

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

Land Case no.4 of 1985

- BETWEEN:** FAMILY BANI SIWAI MOLUNTURALA (Represented by
Romain Molunturala)
Original claimant
- AND:** FAMILY TEBATUN (Represented by Wilfred Maltok)
Counter claimant 1
- AND:** FAMILY MELTETINEAT TEILEMB (Represented by Orasio Teilemb)
Counter claimant 2
- AND:** FAMILY LANGRUP (Represented by Patrick Langrup)
Counter claimant 3
- AND:** FAMILY MALTAUS (Represented by Richard Maltaus)
Counter claimant 4
- AND:** ALFRED RORY
Counter claimant 5
- AND:** FAMILY MALCEKAN (Represented by Jeannot Malcekan)
Counter claimant 6
- AND:** FAMILY MELTETAKE (Represented by Freddy Malres)
Counter claimant 7
- AND:** FAMILY MALEB (Represented by Robert Maleb)
Counter claimant 8
- AND:** FAMILY MALVARU (Represented by Ismael Malvaru)
Counter claimant 9
- AND:** FAMILY RORY (Represented by Iannick Rory)
Counter claimant 10
- AND:** FAMILY BELBONG (Represented by Hugo Belbong)
Counter claimant 11
- AND:** FAMILY MELTERONGRONG (Represented by Jonas
Melterongrong)



Counter claimant 12

AND: FAMILY MELTEMAL (Represented by Meltemal Clovis)

Counter claimant 13

AND: FAMILY MELTEUSI TEILEMB (Represented by Teilemb Valerien)

Counter claimant 14

AND: FAMILY SAMY (Represented by Cesar Samy)

Counter claimant 15

AND: FAMILY TELUKLUK (Represented by Pierre Telukluk)

Counter claimant 16

AND: FAMILY MALKALI (Represented by Michel Malkali)

Counter claimant 17

AND: FAMILY MELTEVIELSER (Represented by Ulrick Meltevielser)

Counter claimant 18

AND: FAMILY VIRVIR (Represented by Melteror Mory)

Counter claimant 19

AND: FAMILY LILIORD (Represented by Guillaume Liliord)

Counter claimant 20

AND: FAMILY BARTHELEMY (Represented by Gregoire
Barthelemy)

Counter claimant 21

Coram: Magistrate Voghia Edwin Macreveth
Island Court Justice Robert Niptik
Island Court Justice Shema Tasvalie
Island Court Justice Douglas Vatdal

Clerk: Collyn Tete

Date of hearing: 29th June _ 17th July, 2015

Date of decision: 07th August 2015



JUDGMENT

The land in dispute is registered as *Tondor*. It is situated at the north eastern part of the island of Malekula. The land is located between Lavalsal community and Latmatmat crossing. Its boundary is generally described to commence on the north eastern side at the passage of Hirang and follows the creek crossing the main public road to a farm paddock of Aime Amet, to a coconut palm situated on the western side. It then follows in a south eastly direction down to Viavor river to a natapoa tree and down to Rurule rock. From there, it turns south and eastwards, crossing the public road to Masaking crosses Palanua river up to another coconut plantation and bounded by the public road till it reaches Belses nabangura tree to Onvar by the sea shoreline rounding up at Hirang passage again.

THE LAW, CUSTOM AND HISTORY

These custom practices and usages are gathered after having heard every party throughout the trial with visitation to the land site.

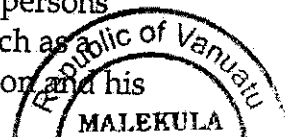
The Law

Briefly, 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 75 states only indigenous citizens of the Republic of Vanuatu who have acquired their land in accordance with a recognised system of land tenure shall have perpetual ownership of their land. Article 95(3) states that customary law shall continue to have effect as part of the law of the country.

Section 10 of the Island Court Act Cap 167 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.

The finding on custom practices in relation to land ownership

The area in dispute belongs to the smol nambas society. Generally, ownership of customary land is communal or collectively owned based on common descent, residence within a nasara and participation in common activities. A group of persons belong to a family line and a territory is sometimes identified with a totem such as plant, a stone, an animal or others. It is common knowledge that the first person and his



tribe or family to explore, live, control and builds a nasara on a land territory would be regarded as the custom owners.

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 from the patrilineal line then, ownership will pass on to the matrilineal offspring. Otherwise, by custom, claimants from the matrilineal bloodline could only claim a right of land use.

In the case of adoption, a child adopted from another tribe through appropriate custom processes will have no right to claim land ownership unless there are no surviving issues of his original tribe.

Land is also acquired through appropriate custom processes and in accord with the recognized land tenure system. The most common method is by way of payment. Land cannot be claimed solely on the following factors such as performing funeral expenses, compensation for death, established relationship such as totomalas and so on.

A land territory would traditionally have a paramount chief (big faea) and his subordinates (smol faeas) having their own nasaras. 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. The high chief cannot claim ownership of the land remaining under his subordinate chiefs control and vice versa.

A man earns his chiefly title or name by way of performing a *namangi* (magi) or pig killing ceremony at a nasara. A nasara is usually identified by man made features like erected stone altars, natural plants such as namele palms and other identical phenomena.

Boundaries of land in the past and present are normally indicated by natural environment, such as trees, rivers, mountains, man made features and other geographical features.

Given the basic understanding of the traditional processes and the law, the court now presents the relevant information as submitted.



Original claimant

Romain Molunturala in his presentation claims that the land of Tondor is owned by chief Malrunvanu of Tondor nasara being his original nasara. Malrunvanu had 10 sons who died of tuberculosis leaving the youngest Nasom to survive the deadly contagious virus. Nasom was adopted by Teiles Molunturala of Vao from the nasara of Venu.

He held that the land has two nasaras Tondor being the big faea and Betermarur being the smol faea. Due to widespread of Tuberculosis disease upon the population of the land and other social issues the mass population of the land has been wiped out to extinction. He explains that the only saved descendant of the land of Tondor can only be traced to Nasom alone.

Two other descendants Meltehouve and Lulue of Tondor had escaped to Vao island and were received by Maltakar Teilemb at Toghvanu nasara. They lived there for the rest of their lives till their death. Meltehouve upon his death was repatriated for burial at his nasara of Tondorbarav. Both ancestor were not married. It is through such adoption that his family now claims the land of Tondor. Nasom died without performing any namangi except his descendants Mirenmal and Meltehilgahe who had each performed a pig killing ceremony at Venu, Vao island.

In support of his claim, he explains that past village court and meetings have been made in favour of his family as customary owners of Tondor land.

1. That a village meeting held at Venu nasara in the 1960 had declared his family as customary owners of the land . Chiefs various villages as listed had issued and witness such a decision.
2. That a second meeting was held at the nasara of Toghvanu between family Edouard and Nicolas presided by a number of chiefs had also granted the land of Tondor in their favour as bloodline of Nasom.
3. On the 20th of March, 1975 an area land court occurred at Potuveive at Atchin. British District Agent, Jerry Marston was present with chief representative of various nasaras. The outcome of that meeting recongrised Bani Siwai as custom owner of Tondor land. Record of such meeting is tendered and marked as A.

Chief Hilaire Molunturala, reconfirms the whole story and gave detailed explanation of his genealogy tree tracing Molunturala and Malrunvanu. He explained that the nasara of Tondor is located at the area presently occupied by Nicolas and Eugene Rory. While, the smol nasara of Betermarur is located at the area he presently occupies with Gerald



Counter claimant 1

Family Tebatun is disputing the whole land advertised claiming it as land originally owned by high chief Malsungmelmel of the nasara of Lesarlamb being the big faea. He explains that there are 8 nasaras of the land of Tondor listing their names and natives of origin.

Malsungmelmel died without any surviving descendants from his chiefdom ship due to of widespread tuberculosis. Tebatun and Leatmerer took care of Chief Malsungmelmel when he was sick until his death. They also took charge of his funeral ceremony and further performed a custom ceremony to the uncles namely, Bagmemes of Nesingwar land territory.

Chief Lulue from Tondorbarav nasara had a daughter Leatmerer who also survived the disease widespread. Chief Raken from Betermarur nasara adopted Tebatun from the nasara of Toghvanu, Vao island. Tebatun then later espoused Leatmerer and begat children whose descendants are traced to his present generation. He submits that it is through this adoption and past established relationship with Tondor natives he believes Tebatun would be entitle to claim ownership of the land of Tondor upon his reasons that there no more survivors of Tondor land.

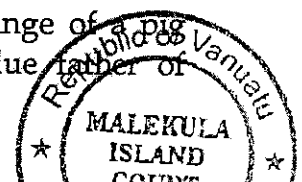
He outlined a number of past events together with a list of people including claimants whom he claimed to have purchased land from his ancestors annexed in his statement as E, 1-3.

