

**IN THE SUPREME COURT OF NAURU**

**CIVIL ACTION NO. 8/97**

**BETWEEN : PORTINKAURA DUBE**

**PLAINTIFF**

**AND : NAURU LANDS COMMITTEE**

**FIRST DEFENDANT**

**LILY HARRIS & OTHERS**

**SECOND DEFENDANT**

Mr. Robert Kaierua for Plaintiff

Mr. Adam for First Defendant

Mrs. Eoaeo in person on behalf of Second Defendants.

Date of Judgement : 19 December, 1997

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**JUDGEMENT OF DILLON J.**

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The Nauru Lands Committee published its determination of ownership in respect of the land known as Arro PL portion 355, in the

Government Gazette No. 6 of 3 February, 1988. That determination had followed a field day conducted some years earlier as well as investigations subsequently undertaken by the Nauru Lands Committee.

On 18 March, 1988 the Plaintiff lodged an appeal against that decision. By 2 May, 1997 Mr. Kaierua who had subsequently been asked to act for the Plaintiff acknowledged that the appeal has been lodged out of time. Consequently this Court had no jurisdiction to hear or consider the appeal. Mr. Kaierua thereupon asked that the appeal be withdrawn. That request was granted and these present proceedings have been filed by way of substitution.

The Plaintiff relies primarily upon a plan which it is claimed was presented at a field day held on the site some say in the late 1970's while others say in 1986. That plan does indeed show a land described as Bogetsiw located between Blocks known as Arro 355 and Mereberen 168.

However, the investigations undertaken by the Nauru Lands

Committee and relied upon by that Committee in making its final decision in 1988 are revealed in a letter to this Court dated 3 November, 1988 as follows: -

- “1. The Land Records cannot verify that Mr. Potinkaura Dube was supposedly to be the owner of a Land called Bogetsiw PL Anibare. Not even his father the late Dube. (See attached).
2. Appellant was a part-owner of a block called Mereberen portion Number 169 a phosphate bearing land located within the vicinity of these disputed areas.
3. Mereberen PN.169 was first gazetted in G.43/37 under the Appellant father's name (Mr. Dube and was allocated a portion number (PN.169) in 1961 Vide G.35/61. This was prior to the field-days which was held in the 1970's for which the committee can verify that the Appellant did attend as well as the other claimants mentioned in this appeal.
4. The Nauru Lands Committee came to the conclusion that the Appellant's motive was to extend the boundary line of his land (Mereberen PN.169) and grab another acre or two which was unacceptable to the

Lands Committee and in itself against the golden rule of natural justice and fair play.

5. Therefore, the Nauru lands Committee humbly beg the Court to set aside this Appeal and cautioned the appellant not to repeat false claim in the future to enable genuine claimants like Derog Gioura, Victor Eoaeo and others lay legitimate claims.”

The Nauru Lands Committee relied principally upon two issues viz –

- (a) the Land Register Book of 1928 and the fact that there was no land Bogetsiw registered in the name of Dube, the Plaintiff's father;
- (b) the plan relied upon by the Plaintiff was not an official plan as implied by the Plaintiff. Rather it was a surveyor's diagram produced at the field day to indicate what area the Plaintiff believed he was entitled to claim. The Committee deny it was an official plan and as a consequence the Plaintiff's reliance upon it is misconceived.

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The Nauru Land records do not show the Plaintiff's father as owner of any land called Bogetsiw. But those records do show the Plaintiff's father as an original claimant of the adjoining land called Mereberen 168.

The Nauru Lands Committee placed considerable reliance upon the claim by the Plaintiff's father to ownership of that adjoining land viz Mereberen 168. Indeed one must ask, if the Plaintiff's father claimed and was awarded part ownership of the Mereberen 168 Block why did he not claim ownership of the adjoining Block that the Plaintiff now calls Bogetsiw. His father did not either recognize or claim such a Block. As a result the Nauru Lands Committee back in 1988 awarded this land to the owners of the adjoining Block Arro 355 who were the competing claimants.

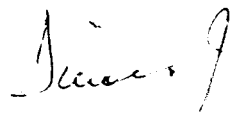
At this hearing, the Court asked Mr. Kaierua whether the Plaintiff was claiming through his father; and if so, what was the explanation for the father not claiming this land originally in 1928; and this more especially

since the father had claimed ownership of the adjoining land of Mereberen 168 at that time.

To be fair to Mr. Kaierua he was in some difficulty in answering these questions because the Plaintiff has died since the present proceedings were filed.

The fact that the Plaintiff's father did not claim this land; nor that there was any Block called Bogetsiv entered in the Register in 1928 must have been a very powerful influence on the Nauru Lands Committee arriving at its decision in 1988. This is clearly indicated in its report to this Court already referred to.

This claim by the Plaintiff has not been established; and the three declarations applied for are therefore refused.



**DILLON J.**

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and **Nauru Lands Committee** - **FIRST DEFENDANT**  
**Lily Harris & Others** - **SECOND DEFENDANT**

**HELD**

1. The Fact that the Plaintiff's father did not claim this land; now that there was any block called Bogetsiw entered in the Register in 1928 must have been a very powerful influence on the Nauru Lands Committee arriving at its decision in 1988. This is clearly indicated in its report to this court already referred to.

2. This claim by the Plaintiff has not been established; and the three declarations applied for are therefore refused.

For Plaintiff - Mr. R. Kaierua  
For First Defendant - Mr. Adam  
For Second Defendants- Mrs Eoaeo in person

Before - Dillon. J.