief that Maleru is just a small nasara belonging to the paramount chief stationed at Tovorurum. Traditionally and in our understanding an original nasara would have more stones or bigger in size because this is the main area where the high chief would be performing his namangi rites supported by his subordinate chiefs and other nearby high chiefs. The rests of the parties have different stories over Maleru. For example,



CC1, CC2, CC3 and CC5 have made confirmation that Maleru is a small nasara to Tovorun. While, the original claimant maintained that it is a nasara created by two chiefs according to its name and would be implied that it is not the original nasara.

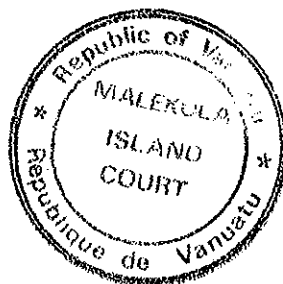
While, Amelbrong in our determination is also another lower nasara remaining under the authority of the original nasara Tovorun. We do not believe that it was not a complete nasara as its name suggests. The reason for our view is that there is evidence of altar like stones used for the slaughtering of pigs and other assembling of stones marking namangi processes with the identified place of the two tamtams. These man made features had proven it to be a complete nasara.

Thirdly, it is told that Levirkon had only received this royal name Letang during the namangi Nato Ibal in 1912. However, his perceived account puts this bit of evidence into question as to why only ordained at the given date. Such a process would not be in conformity with the recognised custom practice. It is the common understanding that a paramount chief's son at birth automatically becomes a *Mal* similarly a daughter becomes *Letang*. In our scenario, she would later be ordained with a chiefly or additional name such as for example, Letangmelu and so on. Equally, it is not clear as to which chief and under what authority had this name been issued. There is no material data bridging this gap. Therefore, such a story is misconceived and unfounded.

Above all, it is obvious that he is only claiming Maleru and Amilbrong out of the rest. The remaining question would be that what are his relationship to other nasaras thereon the land. If his Malsokvanu is the high chief then, he should claim all nasaras and identify his smol faea or nasara. Further, it is less likely for two paramount chiefs to be controlling the area given the closeness of the nasaras and its land territory. This is a clear evidence which proves that he cannot claim to be the paramount chief because there are other nasaras which in our consideration are part of the whole administrative system or kingdom.

Finally but not the least, we have noted that this family has been engaged in past land dealings. However, such dealings over the Litzlitz wharf agreement and the authorization to Gaston Rory to built his home ought not be interpreted that she is the land owner unless formally declared by a court of law.

To conclude, in light of the facts of his case as discussed, we could only find his case at large remaining with uncertainty and for that reason his claim cannot prevail.



Counter claimant 5

From the face of his claim, this disputant's early tribes are original natives of Venave nakamal whose paramount chief is Maltengnabat. From there his ancestors moved to the disputed land where they settled and took part in pig killing ceremony at the nasara of Tovolop.

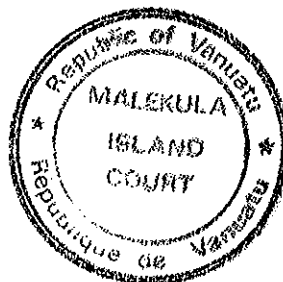
As over mentioned, our analysis of the gathered evidence indicates that there is a paramount chief in place prior to his arrival. As an incoming tribe he would always remain under the control and authority of the principal chief. He was received and allowed to take part in pig killing rituals and other custom processes as told. However in practice, such happening cannot guarantee his chief or tribe to claim ownership over the land. Therefore, for that point of explanation, he would definitely be barred from claiming the land.

At the course of interrogation, he told us that chief Malemb had created the nasaras of Amelberv, Amelvetu, Ameleimb and Tovolop. That leads us to the next question posed as to whether it is possible for chief Malemb to set up 4 nasaras. We are doubtful of this story here on the basis that historically a single person or chief cannot by far set up four (4) nasaras or nakamals altogether. Practically, a man must raise pigs to enable him stage a pig killing feast and that demands time. It was told that the farthest figure of nasara created by an individual chief would stand around 2. We do not believe that a sole chief would have the full capacity to create four nasaras and nakamals. This perceived story is in great uncertainty because such happening would be proven impractical and expensive to a far extent.

We now consider as to whether Malemb is the paramount chief of the area. The answer to this question is in the negative upon these grounds.

First, he was noted telling the court during questioning that beside high chief Malemb, Lesinmal is the paramount chief of Tovorun. This story cannot be sustained given our consideration over the land mass together with the manner or structuring of the nasaras grouped together in closer distances. It is impossible for two paramount chiefs to own it. If so, then where are the land limits dividing each high chief's sovereign territory. He has failed to provide information leading to that direction.

Secondly, he is only claiming the nasara of Tovolop to being a nasara governed by his smol faea chiefs and its land areas extending down to the sea coast. However, on land there are other nasaras as well in place within his claimed area of land. His purported story cannot be right as explained. These are some



of the discussed factors that have directed our mind to disbelief his told story and conclude that Malemb is not the paramount chief of the area.