Lambert Maltok provided a very detailed 18 page statement covering a wide range of past histories and related issues to reconfirm the claim. He stresses that Tebatun had been adopted by Rahken of Betermarur. Tebatun espoused Leatmerer daughter of Lulue of Tondorbarav. He explains that there are no more surviving descendants of every 8 nasaras of the land of Tondor.

Among other detailed information he mentioned in support of their claim objected to CC2's claim arguing that certain claimant's ancestors have purchased land from Leatmerer whom was regarded as the customary owner of the land of Tondor prior to her death.

1. Family Melterongrong purchased land at Tondorbarav by way of handing over a pig valued at VT30,000. Such land transaction was recognised by a village Council of Chiefs from Vao island on the 23rd of May, 1998 annexed and marked B.

2. Family Melteusi had been given land for use by Leatmerer, in exchange of a pig donated by family Teilemb during the funeral ceremony of chief Lulue, father of Leatmerer.



3. Leatmerer has also allocated land to her daughter Leatwinim who espoused Belbong of Beterihi nasara.

Tebatun had also allocated land at Tongove to various islanders of Vao such as family Patunvanu, Liliord and Rurun of Latamb. He confirms that as Tebatun was away in New Caledonia, other inhabitant of Vao had also purchased or demanded land for use including the primary claimant from Nicolas, a relative of Tebatun. He stresses that Tebatun has been regarded as one of the original owner and disputant of the land. The British District Agent Jerry Matson record dated 27th August, 1976 annexed C and other recorded events are proof to their history.

Counter claimant 2

Orasio Teilemb on behalf of family Teilemb is claiming the whole land to be inherited by Matatyl alleged to be the only survivor of the land of Tondor land territory. People have been living at Lesarlamb, Lesarmaru and Tondorval. The whole population of the land went into extinction due to tribal conquest over territories and widespread disease of tuberculosis.

He told the court that tribal war erupted between natives of Tondor and Navav and Atchin .As a result of this conflict, dwellers of Tondorval, had moved to relocate at Tondorbarav. There they created a village called Larouroue. While residing there, a woman by the name of Lecter Sara whose husband is Pohor bore a son named as Matatyl. Pohor died when Matatyl was still in his infancy.

Due to good relationship maintained with occupants of Narer Lumture, a man called Atorali and some relatives decided to take care of Matatyl and lived at Toghvanu. From thereon, Matatyl had continue to maintain traditional relationship with his tribesmen at Tondor, where he and his care givers took part in namangi ceremonies at Tondorbarav.

He explains that Lulue was the last survivor of the big nasara Lesarlamb nasara while Meltehouve was the last male to die from Betermarur being the middle faea. When Matatyl died Lulue and Meltehouve continued to live at Lalemb, vao island. He concludes that seven other ancestors of the land of Tondor who died at Tognvanu have also given the right of ownership of Tondor land to his family.

Kisito Teilemb who had no written statement decided to witness the same statement as advanced by his brother claimant.



Counter claimant 3

This party is disputing the surrounding land of Betermarur nasara as land traditionally owned by his ancestor Langrup. He explains in support of his claim that given the history another nasara was created at Atchin named after the original nasara as Emilmarur where his tribe live to date. They have long ago moved from Betermarur to Atchin island due to tribal war and sickness.

Jean Bosko Andre, says that his father has informed him that Langrup had moved to Vao island from Atchin island to the nasara of Toghvanu where he espoused Leatnon and begat a son Lewusatle. Upon his wife's death he impregnated a disable woman by the name of Leiror who bore a son Malsul. However, after 28 days of birth Leiror died as well. Given the circumstances, Langrup performed a custom ceremony in the form of compensation and took care of Malsul. On his return to Atchin island relatives at Vao had accompanied him with support of food items and took part in his pig killing ceremony.

Neinvanumal Haywen provides that his ancestor did receive Asnimpel an ancestor of Langrup during their arrival to Atchin island. He believes that they have come from the land of Betermarur at Tondor land.

Counter claimant 4

This disputant is claiming the following parcels of land namely, Lahese wone aute, Mel, Wab, Batnamol and Hone as land allocated to his family through their ancestors whose mother is originated from Tondor land.

He explains that Lahese wone aute was given to Titlang. While, Ousnato of Tondor allocated the land of Hone to their grandfather Meltehamani on cultivation to date. Other land claimed were also given by relatives or brothers of their ancestral mother.

He argues that Betermarur is the big faea whose natives are today living at Atchin Island. Given Langrup's relationship with Vao dwellers, he had allocated land to certain people currently occupying land areas known as Botnarum, Betermarur, Loue and Sowol.

Counter claimant 5

Alfred Rory is claiming a parcel of land known as Tosone situated within the land boundaries in dispute. His history provides that two women from Tondor had married at Tosone and bore two male children one called Tilei and the other named as Sive. The two males upon their maturity developed traditional relationship with each other.



Tilei in preparation of his namagi pig killing ceremony borrowed a pig from Sive. Tilei could not return his pig but told Sive that he will have right of ownership in return for such pig upon his death. Sive took charge of his funeral expenses.

He concludes that for the reasons told he believes that his family do have a right of ownership.

Counter claimant 6

Jeannot Malcekan is disputing certain parcels of land situated within the land in dispute. In his presentation states that chiefs and their people of Tondor had developed social relations in the past with Vao island natives from Betehul village and Lamatnamaki being big faeas. From such relationship, Letersesele of Betehul village had espoused a chief from Tondor and had a son Lulue and a daughter Leatmolmol. Leatmolmol married Toralil of Lamatnamaki and begat Belour.

When tribal war escalated between Atchin tribes and Tondor, Lulue requested assistance of defence from the mother's relation. He had promised that any people killed will be replace with any of their family members. Attempts were made but with very little success. As a result, Lulue was invited to return to Vao where he later married Leatmerer and lived at Toghvanu. This couple had a son Butor but died in his early age. Belour performed all his funeral rituals. Belour had also buried 6 other people from the land of Tondor who had died of Tuberculosis. Belour also took charge of Lulue's funeral ceremony.

He explains that following such friendship, Belour allocated land to Leatwinim, Meltebourkani, Naklan and Meltemaloum land areas namely Nighe Ne Levirangan, Loue Ovrakh, Labetra, Lemelmol, Lakhese, Limbare, Lesalmeru and Lebebe all situated within Tondorbarav land areas.

He added that following the established connection, Langrup of Betermarur while residing at Atchin had come to live for sometimes at Toghvanu with his two daughters. In preparation for Langrup's pig killing ceremony, Belour and his relatives had offered local food items in support of the cultural event. He was accompanied to Atchin for such festivity.

Witness, Jean Baptist Malcekan provided that family Malcekan of Toghvanu a smol faea had made friendship with Lulue and Langrup of Betermarur nasara. Lulue and Langrup have allocated them land which they have occupied from past to the present. Fabiano Belosat from the big faea of Labarang made similar statement to that advanced by his colleague.



Counter claimant 7

Freddy Malres on behalf of family Meltetake alleges that tribal war erupted between the nasara of Betermarur and Tondorbarav. The chief of Betermarur sought assistance of force from Noroure nakamal, Vao island. As a result of such demand, Noroure tribesmen joint in the fight. From this conflict 2 members of the Noroure men , Lel and Tilei sustained severe injury leading to their death. These fighters died without marriage.

The chief of Betermarur by way of returning his favour decided that the ancestors of Noroure Velele would have ownership of Betermarur land. He explains that Rahken, Belriritan, Verengle and Tehe were still living at Betermarur during this event.

Counter claimant 8

Family Maleb is claiming the land of Tondor on the basis that his ancestor Lahal Beteruhu had developed from past relations with Tondor people. In particular, that they have been taking part in this custom fashion of bartering known as Totomalas is usually performed at the sea passage of Lawor between Tondor and Vao dwellers and at the access road at Lavesarsar between Tondor and Tonmalevar inhabitants.

Lahal Beteruhu had allowed Tondor chiefs and their people to use such routes for access to the sea and in return, land of Tondor was given to his ancestor. These custom exchange transactions took place after Tehghor of Tondor and his family had been living at Vao island.

Counter claimant 9

This party claims 3 plots of land located within Tondor land. Bourere and Malvaru a native of Voa island had good connection with Navout and Rahken of Tondor .

They have purchased the land of Tosone with a tusked pig to support Rahken towards his pig killing ceremony. Following such payment his family had been in used of the land for six generations altogether. In 1978, while working in Noumea New Caledonia, Nicolas Kota had approached him by asking him to pay the land in the amount of VT20,000 which he had accepted and done.

