

**IN THE HIGH COURT OF NIUE  
(LAND DIVISION)**

**Application No. 12010**

IN THE MATTER OF Section 44(2) Niue Amendment Act (No. 2)  
1968 and Rule 12(1) of the Land Court Rules  
1969

AND

IN THE MATTER OF the land known as PART ULUMAGO SECTION  
1 AND 2, LIKU DISTRICT

BETWEEN ENELETAMA KAIUHA, AHITAUTAMA  
MAKAEA-CROSS AND NEWLAND  
POUMALE  
Applicants

AND SIONETASI PULEHETOA ON BEHALF OF  
THE LIKU EKALESLIA CHURCH  
Respondent

Judgment: 29 June 2020 (NZ time)

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**JUDGMENT OF CHIEF JUSTICE C T COXHEAD**

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**Introduction**

[1] On 20 May, Eneletama Kaiuha, Ahitautama Makaea-Cross and Newland Poumale applied for an injunction against Sionetasi Pulehetoa and the Liku Ekalesia Church. The purpose of the injunction was to stop the construction of a tower for 4G network on Church land, known as Part Ulumago Section 1 and 2.

**The parties' positions**

[2] The applicants claim:

- (a) That the establishment of the tower was done without the consent of the descendants of the ancestor Tulagi; and
- (b) The land is still disputed as Ms Kaiuha has an application before the Court seeking a change to the leveki.

[3] This injunction application is a continuation of several cases that have been before the Court. I dealt with an application from Ms Kaiuha seeking to change the leveki for this land on 9 of November 2016. In that case I was not satisfied that Mr Holo Tafea, one of the leveki on this title should be removed. Therefore, he remains on the title as leveki. I also made orders for the appointment of Reverend Arthur Pihigia and Mrs Tulisa Thomson to be leveki.

[4] Judge Isaac dealt with further applications from Ms Kaiuha, Ms Ahitautama Cross and Mr Newman Poumale on 21 March 2018, in relation to a rehearing of my 2016 decision. He dismissed that application for rehearing.

[5] The Court has received notice from Mr Pulehetoa on behalf of the Liku Ekalesia Church opposing the application for an injunction. They oppose the making of the injunction on the basis that:

- (a) There are matters now before the Court, involving the Church lands which require the full attention of the Court towards late 2020;
- (b) That the Liku Ekalesia Church intends to refrain from pursuing to install the 4G tower until the completion of other matters that are before the Court; and
- (c) The Church is discussing with the government of Niue an alternative site suitable for the installation of the 4G tower.

[6] In her reply of 22 June 2020, Ms Kaiuha and others note that the 4G tower work has been halted. The applicants agree that all applications concerning this land should be dealt by the Court next time it sits in Niue.

## **Decision**

[7] The respondents have confirmed that they will not be seeking to install the 4G tower until all other matters concerning this land already before the Court, are dealt with.

[8] Given the installation of the 4G tower on this land has been put on hold until all matters before the Court are decided, the application for an injunction is dismissed.

[9] The matters that Ms Kaiuha notes in her application should be set down for hearing the next time the Court sits in Niue.

Dated at Hamilton, Aotearoa/New Zealand on this 29<sup>th</sup> day of June 2020.

C T Coxhead  
**CHIEF JUSTICE**