

IN THE HIGH COURT OF KIRIBATI 2011

CIVIL APPEAL NO. 13 OF 2011

	[KAITIRO KABUAUA	APPELLANT
BETWEEN	[	
	[AND	
	[	
	[CHIEF EXECUTIVE PUB	RESPONDENT

Before: Hon Chief Justice Sir John Muria

13 June 2012

Mr Raweita Beniata for Appellant  
Ms Taaira Timeon for Respondent

**JUDGMENT**

**Muria CJ:** This is an appeal against the Magistrates' Court in Civil Case No. 567/2010. The claim before the Single Magistrate was over "Rectification of bill" and when he was later asked to particularize or explain his claim, he stated that "My claim is for the disconnection of my electricity". In addition, the appellant also complained that the meter was not reading from "1994 to 2004".

The appellant relied on three grounds of appeal, namely:



- 1. The Single Magistrate erred in law in deciding on the liability of the Appellant to pay the bill and not on the nature of the claim before it;**
- 2. The Single Magistrate failed to decide on the central legal issue of whether or not the electrical meter of the Appellant is reading between 2000 and 2004;**
- 3. The verdict is against the weight of evidence.**

In his submission, Mr Beniata of Counsel for the appellant sought to confine his argument on the issue of the "meter readings from 2000 to April 2004". Thus says Counsel, the only issue before the Magistrates' Court was whether the meter was reading at all or not. It was submitted that the Single Magistrate was wrong to decide on the question of the outstanding electricity bill of the appellant.

Ms Timeon submitted that the Magistrates' Court decided on the question of the meter reading and then properly proceeded to deal with the outstanding bill because it all forms part of the appellant's case. That, says Counsel, was clarified when the appellant was asked to particularize or explain his claim.

The Court has had the benefit of reading the written submission, and hearing Counsel orally in argument. Having done so and having read the transcript of the proceedings before the Magistrates' Court, the nature of the claim by the appellant before the Single Magistrate was such that it cannot be said to confine to the meter readings only. The whole case of

the appellant on the evidence before the Magistrates' Court was to do with the readings of the meter and the resultant amount outstanding as a result of the readings or non-readings of the meter. The submission by Ms Timeon in this regard is apt.

The evidence both for the appellant and respondent demonstrated that the decision of the Single Magistrate and reasons supporting the Magistrates' Court decision were clearly justified.

The Single Magistrate dealt with the issue of whether the meter was reading or not between 2000 and 2004. In her judgment the Single Magistrate dealt with the evidence and said that:

***"It is from these facts that the Court saw that the Plaintiff had not been able to show that his meter was not reading from 1999 to 2003. He also could not show or prove that it was his \$25 deposit only that was the only entry shown on his card at the time his meter was not working. Whereas the Defendant showed from all of her records the record of Kaitiro's meter reading and that its reading was exactly started from 31/01/2001".***

Thus it was inevitable, and quite properly so, the Single Magistrate went further and ordered the amount outstanding must be cleared. There was documentary evidence from the three defendant's witnesses, the Meter Inspector, Meter Reader and Cashier, to establish that meter readings



were done since 31 January 2001 and that the amount shown in the outstanding bill was the result of those readings.

There was evidence abundantly clear to support the finding of the Single Magistrate in this case.

For all the above reasons all the grounds of appeal cannot be sustained. The result is that the appeal must be dismissed.

Appeal dismissed. No order on costs.

Dated the 13<sup>th</sup> day of June 2012



**SIR JOHN MURIA**  
Chief Justice