The other piece of land also purchased from Rahken in exchange of a pig valued as *teptep* is situated at Norotrot. He has also provided a tusked pig to Nicolas Kota as payment of the land in 1979. The third land he claims was acquired after assisting in the burial of Meltehouve a native of Tondor who had been living at Toghvanu. He alleges that his ancestors were allotted another piece of land known as Latoar by Meltehar. Noroure is a

smol faea nasara of Tonmalevar nasara. Navout is the last surviving person of Norotrot nakamal.

At the end of his statement, he says that there are 3 past meetings where chief representatives of the area have agreed that the land in contention belongs to family Bari Siwai Molunturala. He opposes the claim of CC16 arguing that family Telukluk have migrated from Tolamb island which has submerged into the sea. They have come to resettle at Vao island.

Counter claimant 10

Family Rory are disputing the land areas of Betermarur nasara claiming it as land originally owned by Lewusatle daughter of Langrup of Betermarur. He explains that there once lived Leveubeur and his children, Tetejer, Letantier, and Leterovel among other family members Tilei and Rahken. Tilei with help from Meltetile have taken a tamtam to Vao island from Tosone to complete a namangi. He explains that remains of such tamtam are present.

He went on to say that some villagers of Noroure had asked to purchase land from the Leveubeur's children at Betermarur. Given such negotiation they provided 10 pigs. Given the number of pigs they decided to use the animals by way of a pig killing rite. However, their mother could not agree with their plan to sell land and such disagreement caused internal differences among them causing his children to leave the land.

Tetejer had performed a namangi assisted by Nibwen. Tetejer married and had a son Langrup whom had resettled at Toghvanu nakamal for sometimes. In preparation of his namangi ceremony to be performed at Atchin island, he was assisted by his ancestors Gaston, Joseph and other relatives contributing food items in support. Lewusatle and Gaston have nursed Langrup when he was on his sick bed until his death at Atchin island. He had prior to his death gave right to Gaston Rory to own his land of Betermarur.

He has besides provided statements regarding other relatives as outlined by his genealogy tree also considered by the court.

During the course of examination, he confirms that Tetejer had moved to Atchin where he settled and created the nasara of Emilmarur.

Counter claimant 11



Hugo Belbong led evidence that there was once a fight between Betermarur and Lebou tribes. This conflict forced Melterurutan of Betermarur and his family to resettle at Tosone. There Melterurutan sought assistance from Meltekoun to kill Lien from Lebou. An agreement was reached and Meltekoun planned to carry out his mission with some other relatives.

Lien was then killed by Meltekoun meanwhile two of their relatives Meltelele and Kileul were also killed and were taken back to Tosone for burial at Norotrot. Melterurutan then allowed his daughter Letour to marry Atmatan. He had also told them that their children would inherit land ownership of Betermarur because his elder brother Melteror had migrated to Atchin island.

Some years later in preparation of a namangi feast at Norotrot Betermarur, his ancestors from Vao island such as Teares, Tilna, Susubal, Matan, Rovun, Maltakar and Atmatan had taken a tamtam to Norotrot where it was inaugurated during the pig killing ceremony. At the end of the festival, Meltekoun asked Teares to pay the land of Tosone with 30 *manha* traditional money. He points out that his family is claiming by way of the matrilineal bloodline of Letour of Betermarur.

He added another history that his ancestor have controlled the land of Norotrot since time immemorial dating back to Rensrens whom had married Leatnavor daughter of Meltekral of Norotrot nasara. Meltekral had no son and decided to grant ownership of the land of Norotrot to her daughter Leatnavor. The couple took charge of the funeral ceremony of the parents both buried at Tosone.

Counter claimant 12

Family Melterongrong claims that the land areas of Tondorval upon the following basis.

1. That his ancestor Toralil who was adopted by chief Meltever of Tondorval.
2. That his father Robert Melterongrong was also adopted by Nasung and Clavert
3. That he has some interests of the land by of customary process known as *Met nabo*.

In witness of the adoption of Toralil, chief Meltever offered a pig valued as *Tevtev* to Meltekleran at Lamatnamaki, Vao island. Toralil left the island of Vao when he was a child and grew up at Tondor. Meltekleran had a son Asraor beside his adoptive son Toralil. While living at Tondor, Tebatun who was also adopted to Tondor by chief Rahken was also living at Urbav a place near Lesarlamb nasara.

With respect to his second claim, he states that Toralil did not enter into any marriage. He had a brother Asraor. Upon his death, he married his brother's widow and begat a



son Clavert and a daughter Lerali. Lerali married Meltevaratine of Nesinwar land. Nasung had adopted his father Robert Melterongrong.

While living there, it was communicated that a traders ship had birth at Vao island looking for natives to work as labourer at the sugar cane plantation in Queensland, Australia. They joined and sailed to Australia for employment for some years and on their return they brought with them a christmas tree seedling which they planted at Vao.

Since then, both Tebatun and his family had cooperated well in their dealing with land matters. He explains that family Malvaru had wanted to purchase land at Botkhatabol from Edouard Tebatun, but were advised to make payment to family Toralil being the rightful owner. His father Robert had also allocated land to family Telukluk.

Witness, Jean Luc Melterongrong in his statement among other information confirms that the adoption correct and true. He added that Melterongrong had purchased the land of Labetra situated at Tondorbarav. Jonas has been supporting Edouard's in disputes over Tondor land.

Counter claimant 13

This defendant is claiming the land of Norotrot. He says once upon a time one of chief Sunsunbal's son of Beterihi nasara by the name of Natung discovered a man called Bilak on a canoe who had come ashore to the passage of Lesivare. Bilak was identified to be a native of Ambae island. He was invited to chief Sunsunbal's nakamal where he lived and taught his tribesmen how to construct canoes. After having acquired the skills they built a first canoe and sailed ashore to Lawor passage.

Sunsunbal from the fourth generation and his son Malvert including some other people who entered friendship with chief Namak a relative of chief Rahken and Lulue. Through this association, food items from the mainland used to be exchanged with marine resources from residents of the coastal area by way of bartering known as Totomalas.

Due to tribal war most of Namak's relatives at Norotrot and Tosone had been killed while others died from tuberculosis. Chief Belevet from his ninth generation made customary payment of the land of Norotrot to Nong. He explains that in light of such familial connection, chief Melteseven Meltemal had asked his sister to marry Melterovo father of Edouard Tebatun who was adopted by Rahken.

Meltemal Gildacio tells us that his ancestor have had good relationship with Namak of Norotrot. His ancestor were the first ever people to cross the sea to Lawor passage.



Counter claimant 14

This party is related to CC2. He is providing the same history presented by Orasio Teilemb. To bypass any repetition we have decided not to re write the same history told above. Briefly, this claimant is only claiming land allotted to his ancestor Matatyl.

He says, Meltehouve who originated from a smol faea of Tondor had looked after Melteousi a descendant of Matatyl at Tondorbarav. He then gave right of ownership of Tondorbarav to Melteousi. Melteouve died at Laleb. Upon his death, his corpse was repatriated to Laroueroue, Tondorbarav for burial with the assistance of Melteousi, Tebatun, Meltebour and Meltemataha.

Lulue and his wife Lenabul could not bear any child and took care of Meltetineat another descendant of Matatyl to the nasara of Tondor. He and his wife resided at Latampe where he died. Upon his death Toralil had asked Meltetineat to bury Lulue at Tondorbarav.

Teilemb Melteousi Leonard says that he was adopted by Nicolas Kota to the land of Botor. He testifies that Melteouve comes from the smol faea of Tondor. Matatyl's father is Pohor. He argues that the history related by the claimant is correct.

Counter claimant 15

Chief Cesar Samy had a very short statement claiming four different piece of land inside the land of Tondor namely Lesar Asum, Lawor aute, Lawor and Beker. He told us that his ancestors have purchased these plots of land from Melteheary of Tondor. He claims that these parcels of land had been forcefully taken away from his family soon after independence by family Maleb. His family and others working on the land were then evicted.

The said some pieces of land were purchased following established relationship with Nasom of Tondor who has been adopted to the nasara of Venuelamb claimed by the principal claimant. He explains he believes that the said land areas now belong to them as they have purchased the land areas from natives of Tondor land.

In opposition to family Rory's claim he argues that a village court case held between family Rory and family Harry Sive, it was declared that ancestors of family Rory have originated from north west, Malekula confirmed by Alfred Rory in a previous land matter.



He explains that CC8 is from the smol faea from the nakamal of Beter while he is from the big faea from the nasara of Lahal all originated from Tamat Bagher. He claims that due to a customary process called Lomlome, CC8 currently has no surviving bloodline and cannot therefore claim the land he is disputing.