Further, his chiefly ancestor Malemb is also disputed by CC3 leaving his entire claim not free of dispute. It remains unclear as to which of the two claimants actually owns this chief.

Turning to the rules of custom enshrined under Part 3.10 (f) Maltur Ran Nefat custom rules would bar his clan from claiming the land since there are existing indigenous people of the land at date. That specific Rule reads " *Man I no save tekem kraon long movement olsem , ronwe from war, or trabol blong woman , religion etc... mo stap long nara ples sapos ol man ples ia I laef yiet*". This rule is supported by Article 73 and 74 of the 1980 Constitution.

In conclusion, Donald Malingmen has his original nasara of Venave as ruled in Land Case no. 2 of 1995. He cannot have another bite on this land. Thus, in application of the customary rules and the law outlining the basis of land ownership, we have no other alternatives but to refuse his claim.

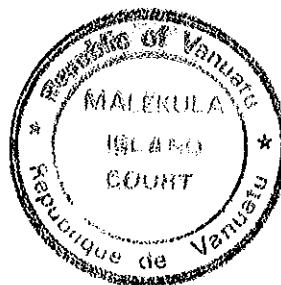
Counter claimant 6

This party is claiming as a bloodline descendant of paramount chief Nesrok of Tovorun through the matrilineal lineage of this woman Letangmelu. Having verified the gathered evidence, the findings are as follows.

It was noted throughout the trial that his claim is heavily disputed by the majority of the claimants. None of the parties had any knowledge of the existence of this chief, Nesrok. In terms of check and balancing the evidence we have accepted the opposition's denial of this chief as a finding fact. The rationale of our opinion is that if this chief had actually existed in the region then, the concerned disputants would have acknowledged it because all parties knew each other by relationship and being residents of the land.

In addition, this party had very little information concerning the nasaras and other customary activities that have occurred in the area. For instance, as to how many nasaras were built by Nesrok, neither could he name his small nasaras. He has no identity in the area.

Further, he has told the court that every descendants of Nesrok living the land have gone extinct. We have doubted this narrative because incoming tribes who have come to settle the land and the local occupants do still have surviving



descendants at date who are claimants in this case. We certainly do not consider this story as accurate.

His recent involvement in this matter is also questionable. Most of the parties have cautioned him since he has not been involved in the past disputes over the land dating back to the 1960's and even the 2001 and 2002 village court meetings. He had no answer to their query except admitted that he is simply tracing his matrilineal bloodline.

More importantly, if we accept his claim to being a paramount chief then, the followed raised question here is why was his family not involved in the 1912 Nato Ibal ritual. Off course, by way of respect, he would undoubtedly be invited to take part at such important event given the marriage relationship. There is no doubt about this standard practice. Therefore, in the absence of such irregularity, the truth would be that there never existed a high chief by the name of Nesrok.

Despite his effort in referring the court to certain documented land sale deeds dated around the 1900 however, he had completely failed to supply any copy of those documents to the court for verification. Some parties have also asked the court to disregard his related statements on the reason that they were not disclosed to them for purposes of examination.

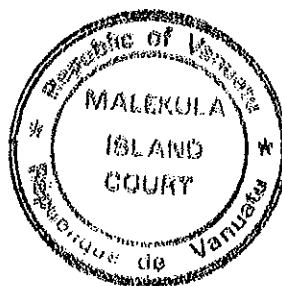
In light of the foregoing discussions, and in consideration of his entire case, he has fallen short of providing all the necessary information to justify his claim and for such failure, we also decline to accept his claim.

Counter claimant 7

Marklen Malburi is disputing the land areas of Romondo claiming it to be the original place of this man Malputaiw whose son is Malweretun. His family had taken charge of the funeral ceremony by providing pigs towards Malweretun's passing away.

The first question to be answered is whether Malputaiw is an original native of the land. The answer to this question remains unanswered. It traditional that a donor cannot claim land in return for his pigs contributed towards a deceased death ceremony. Such aid must be seen as a form of contribution to the funeral on goodwill purposes. This is not a medium of trading for land rights. It cannot be claimed back in return with land. Part 3.10 (e) states " *Man I no save onem o tekem kraon from we hemi killim pig long ded blong nara man*".

In light of the discussed reasoning, his position would be that his claim must fall.



DECLARATION

In light of the totality of the gathered evidence adduced in this proceeding with the discussed findings, and in application of the law and custom we hereby this day pronounce that CC1, family Edwin is declared as custom owners of the land of Ambet land as advertised. All claims belonging to the rest of the parties are entirely dismissed.

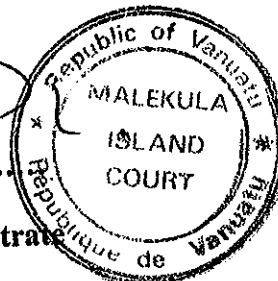
For ease of clarity all claimed boundaries sitting outside the advertised land will not form part of this judgment. It is reminded that this declaration does not also affect other property rights on the land, such as rights of claimants or other local occupants to harvest coconuts, garden, graze cattle and other existing development thereon the declared land. The losing parties must bear in mind that these rights may be waived or varied by the owners. The exercise of these rights is limited to existing properties prior to this declaration.

