

Land Appellant Jurisdiction:

In the Matter of: **Timber Right Appeal on Bakele Customary Land**

Between: Mr. Amon Kumavole Appellant
(Represented by Terence Biala)

And: Rooney Meso & others Respondents



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Judgment
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The Choiseul Provincial Executive had conducted a timber right on Bakele Customary land and public notice of their determination with Form II was published on the 18th October 2006.

From that determination of persons to grant timber rights on Bakele Customary land the Appellants lodged their appeal to the office of Clerk of CLAC/W.

Grounds of Appeal:

The appellant filed his appeal in the form of letter and summarise as follows:

"I appeal because the members of Bakele tribe who submitted our land to the timber right proceedings intentionally excluded my great granfarther (Biala) and my family in the Bakele genealogy. That he should be included as trustees in the Bakele timber right application."

Issues

The issue in this case is on the genealogy of Bakele tribe.

The Case

The dispute in this case was the Respondents argued that the appellant was not a member of Bakele tribe therefore has no right to be included in their timber right application.

There are two types of evidence presented and now available to this court i.e. oral evidence present by the parties and documents relating to the transaction or the sale of Taro Island and part of the main land in the colonial time. These lands were part of Bakele Customary land.

For the Appellant he claimed he was descended from Ravekana of Bakele tribe. He submits that it was his great, great grandfather named Masuri that sold Taro Island, (Bakele land) in 1909 to Mr. William Hamilton. He submit that he received payment of \$30,000.00 by Eagon Resouce Company to Bakele, being "accass road payment" have proven that they are connected to Bakele tribe because his father received on behalf of his clan \$14,000.00 out from the \$30,000.00. That the appellant has been attending Bakele tribal meeting (popoloto), is an indication of being a descendant of Ravekana of Bakele tribe.

For the respondent, argued that the appellant does not have any connection in their Bakele genealogy. They submit that the appellant was from Lgolego tribe. They descend from a man named Makara therefore have no right of claim of interest in Bakele tribe.

The Court:

It is clear from both parties submission that there is a dispute in Bakele genealogy which had not been gone through council of chiefs for settlement. In this appeal this court lacks jurisdiction to determine the ownership of land and genealogy. It is a matter that should be referred to the chiefs first to determine.

It is clear from the evidence before this court that the appellants party did have right of benefits from Bakele tribe and land since 1909 till 2005 without any disturbance from other members of Bakele tribe. This clearly shows that there must be some connection between the Appellants and Respondents in Bakele tribe.

Court Finding:

Upon considering the submissions of the parties, both oral and documentary evidences, record of proceeding or minute of the Choiseul Provincial Executive it is clear that Executive made an error by only identifying and determines that the Respondents were the proper persons to grant timber right on Bakele land.

The appellants ground of appeal is upheld.

Section 10(1) of the FTRU Act gives power to customary land appeal court to hear and determine the appeal. The function of the customary land appeal court

Is to examine the question afresh and to make its own determination [Ezekiel Mateni –v- Seri Hite H/C CC No: 155 of 2003 at page 3].

The Western Customary Land Appeal Court upon hearing the evidences before it, afresh and make its own determination






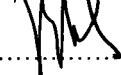
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ORDER
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1. Determination of the Choiseul Provincial Executive dated 22nd September 2006 and in Form II of 18th October, 2006 is accordingly set aside.
2. Afresh and determine the following persons are persons and represent all persons entitled to grant timber right on Bakele customary land.

1. Rooney Meso
2. F. Golevana
3. G. Vakolevae
4. G. Taniveke
5. M. Jelebatu
6. Amon Kumavole

Dated this 28th day of March 2008

Signed:

Wilson Katovai	Ag President	
Wellington Lioso	Member	
David Laena	"	
Allan Hall	"	
Jeremaiah Kema	"	
Vurusu DD	Clerk/Member	

R.O.A.E.
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