Counter claimant 16

Pierre Telukluk disputes that the land claimed by family Molunturala has exceeded its traditional territory overlapping into land areas of Tonvalevar land. He argues that Tonmalevar land areas extends to cover Lehuru river, Saralivo , Viavor stream down to the coastal shoreline.

His history says that his great grand ancestor are original natives of Tonmalevar from the island of Tolamb. Upon the island's submerging, inhabitants of the island sought refuge at Lebou land. After some years of resettlement they decided to move inland to Tonmalevar given mistreatment and other social issues affecting their welfare and lives.

During that migration, they created 6 nasaras prior to their arrival at Tonmalevar namely, Lesar Lebou, Lesar Molete, Lesar Natalal, Lesar Asum, Lesar Lambarmumbun, Lesar Tambi. They were received by chief Noknok of Tonmalevar. After some years of residence they created another additional nasara named as Tolamb in remembrance of their original nasara of Tolamb island.

He concludes that his ancestor and the high chief of Tondor land territory have had amicable relationship in terms of customary trade with each other.

Counter claimant 17

Michel Malkali is disputing the land of Lesar marur (Betermarur). He told the court that due to tribal war between Tondor and Navav and prevalent disease, a lot of people left the land for their safety. Chief Siar of Betermarur and his sister Lecter Meltetock moved to Vao island and sought refuge under his ancestor chief Lesen at the nasara of Nalu Aoule.

While living at Nalu Aoule, chief Siar had asked to adopt a son from chief Lesen's family. Given such request, Lesen instructed him that such deal will come into effect if his pregnant wife gives birth to a boy. Lesen's spouse begat a son and after five days a customary ceremony of adoption was carried out between the parents and adoptive father. Chief Siar had no wife and asked his sister Lecter Meltetock to care for the son Malkali.



Chief Siar suffered from Leprosy and later died at Nalu Aoule. His family took responsibility in meeting all the funeral expenses. In his defence statement, he opposes claimants such as, CC1, CC2, CC6, CC4 and CC14 alleging that they have come from other land territories as listed and have no right to claim the land of Tondor. In particular arguing that the claim presented by CC2 and CC14 is a false history and the court should dismiss it because they cannot claim under his ancestor's name Siar.

He explains that he and other families such as family Teilemb have initially filed a joint claim appearing as a party to the claim. However, he could not trust family Teilemb in their claim and to guarantee his custom interest in the land, he decided to withdraw and become a new party. He has kept his history hidden for many years and now wants the court and parties to know that he has traditional connection to the land he claims.

Counter claimant 18

This family is claiming land areas he is in possession within the land of Betermarur nasara. He provides that a significant number of the population had been wiped away due to same reasons told above by other parties. Verengle, Bourvaghah, Tetejer, Le Verangan (Rahken) were the last survivors of Betermarur nakamal. Verengle and Bourvaghah established good working relations with chiefs of Botundar, Lebou and Tonas. Meltelile and Rahken resettled at Tosone while, Tetejer sought refuge at Atchin island.

Pursuant to this relationship, Verengle allocated Beter land to Meltevielser and his family. Another plot located at Lamor creek and Belebel were purchased by Meltevielser with 2 pigs valued as *Bovard*. Upon Verengle's death his family took care of all his funeral rites.

Counter claimant 19

Family Virvir in his statement states that following the same reasons as told natives of Tondor land had found their own ways out of the land for safety. Seven Tondorval natives namely, Malorong, Siale, Lior, Vanu, Ule, Malsong and Sir had escaped to Lamatnamaki nasara and lived there for the rest of their lives. Malorong prior to his death gave 3 pieces of land to Lamatnamaki nakamal. These parcels of land are located at Lakhese and situated at Lamor.

Besides the above refugees chief Siar and his sister from Betermarur nasara had also resettled at Betehul nakamal Nalu Aoul at Vao island. Toralil and his son Clavert, Asraor and his son Nasung were also buried at Lamatnamaki.

Titlang had espoused a woman from Noroure and begat Meltehamani. Meltehamani's uncles from Tondorval had also allocated land to his family as well. He argues that

family Maltaus had no right to claim the land under the name of Meltehamani because he is not related to Melteterter but a bloodline of Meltror of Lalemb nasara.

Counter claimant 20

Family Liliord is disputing the land of Tondorbarav claiming it as land originally owned by chief Lulue. Lulue had married Lenabul of Latamb and begat Leatmerer whom married Tebatun ancestor of CC1. Lulue had build strong relationship with his ancestor Meltevahanghavul of Latamb. Indigenous from Tondor and Vao had been bartering by way of Totomalas. Their point of exchanging food is at Norotrot.

Lulue's son and other inhabitants of Tondor have been buried at Latamb. He submits that in accordance with the connections, Lulue had allocated 5 piece of land to his family relatives.

Lavisarsar na mere, plot of land was given as a pride price of Lenabul. Lotone aute and 2 other terrain at Lotone ala were allocated for Lenabul's gardening purposes. Lereng was allotted through a performed custom known as *boroughoun* while Tosone was given by Nicolas Kota after Irena Liliord had donated a pig valued at VT30,000 towards Daniel Neirove's pride price for marrying Edouard Melterovo. His family had been cultivating such land since the early 1970's to date.

Counter claimant 21

Andre Barthelemy produces evidence that Meltever from Tondorval had good relations with Melteluke from the nakamal of Toghvanu, Vao island. On one occasion Meltever built a cultural house and in its inauguration, Melteluke donated 100 poultry towards its opening ceremony. Meltever later contracted tuberculosis and left to live at Vao island. However, he could not long survived the sickness and died. Prior to his death he made a will that upon his death Melteluke will have ownership of the land of Lemelmol. He took responsibility to meet every funeral expenses of his death and mourned for 30 days in his honour.

He explains that he was adopted by Antonio who is a descendant of Melteluke. For this family link that he is claiming the land of Lemelmol. He says that a village court decision has declared a large portion of the land in his favour on the 1st day of February, 1984. A copy of such decision was made available to the court for verification.

ANALYSIS OF FACTS & FINDINGS

Parties to the claim are reminded of the basic rules of evidence that the primary disputant in principle has the burden of proof to substantiate his claim with relevant and clear evidence. That is to produce available information that his ancestor has descended from the land in dispute, had been in control and use and owns ever



nasara therein. On the other hand, every party who asserts a fact must prove it by way of evidence.

There is common knowledge from every claimant that the land was ravaged by tribal war and infectious disease such as tuberculosis affecting a large number of the entire population going into extinction. That very fact resulted in a wide range of separate stories told by the parties. This circumstance has given a greater challenge to the court in its determination to identify and make findings to the most probable and accepted history.

Parties have also acknowledged that the totem of the land of Tondor is founded on snakes. A large number of parties are claiming parcels of land which they have purchased or acquired through relationships and other social connections with local dwellers of Tondor land.

This court faced huge challenge in determining this dispute due to increased number of parties. Most remarkably noted is the fact that there are parties who belong to the same family or nakamal living together who are producing totally different stories from each other when logically they should all be telling the same story. This finding in our view among others is a direct result of the current chiefly title dispute pending before the court.

As part of the proceeding, the tribunal visited some nasaras, nakamals other identical features on the land boundaries claimed by family Molunturala. Evidence from trial and the visit provides that there are 8 nasaras on the land. Lesarlamb is the original (big faea) nasara owned by paramount chief Malsungmelmel. Tondorval, Betermarur among 5 others are classed as smol faea nasaras. Our inspection results from the visit, suggests that Tondor is the given name of the land and not a nasara as claimed by family Molunturala. No portion of the land published by family Moluntura is part of Tonmalevar land territory.

Having made these observations, we now present the findings of each claimant's case below in the usual order of their appearances in court.

Original Claimant

The principal claimant is claiming the land of Tondor based on his presented facts that he is a bloodline of the patrilineal lineage of chief Malrunvanu of Tondor the original nasara of the land in dispute.



The first issue for determination is whether chief Malrunvanu is a chief of Tondor. Secondly was his son Nasom being adopted to Toghvanu nasara by Teiles Molunturala. The answer to the issue is in the affirmative supported by the following findings.

The evidence disctates that Malrunvanu is indeed a chief of Tondor having originated from Betermarur nasara. His son Nasom was adopted to Vao island and his present descendants are those linked to the primary claimant. There was no much dispute over his family tree from the opposing parties.

The only debate opposing his claim relates to his standing in this case. It was submitted that in custom, he would not have any right to claim ownership of the land of Tondor or Betermarur by reason that he has been adopted and paid out of the land. That argument in out consideration could not be sustained given the following rationale.

