

6 June 1988

Between:

Nei Bereneteta T.

Appellant

-v-

Tekaiti Kaai

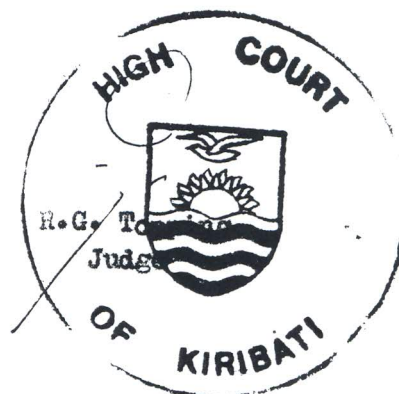
Respondent

In this case N. Bereneteta appeals against the decision in case NK 186/87 refusing her a share in the distribution of the lands of her mother N. Tekiete. N. Tekiete died leaving 5 lands only and the Court awarded these to the children of Kaai the deceased younger brother of N. Bereneteta. It gave as its reason for doing so the facts that there were insufficient lands for everyone, and that N. Bereneteta already had 2 lands one of which was from her motherside. The register shows she has 2 lands Antekiboi 2k (1B) from her father, and Aontebon 24 at (2N) from her mother. This last was registered by the Commission. It is said to be a gift for nursing her grandfather. Moreover there is a dispute as to whether it is a land or a pit. N. Bereneteta is herself married with 2 children. Clearly on the death of N. Tekiete and distribution of her estate N. Bereneteta may be entitled to a share, albeit not of the same size as Kaai for he is a man. She may in our view be entitled to some share. We consider that the decision of the Magistrates refusing her any share may not have taken into account the fact that she herself is married with children, and that the land or pit which she has was registered by the Commission and that it comes from her motherside and it was a gift for nursing. Kaais children, in addition to inheriting from Kaai on his mother side, will also inherit from Kaais wife side.

N. Bereneteta will not inherit further.

In view of these factors, which we feel the Magistrate may not fully have considered, we set aside the decision in case N<sub>k</sub> 1986/87 and order a retrial. It may be that after the retrial the Magistrates may still be of the same mind but they then will have considered every possible reason in N. Berenetetas favour. They must give a full judgment explaining why they reach their decision in this difficult case.

*Toka*  
Toka Tibau  
Land Magistrate



*Betero K.*  
Betero Kaitangare  
Land Magistrate