Parties are to pay their own costs necessitated by this proceeding. The losing claimants are duly informed of their right to appeal within 30 days period at the receipt of this written judgment.

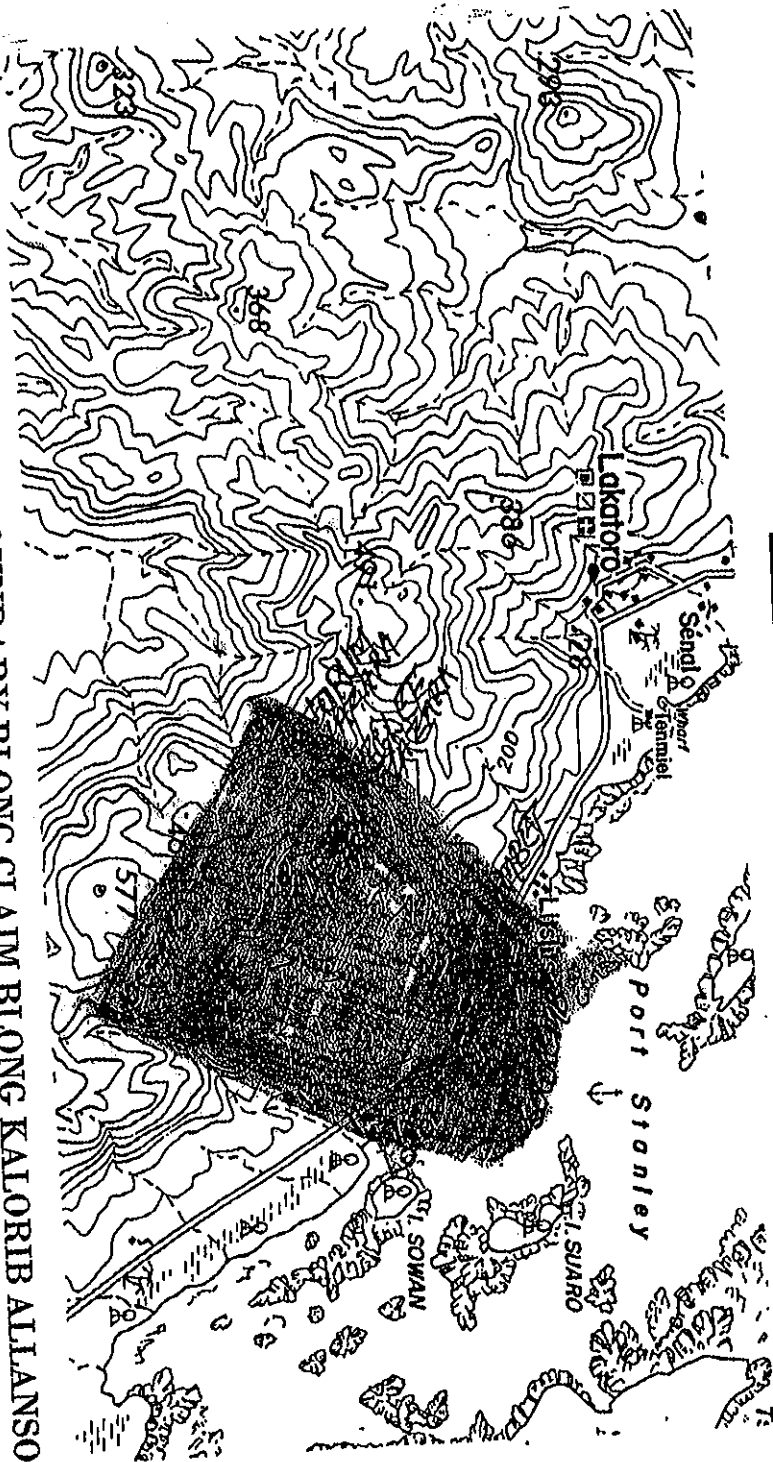
Dated at Lakatoro this 8th day of May, 2009

BY THE COURT

.....
Edwin Macreveth
Presiding Senior Magistrate



LAND MAP + DESCRIPTION



HEMIA DISCRIPITION BLONG BOUNDARY BLONG CLAIM BLONG KALORIB ALLANSON.
 PASIS BLONG LOCOR (SELEWELELE) IGO ROUNEM SMOL ISLAND BLONG SOCOLEMB. IKAM
 KASEM PASIS BLONG HEM LONG AMBET, FOLEM GREEK IGO ANDAP STRET TOVORUM,
 LEGLEF, MALERU FOLEM IGO LONG NOCFAR. FOLEM GREEK IGO TAON LONG NARRATOCH
 MO GO TAON LONG LOCOR PASIS BEKEGEN. OL HISTORICAL SAFT HEMI PTUM NAMBA
 NOMO WAN IGO KASEM FOTEN FROM SPACE ISMOL BE BAE ISTAP LONG STATEMENT BLONG
 HEM.