First, the recognised land tenure system suggests that ownership of land is inherited through the patrilineal line. In our case, this party's claim would inevitably be falling in line with such predominant principle of land ownership. The facts provided that a vast population of the land had died due to tribal war and widespread of venereal disease such as leprosy, tuberculosis and other contagious disease living Nasom as the only survivor to the tribe with his present generation. Thus, despite the fact that he has been adopted out of the land, he would be guaranteed the right to reclaim ownership of the land of his ancestors.

The above finding is safely supported by the fact that this claimant had been disputing the land for decades. The earliest record could be traced back to the early 1960's and 1970's. This claimant still recalls the following events.

1. That a village meeting held at Venu nasara in the 1960's had declared his family as customary owners of the land . Chiefs various villages as listed had issued and witness such a decision. This was followed by a second meeting was held at the nasara of Toghvanu between family Edouard and Nicolas presided by a number of chiefs had also granted the land of Tondor in their favour as bloodline of Nasom.
2. On the 20th of March, 1975 an area land court occurred at Potuveive at Atchin chaired by British District Agent, Jerry Marston with chief representative of various nasaras. The outcome of that meeting recognised Bani Siwai as custom owner of Tondor land.
3. Another meeting ensued between Nicolas and Bani on the 27th of August, 1975 over boundary dispute on the land of Nelsingwar and Tondor. It again found Bani to have ancestral right to the land of Tondor besides CCI.



4. There are past correspondence from the then British District Agent with assessors over the land attached as exhibit BS4-6 and additional communication on the same subjects listed and contained in his final submission statement.

All these record of events by far are historical facts that proves that this claimant has long time been a claimant and well recognised as a traditional owner of the land beside his main rivalry CCI.

Furthermore, chiefs representatives of most claimants to the claim have been adjudicating in these past meetings dealing with ownership issue. This very fact would without reservation clearly confirm that they had prior knowledge from their ancestors during those good days that family Molunturala is the rightful custom owner of the land. They so did by witnessing and making declarations under supervisory assistance of the former British District Agent.

More over, traditional aspect of living such as behaving for instance and acceptance of authority and ownership cannot be compared with the present context. Meaning that it cannot be judged or argued that recognising one to be the rightful owner of a land could not be validated in this modern world whereby issues must be legalized for recognition and force.

Such debate cannot apply in our circumstance where history, folklore and cultural practices are narrated by word of mouth from one generation to the next. It would suffice that once chiefs and their people accept someone as land owner and carry out any land transaction between them, in principle such person would be designated as the rightful customary owner of the land irrespective of any legalisation.

On the other hand, this party from our observation had very little knowledge over the land and the nasaras of Tondor. He could not provide sufficient information regarding other nasaras or their chiefs including any rank of big or smol faea they may have thereon the land. However, the court is satisfied in light of the evidence that Malrunvanu father of Nasom is from Betermarur nasara.

Counter claimant 1

This defendant is claiming the land of Tondor through an adoption of Edouard Tebatun from Toghvanu nasara to the patrilineal bloodline of chief Rahken of Betermarur nasara at Tondor. Tebatun had espoused Leatmerer daughter of chief Lulue of Tondorbarav. There is ample evidence placed before the court confirming such adoption to have actually taken place in the past. Listed are some of the evidence in support.



First, the majority of the claimant have not disputed his claimed adoption with the exception of CC17 who generally alleges without further evidence for corroboration that family Tebatun originated from Botor land. While, OC CC9, CC12 and CC13 have made confirmation of such adoption in their statement in court.

Added to the above findings, we noted very little dispute over his family tree. On the other hand, there is wide acknowledgment and confirmation of his ancestor such as Lulue, Leatmerer, Rahken from the majority of the disputants affirming their existence on the land and who later sought refuge at Toghvanu nasara at Vao island.

The majority of parties have confirmed that chief Malsungmelmel was the paramount chief of the whole land having his original nasara of Lesarlamb. This chief has bestowed his land rights to Leatmerer and Tebatun prior to his death. As a result of this promise, a custom ceremony was performed to Bagmemes of Nesungwar having an uncle relationship.

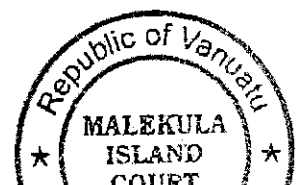
Secondly, there is common knowledge among ancestors of parties to this case that Tebatun had been adopted by Rahken of Tondor. In light of such history, they have purchased land from them. The court is persuaded that they entered into these land transaction in their complete conscience and historical belief that family Tebatun are the rightful traditional owner of the land. There is a list of people whom have purchased land from CC1.

Another important piece of evidence giving weight to his case is the fact that Tebatun has been regarded as one of the original owner and disputant of the land. His ancestors had in the past taken part in meetings over the ownership of Tondor land. A number of records explain such involvement. We do not want to re word these events as they are the same recorded meetings referred to above by the original claimant.

Those documentation of events clearly demonstrate that this claimant has for a long period of time been a claimant and well recognised by respected chiefs of surrounding nasaras of the area as the traditional owner of the land beside family Molunturala. They so did by witnessing and making proper declarations with the community level and also at the supervisory assistance of the former British District Agent.

Over all, this claimant has provided a very detailed information surrounding his claim most of which were not questioned by the opposing parties. This party is confident, reliable and a credible witness to his claim. We have no doubt over his claim.

Counter claimant 2.



Family Teilemb is also claiming the whole land alleged to be inherited by Matatyl son of Pohor. He also claims that seven other natives of Tondor other ancestors who died at Toghvanu have also given the right of ownership of Tondor land to his family.

The starting point is to make findings in regard to the existence of this past relations. In other words, this party must prove to the court with facts that Matatyl's parents have origins of Tondor. From our verification of the entire evidence presented, the findings are in these words.

First, there is no independent evidence from any chiefs from his nakamals of Toghvanu nasara confirming this history. The court would have expected chiefs from his nasara to have knowledge of such relation but none was called to testify in support.

Secondly, this claim had not been confirmed or supported by any other claimant to this case with the exception of his own brother party CC14. That leaves his case in total isolation from other common histories mentioned by most parties.

Thirdly, in custom, land is owned by a chief representing his tribe. It could not be proved that Pohor is a chief. If so, of which nasara of the land. It is common understanding that ordinary members of a tribe cannot claim land ownership on an individual basis because land is communally owned. Also land cannot be given away merely on the basis of established relationship alone. Appropriate customary processes must be followed for acquisition of land. For example, there has to be a promise or a will expressing inheritance of land ownership. In his case, nothing of that sort seemed to have been materialised.

On the other hand, CC19, Gratien Virvir is also claiming land to have been given ownership by the same seven refugees of Tondor. That leaves part of his claim into question. He failed to provide any further evidence or explanation to show why the court should uphold his version other than his counter claimant.

In addition, this party and CC14 although providing the same history have provided confusion or contradictory statements. For instance, CC2 is claiming the whole land boundary compared with CC6 claiming a smaller parcel of land areas. Noted also, Orasio in his claim provided that Narer Lumture was from Betehul and had good relationship with people of Tondor. While, Albert Marie said that Narer Lumture was originally from Tondor who re settled at Betehul nakamal. This mismatch information could not be clarified.

Another fact is that family Teilemb has been allotted land after assisting in the burial of Meltehouve of Larouroué nasara. CC1 has confirmed that information to be correct. This is in our assessment be the only event that supports family Teilemb's connection to the



land. Meaning that if there are two separate claims however, they should be talking about one history not two as noted.

Given, the above considerations we are hesitant and refuse to grant his claim for ownership of the whole land of Tondor.

Counter claimant 3

This party is disputing surrounding land areas of Betermarur nasara as land traditionally owned by his ancestor Langrup. The findings to his claim are as follows.

Firstly, there is consistent evidence proving Langrup's movement with his descendants from the nasara of Betermarur to Atchin island where they were received as refugees by family Neinvanumal. After some years of residence they were allowed to create a nasara calling it as Emilmarur named after their original nasara of Betermarur.

Secondly, there is undisputed evidence proving that while living at Atchin island, Langrup had moved to Vao island to the nasara of Toghvanu where he espoused Leatnon. On his return to Atchin island relatives at Toghvanu including ancestors of some claimants such as CC6 had accompanied him with support of pigs and food items and took part in his pig killing ceremony staged at his nasara of Emilmarur. This history is also confirmed by CC5, CC6, CC10 and CC18 through their statements in court.

While some parties and their witnesses we note during examination, have admitted having knowledge of Langrup's history as a native from Betermarur who had resettled at Atchin island in escape from tribal war and spread of disease.

