

IN THE HIGH COURT OF KIRIBATI
(BEFORE B SUTTILL C.)

HCLA 49/90

Between	Ngatau Tauro and the descendants of Nabuti Temamang	Appellants
And	Parties to the judgment in HCCivC 36/78 namely Arikitau Kaka and Taake Nabuti	Respondents

HCLA 79/90

Between	Kanoan Terangamwi Teariki	Appellants
And	Kanoan Terauamwemwe Teariki	Respondents

HCLA 14/91

Between	Ngatau Tauro	Appellant
And	Arikitau Kaka Taake Nabuti and another	Respondents

JUDGMENT

Despite the variety of named appellants and respondents in these three matters each case turns on the same point. Germane to each case is the petitions to the Chief Justice dated 10 February 1990 and 14 March 1990. These petitions are signed by a number of the grandchildren of Nabuti Temamang of whom three, Katarina, Tetewea and Veronica have been present before us in these proceedings. Taake Nabuti, the respondent in the first and third case was also present.

The three ladies present were not at all sure of the substance of their case as the papers in court, they told us, had all been prepared by lawyers. The history of this matter is briefly this. The Lands Court Appeals Panel (LCAP) in 11 of 1974 divided the rents from Antebuka 835-0 into three parts.

This decision was confirmed by that body in 1977 (Case 42) and 1978 (Case 11) LCAP 11 of 1978 was appealed to the High Court in High Court Civil Appeal 36/1978, which affirmed the LCAP decision. Part of the LCAP decision was that a portion of the rents from the land was to go to the descendants of one Taokai Tiroia.

On 7 September 1988 in BA 25/88 the Magistrates heard a case the result of which was to delete the reference to Taokai Tiroia and his descendants in the land register.


BA 25/88 was appealed in HCLA 185/88 in which, in the light of the history of the case and, he said, the finality of the decision in HCCivA 36/78, Maxwell CJ allowed the appeal and restored Taokai Tiroia and his descendants to the register.

Now two appeals appear in 1990 (the first and second appeals) which are explained to Maxwell CJ as applications to set aside HCCivA 36/78 and HCLA 185/88 on the basis that the fons et origo of both of them i.e. LCAP 11/74 was obtained by fraud. In 1991 HCLA 14/91 is filed which is an application for leave to appeal out of time that LACP 11/74.

Leaving aside any question of indefeasibility of title that will have arisen upon registration of a distribution made in 1974 this court had already, by 1990, declared the respective rights of the parties on two separate occasions. However on 25 May 1990 when the first and second appeals made their first appearance before Maxwell, C.J. he clearly was inclined to entertain them. I am totally bereft of understanding of his approach. He has clearly given the appellants expectations to which they are not entitled, and his ignorance of the law is quite reprehensible. It is now left to us to tell the appellants, some five and a half years later that their appeals are incompetent. However this is clearly the case and the first and second appeals are dismissed and leave to appeal out of time in the third appeal is refused.



B SUTTILL
Commissioner


Tekaie Tenanora
Magistrate
(7/2/96)




Betero Kaitangare
Magistrate
(7/2/96)