

IN THE COURT OF APPEAL OF THE COOK ISLANDS  
HELD AT RAROTONGA  
(LAND DIVISION)

Application No. 9/93

IN THE MATTER of Section 421 of  
the Cook Islands Act  
1915 and Rules 341-347  
of the Code of Civil  
Procedure of the High  
Court 1981

AND

IN THE MATTER of the uninvestigated  
Land known as TE-II-A-  
MAUI in the Tapere of  
Pokoinu, Arorangi  
District, Rarotonga

AND

IN THE MATTER of an application for  
Investigation of Title  
by TEINA RIRI NGAPOKO  
TUTUARIKI JONASSEN (nee  
TAUEI) of Rarotonga,  
Retired.

Mr Holmes for the Applicant.  
Date of Hearing: 8th November 1993  
Date of Judgment: 26th November 1993

JUDGMENT OF DILLON J

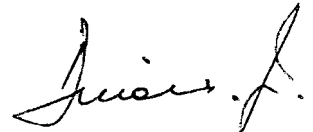
On the 8th October 1993 security for costs on this appeal to the Court of Appeal were fixed at \$4000 payable by the 8th November 1993. Mr Holmes has filed submissions on behalf of the Applicant setting out reasons why security for costs should not be ordered because of the special circumstance of this case - viz there is no respondent that requires security for costs and therefore none should be ordered by the Court. That submission is well founded.

The figure of \$4000 originally fixed is within the limits normally fixed for security in appeals to the Court of Appeal. However the two criteria for fixing security for costs relate to firstly a security for a respondents costs in the event of the appeal not succeeding; and secondly security for the due performance of the

final judgment of the Court of Appeal in the event of the appeal not succeeding.

I accept that security is not required for the first of the criteria to which I have referred. Security for due performance of the final judgment accords with the normal exercise of this Courts discretion and with the principles expressed in Gray v Ashburton (1917) A.C. 26.

The security originally fixed at \$4000 is therefore reduced to \$750 payable into Court by the 24th day of December 1993.



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Dillon J.