Besides the above confirmed history, it was noted that there was disagreement over his family tree argued that Langrup had not married or impregnated Leiror a disable lady to bear Malsul. Our deliberation on such issue concludes that there is a balance of probability that such event as told to be probable. Particularly, when considering the facts that Langrup had such affair with Lieror after the death of his wife Leatnon. We found it logic and sensible that given the event a compensation ceremony to show forgiveness was performed by Lanrup to Leiror and his family.

In light of the evidence presented above, we are satisfied that Langrup and his present descendants have origin of Betermarur nasara a smol faea of Tondor land.

Counter claimant 4



Richard Maltaus is claiming parcels of land known as, Lahese wone aute, Mel, Wab, Batnamol and Hone as land originally allocated to his family through his ancestral great grand mother claimed to have originated from Tondor land.

He had told the court that Lahese wone aute was given to Titlang. Ousnato of Tondor allocated land of one of their grandfather Meltehamani on cultivation to date .Other land claimed were also given by relatives or brothers of their ancestral mother.

Generally, his claim has loose ends since he could not provide any concrete available evidence to convince the court as to why he should be granted ownership as sought. This contestant has no witness to his claim. He could have called a chief or other independent members of his nasara or community to testify on his behalf. He choose not to utilise that opportunity.

Our immediate note is that he could not provide whether any of his unknown uncle is a chief of a nasara within Tondor even Titlang's mother and brothers are not known. These missing information are important for purposes of reinforcing his case.

Secondly, one of his ancestor Chief Remo Maltaus during the 1975 meeting chaired by Jerry Marston was acting as an assessor and chief representative who adjudicated that family Bani beside CC1 are the custom owners of the land.

For the reasons, discussed we refuse to grant his claim of ownership.

Counter claimant 5

Alfred Rory is claiming a parcel of land known as Tosone land claimed to have been allotted to his ancestor Sive by Tilei of Tondor land.

This claimant is on the same lane as CC4. He has no witness to his case. He choose to speak for himself without assistance. There are unknown reasons for such gesture which we ought not to investigate.

Firstly, he could not provide whether any of the mother's line are chiefs or traditional owners of any nasara of Tondor. Added to that it was told that Tilei did not perform any namagi at Tosone. That is an indication that Tilei is not a chief. Only chiefs could own land on behalf of their people. Our conclusion is that the two female ancestors are ordinary residents of Tosone. Therefore, his claim would be barred in consideration of other parties claim considered founded on the patrilineal system.

Secondly, every party to the case are disputing his claim of ownership including his family tree. He has admitted that his ancestor Ririhal to have originated from Orpatara

North west Malekula. This evidence is judicially noted to have been admitted in the land case no.11 of 1993.

Thirdly, one of his ancestor Desire took part in the 1975 meeting chaired by Jerry Marston as explained above when assessing CC4's claim. On cross examination, he has also made confirmation of CC3's claim over Betermarur land areas which he is also claiming. Such admission has further complicated his present claim. He failed to clarify his position.

We note that this claimant is a relative of CC10 having close relations with family Langrup through Gaston Rory. After having ruled in favour of CC3's claim, we are of the view that this party should remain under the patrilineal line of Langrup.

The gathered facts highlighted above, would conclusively defeat his present claim.

Counter claimant 6

Jeannot Malcekan is claiming a right of use over certain parcels of land situated within the land in dispute as land owned by ancestors of Belour namely Leatmolmol and Lulue of Tondorbarav. We note from his history that Belour allocated land to Leatwinim, Meltebourkani, Naklan and Meltemaloum land areas namely Nighe Ne Levirangan, Louehouragh, Labetra, Lemelmol, Lakhese, Limbare, Lesalmeru and Lebebe all situated within Tondorbarav land areas.

These land territories we note are scattered all over the land in dispute. There is evidence provided before this court that Lulue is indeed a chief and native of the land of Tondor. This piece of evidence has been widely confirmed by the majority of parties.

It was also told that Chief Saut a representative of Betehul nakamal was also mentioned as an assessor to past meetings over the land of Tondor between CC1 and the primary claimant. The same points explained above in regard to their prior recognition of CC1 and OC as the traditional owners of the land in dispute would be applicable here.

Besides, some of his ancestors listed in his family chart have been disputed like Toralil also claimed by CC12 and Torambabarough disputed by CC4, CC19 and CC20. This is a direct result of the current chiefly title pending before the court.

As such, his claim for a right of use will stand by reasons of confirmed information that Lulue and Leatmolmol of Tondor were involved in such land dealings. He shall remain under the supervision of the declared custom owners.

Counter claimant 7



This party is claiming land ownership of Betermarur as land been allotted to his ancestor Vevele by way of compensation for the death of Lel and Tilei.

He had difficulties explaining his family tree especially that relating to Nahavalime family tree because according to his history Lel and Tilei had died during the war without getting married. It is therefore unclear as to who fathered Nahavalime.

Added to that he could not specify and identify which chief of Tondor had allocated his family land. Was it Raken or some other chiefs? He was silent on these questions.

Besides, it was told that in custom land cannot be given away to another tribe as compensation payment for any death. In practice, human being would be exchanged in return for any loss of life to the affected family or tribe.

Additionally, he failed to call any witness in support of his case. The rest of the parties had told the court that they had no knowledge of his history. Generally, we noted this party to have provided a very short history with no evidence for back up.

For the reasons explained, we entirely refuse to accept his claim for ownership.

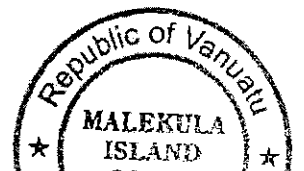
Counter claimant 8

Family Maleb is claiming the land of Tondor on the basis that his ancestor Lahal Beteruhu had been trading by way of bartering known as Totomalas with natives of Tondor. This custom trading is usually performed at the sea passage of Lawor between Tondor and Vao dwellers. Tehghor of Tondor had allowed his ancestor to have ownership of the land surroundings of Lawor sea passage.

The court having perused his presented claim found very little support of evidence to substantiate his claim.

First, he seems to be unsettled over his own claim. It is noticed, that a few days before trial he had submitted a joint statement and adding some more names to his family tree without leave of the court. Such irregular conduct has attracted a lot of question from the court and the parties.

Secondly, he had no witness to his claim. Added to that, there rest of the parties could not confirm his history as told. It was argued that in custom, land cannot be given away simply by virtue of the practice of *totomalas* (traditional exchange practice) alone. The court having enquired into the subject, is of the same view.



Thirdly, it is obvious that the same Tamat Bagher claimed as original ancestor is also disputed by CC5, CC10 and CC15. The court could not resolve this issue given lack of producing some evidence on his part to secure his claim.

In light of the foregoing discussion, his claim for ownership must fall as found.

Counter claimant 9.

This party claims ownership of 3 plots of land located within Tondor land. His ancestor had bought two piece of land from chief Rahken ancestor of CC1. The third plot was given as a gift for his ancestors assistance towards the burial of Meltehouve of Tondor.

In consideration of these past land transactions and the rules forming the basis of land ownership, he has acquired his land from the rightful traditional owners. The court accepts this party's claim to have a perpetual ownership over the purchased land areas and be given a right of use on the third plot allotted for his help towards Meltehouve's funeral rite.

Counter claimant 10

Briefly, this court had accepted CC3's claim over Alfred Rory's claim above ruling that Langrup is a native and customary owner of Betermarur nasara. It is therefore not necessary to dwell on for further findings to his claim. Family Rory is disputing the land areas of Betermarur nasara claiming it as land originally owned by Lewusakle daughter of Langrup of Betermarur.

In consideration of the basis of his claim, we conclude that CC10 will remain under the authority of CC3. Any issue of whether he has any right to the land will be an issue to be sorted out in their nakamal according to custom.

Counter claimant 11

This party is claiming certain parcels of land acquired through custom payment and bloodline relationship of chiefs of Tosone and Norotrot.

In summary, he claims that Betermarur land was acquired by way of the matrilineal bloodline of Letour daughter of Melterurutan chief of Betermarur. Letour had wedded Atmatan. Melterurutan had told them that their children would inherit land ownership of Betermarur because his elder brother Melteror had migrated to Atchin island. In respect of Tosone land, through Meltekoun who had asked Teares to pay the land

30 *manha* traditional money. While, the land of Norotrot through chief Meltekral who had no son and decided to grant ownership of the land of Norotrot to her daughter Leatnavor who espoused Rensrens.

The court upon determination of his history is hesitant to accept his claim based on the following grounds.

This claimant on cross examination, had argued that Norotrot and Betermarur do not form part of Tondor land but a territory having its own independent boundary. His argument could stand given his shortfalls noted by the court.

