

IN THE CENTRAL ISLANDS CUSTOMARY APPEAL COURT OF SOLOMON ISLANDS

Land Case No: 14/2007

BETWEEN Matthias Taupongi **Appellant**

AND Jack Puia **Respondent**

IN THE MATTER OF: ANGOHI, KAGUA and SA'AMOA LAND

JUDGMENT

This is an appeal against the Bellona Local Court dated the 17th of April 2007 in respect of Angohi, Sa'amoa and Kangua Lands.

The issue before this court is whether the appeal was filed in time (within the three months period).

According to the Court record the appellant's appeal grounds was filed on 19th June 2007 and the appeal fee was paid on 7th August 2007. According to Bellona Local Court's decision, the three months period to file an appeal commenced on the 17th of April 2007 and the last day for an appeal to be filed with the Central Magistrate Court would be 17th of July 2007. As mentioned above the appellant's appeal grounds was filed on 19th June 2007 well within the time limit.

The issue before this court is whether the appeal fee was paid within the three months period.

Accordingly, any appeal from the Local Court to the Customary Land Appeal Court must be filed with the appeal fee. An appeal cannot be registered until a fee is paid to the Court. On the other hand an appeal fee cannot be paid without the appeal grounds. Meaning an appeal fee must be paid when the grounds of appeal is filed.

In this case the appeal grounds was filed on the 19th of June 2007 was in the time limit but the appeal fee which was paid on the 7th August 2007 is completely out of time limit.

The onus is on the appellant to prove why the court should not strike out the case. The Appellant had submitted that he had paid the fee in time. He alleged that the date written on the receipt was not the date he handed the money to the Local Court Clerk. There was no evidence to prove the money was handed to the Local Court Clerk on a date prior to the date written on the receipt.

Court therefore Order:

1. That the appeal is outside of the time limit
2. That the appeal be strike out
3. Parties to bear their own cost

Right of appeal within three months.

President Moses Puloka
Secretary Flickson Samani

Dated: 16th April 2007
2010

