

In the Western Customary Land Appeal Court)

WCLAC no: 01 of 2009

Land Appellant Jurisdiction:

In the Matter of: **Dola left Customary Land Timber Right Appeal**

Between: Zacheus Damutaru & 7 others (Appellants)

And: Greenville Sokeni (Respondents)

Cornelius Joe
Frank Maraka
Leadley Boselalu
Lucas Sore
Franklin Rukumana
Gordon Pitakaka



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Judgment
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The Choiseul Provincial Executive sat and hears an application for timber right over Dola Left Customary Land. Their certificate of determination was dated 3rd December 2008.

From that determination of persons to grant right on Dola Left Land the Appellants namely Joseph Dalisaru, Milton Talasasa, Zacchaeus Damutaru, Billy Gabuvai Savevai, Micah P Pitamama, Gerando Miruku and Chrisanto Vinebatu filed eleven grounds of appeal to the Western Customary Land Appeal Court in which grounds 3, 4, 6, 10, and 11 was withdrawn during this court session. That leaves grounds 1, 2, 5, 7, 8, and 9 to be discussed before this court.

Their ground of appeal is summarized as follows:-

1. *All trustees are members on particular clan that is known as 'The Late Pamu (M)' father of the late Lesley Letaqara.*
2. *Trustees are all recipients of Mr. Cornelius Joe's land gift rather than representatives of our said tribe.*
5. *The position of Cornelius Joe and Greenville Sokeni as chiefs is totally wrong and is out of the Lauru Custom.*
7. *The Choiseul Executive Committee Determination violated Cornelius Joe's legal acquired piece of land to portion (left side of Dola Land) in the following manners:-*
 - (a) *Creating an illegal boundary that stands in Soboso (inland) and runs down to Siraena (coast) which is not consistent with the legal recognized boundary running from Soboso down to Kokolavata (coast)*
 - (b) *it divided the Dola Land into three (3) portions and overlooked Courts Decisions.*
8. *Cornelius Joe's power has violated by the Chjoiseul Province Timber Rights Committee, therefore there is no reason for grant timber right in his favor.*
9. *No Customary Land in Choiseul, particularly in Tavula area has the following:-*
 - (a) *One Land with two (2) different genealogies*

(b) *One Land with two (2) chiefs.*

Brief History:

In the last WCLAC hearing dated 19th November 2010, The appellants indicated their intention to have their appeal withdrawn following a settlement reached by both parties. This has been objected by some of the appellants' party. Matter therefore adjourned to next CLAC hearing. The matter now listed and come before this court.

In this session, the appellants spokes person Mr. Joseph Dalisaru still maintain that their appeal to be withdrawn. Theyu have settled the matter outside of Court. This was objected by other appellants namely Milton Talasasa, Billy Gabuvae Savevae, Daniel Vudukana, Gerando Miruku, and Chrisanto Vinebatu.

Mr. Joseph Dalisaru, Micah Pitamama and Zacchaeus Damutaru still submit that they withdraw themselves as an appellant and that they now join with the respondent basing their argument that they have settled their difference with the Respondents. The Court therefore ruled that Mr. Joseph Dalisaru, Misah Pitamama and Zacchaeus Damutaru withdraw as an appellant and now joined with the respondents' party.

Issues:

The issues raised in these grounds appeal No: 1, 2, 5, 7, 8, and all relate to claim of ownership over Dola Left customary land.

It is our humble view that, this court lacks jurisdiction to deal with claim of ownership when appeal come under FRTU Act. Ownership only assists the Court to determine who is the right person lawfully able to grant timber right on Dola Land.

Respondents Spokesperson submits that the remaining Appellants party have lost their case against Chief Cornelius Joe, Both in the High Court of the Western Pacific case No. 3 of 1971 and the Choiseul Native Court.

Their right to grant timber right on Dola Left was given to them by Chief Cornelius Joe. Reason being that they were C. Joes' Matebangara clan.

The appellants submit that Dola land is theirs. They further submit that it was wrong in Lauru custom to split Dola land into two so that it becomes Dola Left and Dola Right. Doland land is only one customary land.

The Court:

During Court question, the appellants do confirm that they were represented by Mr. Lesley Letaqara in the Choiseul Native Court and High Court of Western Pacific in which Lesley Letaqara lost and Cornelius Joe won the case.

According to evidence before this court Dola Land was being divided by the Choiseul Native Court in the case between Lesley Letaqara verses Cornelius Joe. This was appealed by Lesly Letaqara to the Nigh Court of the Western Pacific in which Lesley Letaqara has lost his appeal. This decision was binding on both parties.

We based our analysis on both party's submissions and upon examining the record of proceedings of the Provincial executive. In this appeal court we did not entertain new evidences.


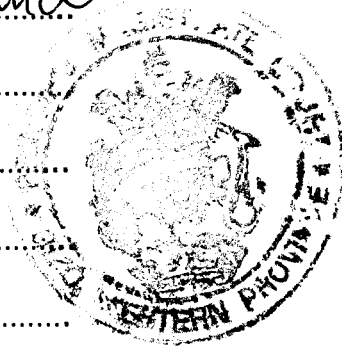




Upon considering what we have discussed earlier in this judgment we find that the Choiseul Provincial Executive was not erred in reaching its finding therefore this court has nothing to alter their determination.

Appellants' grounds of appeal must therefore be dismissed.

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DECISION
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1. Appeal dismissed
2. The Determination of Choiseul Provincial Executive upheld.
3. Parties meet their own cost.

Dated this 8th day of December 2011.

Signed by:	Jeremaiah Kema	- President (Ag).....		
	Silverio Maike	- Member.....		
	Willington Lioso	- Membe.....		
	Allan Hall	- Member.....		
	Davis D Vurusu	- Member/Secretary.....		

Right of Appeal Explained.