Firstly, he could not explain as to which land boundary his ancestors belong. This information is required of him because in practice land boundaries would have a paramount chief with traditional frontiers. In our case, he could not provide those information. Nor is Melterurutan or Meltekral is the high chief or big faea of the purported land territory. Our verification of the land surroundings during the visit does not correspond to his perception. In our judgment it is still a part of Tondor land.

Secondly, there is no evidence or acknowledgment from other parties to confirm that Melterururan and Meltekral are chiefs of the area he claims. Most of the parties to the case have no idea of his claim.

Further, it was also noted that this party and CC13 have originally claimed as a joint party. They have split into two groups now disputing each other more particularly in relation to their family tree which could not be resolved by the court given lack of evidence.

Based on the findings as advanced, we decline to accept his claim for ownership.

Counter claimant 12

Family Melterongrong claims on the fact that his ancestor Toralil who was adopted by chief Meltever of Tondorval.

There is information adduced before the court, indicating that such adoption was witnessed whereby Meltever offered a pig valued as *Tevtev* to Meltekleran at Lamatnamaki, Vao island. Jean Luc Melterongrong, CC1 and CC19 have also confirmed the adoption of Toralil to Tondorbarav.

With respect to his second claim, it is clear from the evidence that Robert was not adopted but simply looked after by Nasung.

Given our deliberation in regard to his claim, he will be granted a perpetual right of ownership over the land areas of Tondorval nasara.

Counter claimant 13

This defendant is claiming the land of Norotrot following traditional relationship established between Namak of Tondor and his ancestor chief Melteseven Meltemal .

This party on cross examination, had difficulties in corroborating further evidence in support of his claim. We noted the following weaknesses on his part.

First, none of the parties in this case ever mentioned or heard of chief Namak. It is also not clear whether Namak is a chief. He could not identify Namak's nasara of origin and chiefly status if any. On examination, Clovis had told us that Namak is not a chief but having some relations to chief Rahken of Betermarur. Therefore, if Namak is not a chief then it is very likely that he would absolutely have no authority or right to give away any Tondor land to another tribe as his case suggests.

Besides, there is confirmed evidence suggesting that his parents have also purchased land from CC1 which he does not dispute.

Needless to further investigate and make findings we are not satisfied with his claim. However, since he has purchased land from CC1 pronounced as customary owners, he will be granted a perpetual right of ownership over the land he has occupied to date.

Counter claimant 14

Teilemb Melteousi Albert Marie is related to CC2. He is providing the same history presented by Orasio Teilemb. Briefly, this claimant is only claiming the land of Tondorbarav as land allotted to his ancestor Matatyl.

Meltehouve who originated from a smol faea of Tondor had looked after Melteousi a descendant of Matatyl at Tondorbarav. He then gave right of ownership of Tondor barav to Melteousi.

Generally, there is evidence placed before the court stating that Meltehouve is a native of Tondor land. That is confirmed by several parties including CC1. However, it could not be proven that there was any custom ceremony performed publically in witness of such handing over of ownership right. In the absence of any explanation to this missing information, we found that the only possible story in answer to the query was that such land presently claimed has actually been allocated to the claimant by ancestors of family

Tebatun after the death of Meltehouve as a reward for their assistance towards the funeral ceremony of Meltehouve.

After considering the entire evidence he has presented and taking into account CC2's claim, we have arrived with a conclusion that he will be given a right of use over the land he presently occupies and remain under the direction of the declared owners.

Counter claimant 15

Chief Cesar Samy in a short statement is claiming four different piece of land situated inside the land of Tondor namely Lesar Rasum, Lawor aute, Lawor and Beker. He claims that his grand parents have purchased these plots of land from Melteheary and Nasom of Tondor. The same Nasom who has been adopted to the nasara of Venuelamb claimed by the principal claimant.

Our analysis of the evidence provided suggests the following findings.

First, there is no evidence proving that Melteheary is a chief and or that he had performed any namangi and at any nasara. There is also no chief or person witnessing the said land sales.

Secondly, this party has been originally a witness of the original claimant but decided to stand as a new party to the claim. There is confirmation of land payment from family Molunturala.

It also transpired from the evidence that the same Tamat Bagher claimed as original ancestor also disputed by CC5, CC10 and CC8. He could not provided sufficient evidence to prove his ownership of Tamat Bagher.

In consideration of land payments, he will have right of use over the land he claims and remain under authority of the declared owners of the land he occupies.

Counter claimant 16

Pierre Telukluk disputes that the land claimed by family Molunturala has exceeded its traditional territory overlapping with land areas of Tonvalevar land. He argues that Tonmalevar territory covers Lehuru river, Saralivo, Viavor stream down to the coastal shoreline. The findings in respect to his claim are as follows;



Firstly, we noted him to have admitted that Mataru is the last survivor of Tolamb island as authored by Johnson Leyard in his book called *Stone men of Malekula* is true. Meaning Mataru who appeared in his family diagram is not a member of his tribe as outlined.

Secondly, none of his chiefs had taken part in any of the five nasaras namely, Lesar Lebou, Lesar Molete, Lesar Natalal, Lesar Asum, Lesar Lambarmumbun, Lesar Tambi he claimed to have created by Tolamb refugees cannot not be true. Historically, these refugees could never be allowed in a foreign land without permission of land lords. It is impracticable, because realistically any intruders trespassing into an unknown territory with such kind of activity would be a dangerous and risky mission.

Thirdly, none of his chiefs had created any nasara inside the claimed boundary. That would simply indicate that the land does not belong to his ancestor. He could not name Tondor's paramount chief and his claimed chiefly title is in dispute.

Another fact is that the majority of the claimants have disputed his claim labeling it as false. His adduced evidence in defence could not convinced the court for any favour.

From the evidence and the reasons explained, we decline to accept his claim. The land he claims is still part of Tondor land.

Counter claimant 17

Michel Malkali is disputing the land of called Lesar marur (Betermarur). He told the court that chief Siar of Betermarur had adopted Malkali.

Evidence shows that CC2 and CC14 are also claiming the same ancestor Siar but with no mention of any adoption. The rest of the parties could not either confirm his history.

Equally, noted this party and family Teilemb have initially filed a joint claim appearing as a party to the claim. He has decided to withdraw and become a new party. It was told that he had kept his history hidden for many years and now wants the court and parties to know that he has traditional connection to the land he claims. However, he did not have enough evidence to prove his case.

This party is also not certain with his claim even during trial when he sought leave for further amendments to his family tree by adding 3 more ancestors namely, Tuli being the first generation and followed by Narer and Siar. This inclusion has further attracted heated discussion among concerned parties disputing the same person. He had nothing more to provide in support of his side story.

Additionally, his ancestors have not performed any namangi at Lesar Marur the land he claims.

Given his irregularities and uncertainty, his claim for ownership will not stand.

Counter claimant 18

This family is claiming land areas he is in possession namely, Lamor, Belebel and Beter within the land of Betermarur nasara. He provides that through social relations with his ancestors, Verengle of Tondor allocated Beter land to Meltevielser and his family along side other plots he had purchased.

During questioning, he clarified that he is claiming a right of use over the three pieces of land. It is noted that Lamor land areas is also claimed by CC19 family. He failed to substantiate his side story with relevant evidence to show that he should be believed other than his opponent.

Secondly, this family failed to prove that Verengle is a chief of Betermarur. In our verification of the entire evidence they would be ordinary natives of Tondor land. Thus, in custom they would have no authority to convey or allot any land to other tribes as claimed. Equally there is no evidence of ceremony to confirm such promise or customary will for land ownership. The majority of the claimants have stressed to have no idea of his history.

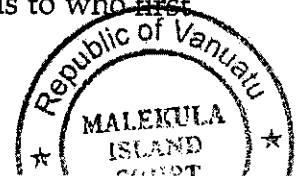
Having heard and considered the evidence adduced before the court, his claim for a right of use will not be guaranteed on grounds that he has not purchased or been allocated land from confirmed or recognised chiefs of Betermarur nasara.

Counter claimant 19

Family Virvir claims that Malorong of Tondor prior to his death gave 3 pieces of land to Lamatnamaki nakamal claimed to be headed by his family. These parcels of land are located at Lakhese, Lamor. Titlang of Tondor has also allocated them land as well.

This party provided very limited information to the court leaving his claim with missing gaps. Among others here we list a few.

First, he is claiming Lamor among others which is also specifically disputed by CC18. Both disputants including himself could not provide by way of evidence as to who first occupied the land.



