

IN THE SUPREME COURT OF NAURU  
Civil Jurisdiction

AK

Land Appeal No. 12 of 1971

ROY DECOREGORE Appellant

vs.

EIDEBERENIMADANG BEINEDO Respondent

Land Appeal No. 13 of 1971

ROY DECOREGORE Appellant

vs.

Epediej & Ors. Respondents

Land Appeal No. 14 of 1971

ROY DECOREGORE Appellant

vs.

DOGIREIJ ADUN & ORS. Respondents

JUDGMENT

It is now generally accepted that a person who has determined a question in a judicial or quasi-judicial capacity should

not normally sit as a member of a tribunal hearing an appeal against his determination of that question. In the case of the Government Surveyor, he should, according to the law, have taken no part in deciding the question of ownership of the land. Unless he did so contrary to the law, he was not adjudicating in the appeal on a question which he had decided. I would agree with the appellant, however, that it was unfortunate that he sat as a member of the Central Court in that appeal since, even if he had taken no part in the Nauru Lands Committee's decision, the parties, having seen him with the Nauru Lands Committee on the field day, might fear that he had done so.

However, unless the hearing and determination of the appeal by the Central Court in 1962 was a nullity because the Government Surveyor was sitting as a member of the Court, the decision of the Court in that appeal is valid and binding now on this Court; that is to say, the matter is res judicata. Although it is now generally accepted as being undesirable that judges should sit to determine appeals against their own judgments, it is noteworthy that until late in the 19th century in England this was general practice. There is no statutory provision in the laws of Nauru expressly forbidding it and, although it is most undesirable, I am unable to say that it is so contrary to the principles of natural justice, that it vitiates the proceedings. That being so, I am satisfied that the proceedings in the Central Court on the hearing of the appeal in 1962 were not a nullity and that in consequence the question of the ownership of the three portions is res judicata and cannot be raised again now in these appeals.

Accordingly all three appeals must be, and are, dismissed.

24th December, 1971.

I.R. Thompson