

BETWEEN : WAPINA TAMASUI  
(Applicant)

AND : THOMAS GILA  
(Respondent)

JUDGMENT

The parties appeared before me on the 23rd June, 1987. The applicant was represented by Mr Rissen, the Public Solicitor, the Respondent appeared in person.

The parties commenced living together in 1982 and Kylie the daughter was born on the 10th February, 1983. The arrangement between them was suitable until querrelling started in 1985 and the Respondent took Kylie to Ambae with the consent of the Applicant but left her there and refused to return her to Vila.

The applicant is a teacher at Ecole Publique earning 15,900 VT per month and now lives with a Taxi driver in a two bedroomed house, near the airport. They hope to get married after the birth of the child she is now carrying.

The Respondent opposes custody of the child Kylie to its mother. He states he wants the child and the mother can have access to the child when it grows up. I had the advantage of being advised in custom by two advisers, one named Iaruwoi Russel from Futuna and John Morris Tari from Ambae, the parties coming from those two areas.

I am advised that if a man and girl live together but are not married, a child of the union, upon separation, belongs to the mother with access to the father should he so wish.

As it is clear to me that the child would be better cared for by its own mother and the care of the child being of paramount importance.

I Order that custody of the child be granted to the mother but the father to have reasonable access to the child.

Further I Order that the child be returned to Vila from Ambae before the end of this month by the father and given to the mother and lastly that the father pay costs in the sum of 21,000 VT. 7,000 VT to be paid at end of June, 7,000 VT at end of July and 7,000 VT at end of August, 1987.

Dated at Vila this 23rd day of June, 1987.

*Frederick G. Cooke*

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CHIEF JUSTICE