



SUPREME COURT OF NAURU

[CIVIL JURISDICTION]

Civil Suit No. 03 of 2018

Between

ANGELINA SAMSON a.k.a
ANGELINA TEMAKI,

Plaintiffs

And

DING DING JODIE BAM

Respondent

Before:

Chief Justice Filimone Jitoko

For the Applicant:

S Valenitabua
Public Legal Defender

For the Respondent:

V Clodumar (Pleader)

For the Nauru Lands Committee:

M Eoe (Pleader)

DECISION

The court need not to go into the details of the legal arguments made before it on whether the Nauru Lands Committee should be made a third party by the plaintiff but the defendant in the counter-claim by the original defendant to the suit. It is enough to summarise the relevant considerations as follows:

1. Nauru Lands Committee made a determination in 2010 and allocated the dwelling house on portion 157 Ewa district to Angelina Temaki (as per Footnote to 2 of the GN524/10)
2. The land itself on which the dwelling house is situate was also inherited to the extent of 1/27 share, by Angelina.
3. With efflux of time including the movements in and out of the dwelling house of Angelina and her family, she now finds that she cannot get back into the dwelling house, being denied by the defendant, the present tenant.
4. The present tenant and the defendant to the original suit contends that the dwelling house otherwise known as MJRose restaurant was abandoned and she moved into occupation only after carrying out extensive repairs to the building.
5. In any case the defendant/respondent is challenging the Nauru Lands Committee's decision as ultra vires.

These in the courts view, are the only relevant factors to be considered in determining the merit or otherwise of the issuance of a third party proceedings.

The application to issue third party proceedings is made pursuant to order 13 rule 1 of the Civil Procedure Rules 1972.

Again without going into detailed explanation and analysis of the provisions of Order13 r 1, it is sufficient for the court to decide that, as submitted by counsel for the Application, the relevant provision is Order13r1(c) which requires Nauru Lands Committee to come before the Court and clarify the decision that is made in 2010 for "House Ewa (MJRose Restaurant)" to go to Angelina Temaki and the context, if relevant to the decision. It is simply that, It is not about liability of or indemnity by the Nauru Lands Committee that is being sought.

Leave of Court is required in accordance with Order 13 r 2. The nature of the claim is adequately explained in the application.

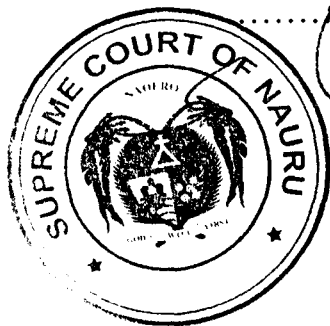
Leave is hereby granted.

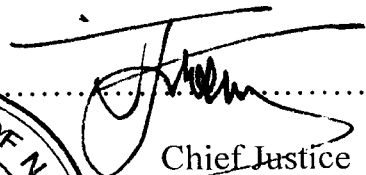
As the Nauru Lands Committee had already been served with the necessary documents, it now enters the fray as the third party and the Nauru Lands Committee is hereby ordered to enter an appearance as the Third Party.

All is left is for the Appellant to apply to the court for direction under Order 13 r 4.

Matter is adjourned to 3 September 2018 at 10.00 am before me

Dated this 17th day of August 2018




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Chief Justice

Filimone Jitoko