



## HIGH COURT OF KIRIBATI

*Land Appeal N° 47/2017*  
*Land Appeal N° 33/2018*

**KANOANIE TENAMOKAI  
and TETIRIA TEKAITI**

*Appellants*

**v**

**NEETI KIRITAAKE (for the issue  
of KIRITAAKE TUTOKORAU mt mm)**

*Respondents*

*Tabibiri Tentau for the appellants*  
*Banuera Berina for the respondents*

*Date of order: 18 April 2019*

### **ORDER**

- [1] In case BikLan 822/15 the appellants commenced proceedings in the South Tarawa Magistrates' Court seeking the return of land known as Urano 652e in Nawerewere from the appellants. The appellants alleged fraud at the time the land was registered under the names of the respondents' predecessors in title by the Lands Commission in 1948. On 23 May 2016, the Single Magistrate found that fraud had not been proved and she dismissed the claim. A notice of appeal against that decision was filed on 21 June 2016 (Land Appeal N° 47/2017). On 19 July 2016 the Single Magistrate stayed execution of her earlier decision pending the hearing of the appeal.
- [2] In case BikLan 573/18 the respondents applied to the same Single Magistrate for an order that the appellants be evicted from the subject land. On 24 April 2018 the Single Magistrate found for the respondents and ordered the appellants to vacate the land within 1 month. A notice of appeal against that order was filed on 18 May 2018 (Land Appeal N° 33/2018). On 17 July 2018 the Chief Justice stayed the execution of the eviction order pending the hearing of the appeal.
- [3] Both appeals came before the Court on 27 July 2018, at which time they were adjourned until 30 August, with an order that they were to be heard together. On that day, counsel for the appellants asked for an adjournment, to allow

him to obtain further instructions from his clients regarding a possible amendment to the grounds of appeal. Despite the objection of counsel for the respondents, the Court granted the adjournment, until 13 September, but counsel for the appellants was warned that no further adjournments would be given.

- [4] For reasons that are not clear, the appeals did not come back before the Court until 28 March 2019. Counsel for the respondents was then unavailable so the matters were adjourned until 4 April. On that date counsel for the respondents was again unavailable, so a further adjournment was allowed until 18 April.
- [5] When the appeals came on for hearing on 18 April, counsel for the appellants asked for yet another adjournment, to reconsider the appellants' position and possibly file amended grounds of appeal. Counsel was reminded that he had used a similar excuse when seeking the adjournment on 30 August 2018. He was also reminded that the Court had said then that there would be no further adjournments. His request was refused. As counsel for the appellants was not in a position to proceed, both appeals were struck out for want of prosecution.
- [6] The appeals having been dismissed, this Court confirms the decisions of the South Tarawa Magistrates' Court in BikLan 822/15 and BikLan 573/18. The appellants are to leave the subject land immediately.
- [7] The appellants are to pay the respondents' costs, fixed at \$250 (which sum includes the \$75 awarded to the respondents as a consequence of the adjournment on 30 August 2018).

  
Maria Teretia Kaiboia  
Magistrate

  
Lambourne J  
Judge

  
Rine Ueara  
Magistrate

