

File

**IN THE HIGH COURT OF KIRIBATI
(BEFORE B SUTTILL C.)**

HCLA 24/1988

BETWEEN: TEBANA TABORE - Appellant
AND: TEUEA IOANE
BEIA KAATIARA - Respondents

HCLA 142/1988

BETWEEN: BEIA KAATIARA
TEUEA IOANE - Appellants
AND: TEBANA TABORE - Respondent

J U D G M E N T

In 1951, case 14/51, the magistrates distributed the estates of Teuea. The magistrates considered the distribution a good one because there was no hindrance to it.

There matters remained until 1987. Then, at the behest of the High Court, the magistrates were ordered to reconsider the distribution that had been made as far back as 36 years previously.

This the magistrates promptly did. However this distribution made in 1987 did not satisfy the appellant and led to a further approach to the High Court.

The High Court were not satisfied with the distribution either and ordered yet another distribution.

Again the magistrates responded with admirable speed and produced what they described as a re distribution.

This redistribution satisfied neither party to the proceedings and led to the appellant appealing in 24/88 and the respondent cross appealing in 142/88. Although the appeal and cross appeal were lodged in February and May 1988 respectively it has taken until 29 February 1996 to hear the appeal.

The appellant lives on Rabi Island. The court has been in correspondence with him by telegram. The appellant asked, by telegram, for the appeal hearing to be postponed. This was done and a new date, 29 February 1996, was set. The appellant was notified by telegram to the same address as had attracted a response from him previously.

The appellant was not present at the appeal hearing on 29 February 1996, nor on its adjournment to the following day. The appeal in HCLA 24/1988 is accordingly dismissed for want of prosecution.

That does not end the matter because there is of course the cross appeal of the respondent, who has been assiduously attending all the hearing dates, to deal with.

He opposes the most recent distribution of the magistrates but for different reasons. We have carefully considered the distributions made in 1987 and 1988 and the minutes of those proceedings. We have concluded that these matters must now be drawn to a close. We see no point in remitting the matter to the magistrates to have a third attempt at satisfying the various disputants.

We accordingly allow the cross appeal and order the following distribution of the estates of Teuea.

1. Ioane, Temoaniwae and western ½
Tengaruru and ½ Terekaba
1. Ioane, 1 pit at Tekawa
1. Kaitara, Tekawa and ½ Tengaruru (eastern)
1. Kaitara, 1 pit at Temoaniwae
1. Kaitara, 1 pit at Korobu
1. Kaitara, 1 pit at Antenon
1. Kaitara, 1 pit at Tabonibara
1. Tabore, Roroa and ½ Terekaba
1. Tabore, 1 pit at Temoaniwae
1. N. Tebeia, Nukankainga 3 plots at Noto
1. N. Tebeia, 1 pit at Temoaniwae.

Right of Appeal to the Kiribati Court of Appeal within 42 days explained.



B SUTTILL
Commissioner
(18/3/1996)



Tekaie Tenanora
Magistrate
(18/3/96)



Betero Kaitangare
Magistrate
(18/3/96)

