

IN THE GUADALCANAL CUSTOMARY)
LAND APPEAL COURT)

CLAC case number: 32 of 2013

Customary land ownership Appellant Jurisdiction

IN THE MATTER OF: **THE LOCAL COURT ACT [CAP 144]**

AND ***The Wills and Probate and Administration Act [CAP.33]; In particular Section 105;***

IN THE MATTER OF: **KOMUVATHA: P/E in Parcel No: 192-012-2**

BETWEEN: **JOHN GAREGHA** *Appellant*

AND

ELIAM TAGIRONGO
Respondents

JUDGMENT

Introduction

1. This is an appeal filed against the decision of the Guadalcanal Local Court over the Komuvatha land on perpetual estate number 192-012-2, delivered on the 19th of March 2013.
2. This portion of land is situated in the Guadalcanal plains, in the central Guadalcanal constituency.
3. In brief history of this land, the land that hosts this parcel of land was subjected to a land settlement on an Acquisition back in 1972, by a statutory

process under Part IV of Land and Titles Act. The land was registered for the purpose of Palm Oil project.

4. In this process, the portion of land was registered under two joint owners and trustee known as David THUGUVOTHA and Daniel BUTO who was the representative of the Mamata Manebeti clan of the Thogo tribe.
5. After the death of the two trustees and owners intestate, Mr Elliam Tanigoro who is the Respondent in this case and the other two suggested trustees applied in their capacity as the elders of the Manebeti clan. This approached was made in accordance to section 105 of the Wills, Probate and Administration Act [CAP.33].
6. Mr. John GAREGHA of Kulanika tribe filed an application before the Guadalcanal Local Court seeking the matter to be heard first by the traditional Chief tribunal.
7. This application was dismissed on the basis that there were no legal substances to support the application, and the GLC has no jurisdiction subjected to the Wills, Probate and Administration Act [CAP.33].
8. From that decision, Mr. GAREGHA appeals to this court on the flowing grounds of appeal.
 - (i) That the Guadalcanal Local Court (GLC) did erred in law to accept that the Settlement Determination of ownership held in September 1972 on PE 192-012-2 is valid.
 - (ii) That the GLC is erred when decided that the Appellant is a party to the Settlement Deed of 27 September 1972.
 - (iii) The Appellant seek the following relief, to allow the appeal and set aside the GLC decision on 23rd of March 2013.
9. After considering submissions from the Appellant's party and the respond from the Respondent, this court made an unanimous decision as follows:

- The pertaining issues surrounding this case is subjected to the Wills, Probate and Administration; CAP 33. This court has no jurisdiction to deal with it.
- On such, this court cannot interfere with the findings of the Guadalcanal Local Court.

Conclusion

10. Base on the above findings, this court is of the view that the appeal is dismissed on the basis stated above.

11. Appeal dismiss and made the following orders;

Order:

1. The appeal is dismissed,
2. Upheld the GLC decision held on 23rd of March 2013.
3. This court decline to make any order as to cost.

Decision was verbally announced on and written judgment delivered on dated this..... 22nd May 2015.

Signed:

1. John SEKETALA (President) 
2. Fr. John GATU (Member VP)..... 
3. Martin TSUKI (Member) 
4. Henry LUI (Member) 
5. William Rex POCHO (Member) 
6. Jim SEUIKA Clerk/Member..... 