Secondly, this family failed to prove that Malorong who is one of the seven refugees of Tondor whom had died and buried at Vao island or Titlang are chiefs. In our assessment of the entire evidence they would be ordinary natives of Tondor land. Thus, in custom they would have no authority to convey or allot any land to other tribes as seen in this claim. Equally there is no evidence of ceremony to confirm such promise or customary will for land ownership. The majority of the claimants have stressed to have no idea of his history.

Moreover, he claims to be a big faea but could not name chiefs of three nasaras of Lamatnamaki, Lavakvak and Beter. His purported position as big chief is still largely in dispute which he does not deny. Adding on, there is heavy argument put against his claim by CC6 alleging that he has stolen parts of his family tree adding it to his chart from Tevanu dating back to the first generation as outlined. He failed to defend himself with any reasonable explanation by way of rebuttal to the claim.

In light of the foregoing discussions, this claimant has failed to clear his case leaving it full of unanswered questions. As such we decline to accept his claim.

Counter claimant 20

The basis of Family Liliord's claim is founded on relationship by way of Totomalas made between chief Lulue of Tondor and Meltevahangavul of Latamb. He submits that in accordance with the connections, Lulue had allocated 6 pieces of land to his family.

Lavisarsar na mere, plot of land was given as a pride price of Lenabul. Lotone aute and 2 other terrain at Lotone ala were allocated for Lenabul's gardening purposes. Lereng was allotted for a performed custom known as *boroughoun* while Tosone was given by Nicolas Kota after Irena Liliord had donated a pig valued at VT30,000 towards Daniel Neirove's pride price for marrying Edouard Melterovo. His family had been cultivating such land since the early 1970's to date.

There no much dispute over his claim as most of the land he is disputing have been allocated by chief Lulue of Tondorbarav. The only disputing evidence is that relating to this ancestor Torambabaru also disputed by CC4, CC6 and CC19. The court is yet to make finding on that issue in the current chiefly title dispute pending before the court.

For the above finding, this party is granted a right of use over the land he claims. He will also remain under the direction of the declared owners.



Counter claimant 21

Gregoire Barthelemy produces evidence that Meltever of Tondor had good relations with Melteluke from the nakamal of Toghvanu, Vao island. On an occasion Meltever build a cultural house and in its inauguration, Melteluke donated 100 poultry towards the opening ceremony. Prior to his death he made a will that upon his death Melteluke will have ownership of the land of Lemelmol.

The evidence shows that Meltever is a chief from the nasara of Tondorval. This is confirmed by some other parties such as CC1, CC12 and others. Secondly, he has proved that there was a custom process undertaken to reinforce such agreement when he took over Meltever's funeral expenses besides other families.

It was not disputed that village court has declared a portion of the land in his favour on the 1st day of February, 1984. A copy of such decision was made available to the court for verification.

As such, he will have a right of use over the land of Lemelmol which is situated within Tondorval land areas. He will remain under the authority of the declared owners besides other claimants stated above.

DECLARATION

In light of the totality of the evidence gathered in this proceeding and in application of the law and custom, the court declares as follows;

1. That family Tebatun, CC1 and their descendants are the customary owners of the land of Tondor.
2. While, the land areas of Betermarur nasara is jointly owned by family Langrup , CC3, Molunturala, OC, Tebatun, CC1 and their descendants. Description of Betermarur land would be that described by CC1 in his land description filed in court.
3. That CC5 and CC10 will remain under the authority of family Langrup, CC3.
4. That the claims advanced by defendants such as CC2, CC4, CC7, CC8, CC11, CC16, CC17, CC18 and CC19 are dismissed.



5. That parties such as CC9, CC12 and CC13 whom have purchased land or acquired land through proper custom processes with the rightful owners shall have perpetual ownership of their land areas as claimed.
6. That CC6, CC14, CC15, CC20 and CC21 are given a right of use of the land they claim. They will remain under the authority of the declared custom owners of the land of Tondor.

A sketch map of the declared land territories to the successful parties is attached to this decision.

For ease of clarity to the parties, 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. As such, it is further directed that that every person currently in use of the declared land undertake to cause appropriate arrangements with the declared owners to accommodate their continuous use of the land.

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

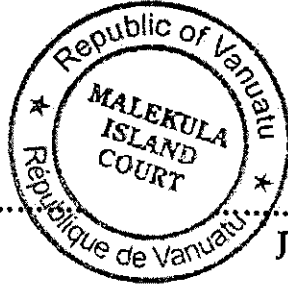


Dated at Lakatoro this 7th day of August, 2015

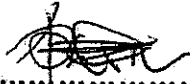
BY THE COURT



Justice Douglas Fatdal



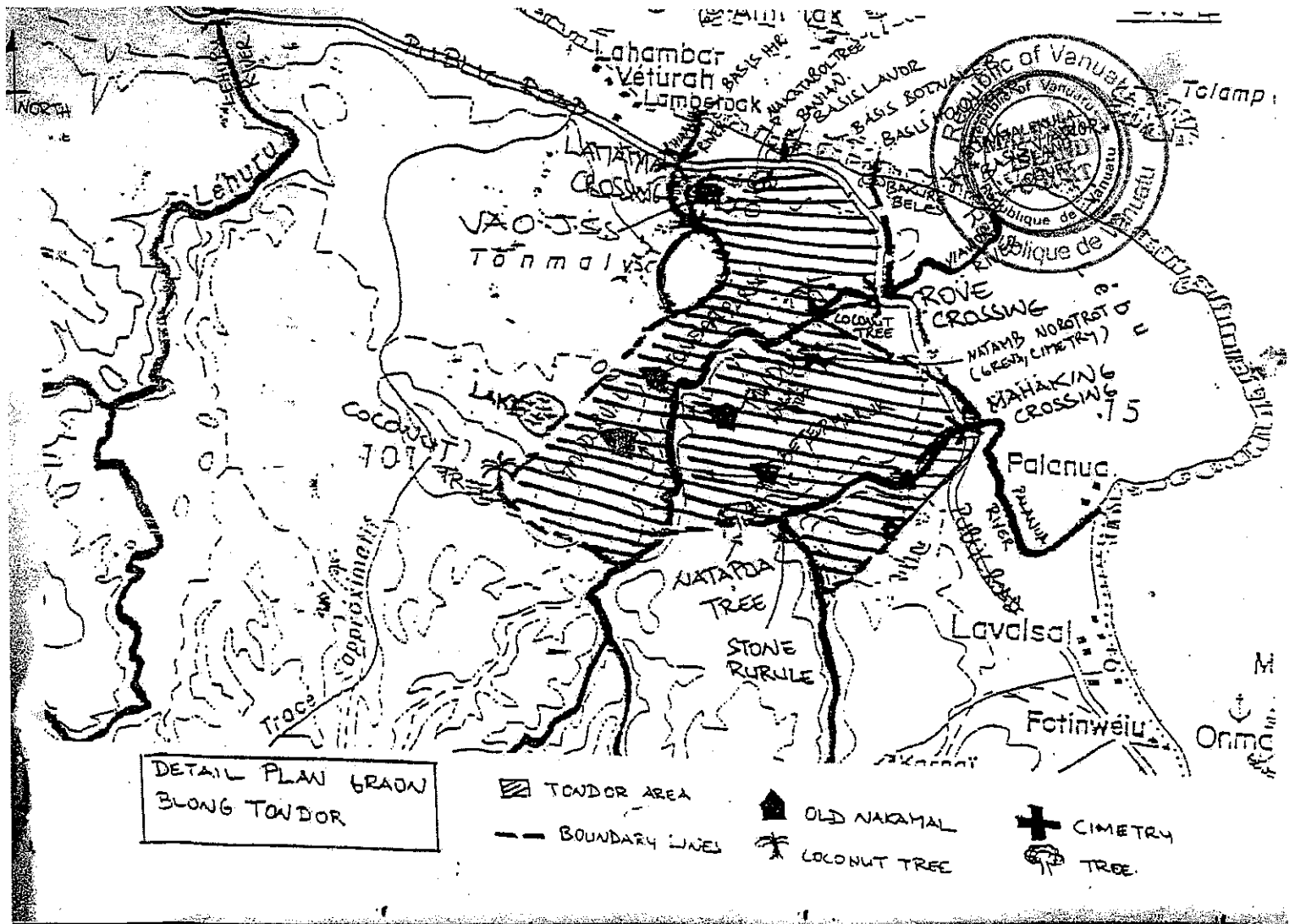
Justice Robert Niptik



Justice Shema Tasvalie



Magistrate Edwin A Macreveth



DETAIL PLAN GRADN
BLONG TONDOR

▨ TONDOR AREA
--- BOUNDARY LINES

🏠 OLD NAKAMAL
🌴 COCONUT TREE

✚ CIMETRY
🌳 TREE