

IN THE KIRIBATI COURT OF APPEAL] Civil Appeal No: 2023-02918
CIVIL JURISDICTION]
HELD AT BETIO]
REPUBLIC OF KIRIBATI]

BETWEEN: MWEMWENTARAWA TEATA, KAMWEMWETAAKE
TEATA, MEREANA TEATA & KINIBURA TEATA
APPELLANTS

AND: BEIA KIABUA (ADMINISTRATOR OF THE ESTATE
OF KAKIABA TITAU)
1ST RESPONDENT

AND: MEERI TAUNAIA
2ND RESPONDENT

Before: Nelson JA
Khan JA
Amtan JA

Date of hearing: 02nd July 2025

Date of decision: 07th July 2025

Counsels: *Ms Taaira Timeon* for the Appellant
Mr Banuera Berina for the 2nd Respondent

JUDGMENT OF THE COURT

Background

[1]. Mr. Berina, representing the 2nd respondent, notified the Court of the absence of the 1st respondent. However, he stated that his absence would not have any impact, as the land in question is no longer under his ownership, because he sold it to the 2nd respondent.

[2]. The evidence establishes that both the appellants and the 2nd respondent own a portion of land on Takeria 677i. The appellants own Takeria 677i/1 whilst the 2nd respondent owns Takeria 677i/2.

[3]. To better understand the matter, we will set out the cases referred to by the appellants in a chronological order.

[4]. In 1965, in case 69/65, the issue involved the distribution of multiple parcels of land. The parties included Teruru, Nei Tabuaua, and Nei Tekurabo, while Rokoia and Titau participated via correspondence. The court validated the following distribution: Teruru Bore was to be registered on *Takeria 677i*, *Kene 670a*, and *Arikitau 668e*, Titau on *Keene 670i* and *Bikenibeu 660*, Nei Tekurabo on *Taranebo 681a* and *Natari 794a*, Rokoua Otiri along with siblings on *Tearabungea 652*, and Nei Tabuaua had no land as she had transferred it to Ten Toabo.

[5]. In 1977, a case was brought up to the court in case 194/77 by Beia Tekaaia against the other parties, whose names are illegible. The issue at hand pertained to a lease; however, upon reaching a decision, the court approved the exchange of lands along with the lease. We agree, and so did the High Court, with the submission of Mr Berina when he said:

“As is clear from the copy of the minutes produced by the Appellants, they do not show the names of the parties who appeared before the Court and neither do they show the name of the land in question. A lot of rubbing out appears in the minutes and the claim seemed to

relate to a lease rather than to the exchange of land. Although the court seemed to approve an exchange there is nothing to show who the parties were and what lands were being exchanged. Paragraph 4 therefore of the affidavit of Mereana Teata was not supported by the minutes of case 194/77. Indeed, there is nothing in those minutes to show that Takeria 677i/2 was to be registered in the name of Teata, the Appellants' father."

[6]. In 1999, in case 168/99, the issue concerned the rectification of the land distribution for Takeria 677i/1. The parties involved were Kaane Naua and Kiabaua Titau against Teata Nauto. The case was dismissed as the court determined that it lacked the jurisdiction to overturn the decision made earlier by another magistrate.

[7]. In 2008, in case 55/08, the issue was regarding the registration following the passing of Teata Nauto on land Takeria 677i/1. The parties involved were Kamwemwetaake Teata and his brothers and Mereana Teata and Kinibura Teata (the present appellants). The court approved the application, and all appellants were registered under Takeria 677i/1.

[8]. In 2009, in case 917/09, the matter concerned the registration of land Takeria 677i/2, which was leased by the Government. The parties involved were Kiabaua Titau (the present 1st respondent) and Meeri Taunaia (the present 2nd respondent). The court allowed the registration of Meeri Taunaia on the portion of Takeria 677i/2.

[9]. In May the 1st, 2020, the 2nd respondent took out a boundary determination proceeding against the present appellants in case BD 32/20.

The Certiorari

[10]. On August 19, 2020, the present appellants applied for leave to apply for certiorari claiming that the 1st respondent had no title over the land Takeria 667i/2 as the land belongs to them, and hence the sale of such land by the 1st respondent to the 2nd respondent in case 917/09 was invalid and of no legal effect.

Furthermore, the appellants contended that they have been deprived of natural justice, as they were not included in the sale proceedings of case 917/09.

[11]. After reviewing the submissions from both parties, the High Court dismissed the application, rejecting both grounds. The court determined that the minutes cited as evidence of their ownership of the entirety of Takeria 677i were unhelpful, thereby failing to substantiate the strength of their case.

The appeal

[12]. The appellants expressed dissatisfaction with the High Court's decision, which led to their appeal to this Court. Through their counsel, they presented a single argument contending that the High Court made an error of law by denying the extension of time, despite the fact that cases 69/65, 194/77, and 917/09 demonstrated that they had a valid case.

Analysis

[13]. After hearing submissions and considering the matter, we have reached the conclusion that the appellants are merely contesting the findings of fact established by the High Court. These findings do not inherently constitute errors of law unless a finding of fact is entirely unfounded and lacks any form of evidence, which can then be an error of law. However, this situation does not apply in the present case.

[14]. In this case, there is a complete lack of evidence to substantiate the appellants' claim that Takeria 677i/2 is also theirs. Like the High Court, we too have determined that the cases cited by the appellants, as mentioned in paragraphs 4 and 5 of this judgment, do not lend any support to their assertion, even with a stretch of imagination.

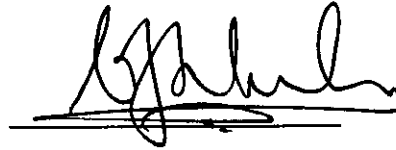
[15]. What we said in **Teikeaki Teetiku v Tauteti Baibuke Land Appeal 2023-02918** in paragraphs 12, 13 and 14 applies equally to this appeal. Not only this Court does not have jurisdiction, but the appeal can constitute a breach of counsel's primary obligation to the Court and to the administration of justice.

Decision

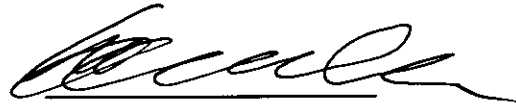
[16]. As there are no identifiable errors of law, the appeal is dismissed.

[17]. The appellants are ordered to pay the 2nd respondent costs to be taxed if not agreed.

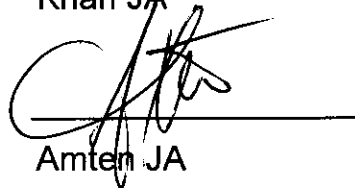
Dated this 7 July 2025.

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Nelson JA

A handwritten signature in black ink, appearing to be 'Khan', written over a horizontal line.

Khan JA

A handwritten signature in black ink, appearing to be 'Ament', written over a horizontal line.

Ament JA