

BOPI and TARAI -v- LINE PASA (as representative of his Line) and DIKEA

High Court of Solomon Islands

(Ward C.J.)

Civil Case No. 123 of 1988

Hearing: 25 May 1990

Judgment: 29th May 1990

A. Radclyffe for the Plaintiffs

P. Watts for the First Defendant

WARD CJ: This is a claim for damages for trespass to Borohinaba land and an injunction to restrain the defendant from entering or remaining on that land.

The case is simple despite a vague and unclear defence.

The plaintiffs' case is that they bought the area of Borohinaba land in question from Christian Mara as a representative of the Gaubata tribe for \$200 in 1978. They produce a written agreement to this effect.

Christian Mara was confirmed in his right to the land by Deputy Commissioner Hunter at a hearing in 1957 at which he was jointly named with the father of the First Defendant.

The agreement was written in both English and Gela language and clearly refers to a sale although not using that specific word.

The first Defendant gave evidence in which he claimed the land was never sold and that the money was paid to allow the plaintiff to be able to use the land.

He called Christian Mara who claimed \$200 was paid to give the plaintiffs "membership" of the land. When confronted with the agreement he said he could not see well enough to read it and that he had not really read it at the time. It was suggested he gave contrary evidence in favour of Bopi at a Local Court case in 1980 and he denied ever attending that case.

I simply did not believe him on any important matter.

I am satisfied to the required standard that the land described in the agreement was sold to the plaintiffs for \$200 in 1978.

I am equally satisfied, and there is no dispute, that the first Defendant has gardens in that land and has had for some years. That is a trespass. Mr Watts has urged that this occurred under a mistaken belief in his right to the land by First Defendant. I do not accept he acted on such a belief.

I find for the plaintiffs. I award damages of \$200 for the trespass and order that the defendant Walter Linesapa be restrained from entering or remaining on Borohinaba land without the express permission of the plaintiffs.

Costs to the plaintiff.

(F.G.R. Ward)
CHIEF JUSTICE