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IN THE SUPREME COURT OF NAURU

CIVIL ACTION NO. 19/98

BETWEEN : NAHESSON HARRIS PLAINTIFF

AND : DUSKA HARRIS, DREDA HARRIS  
& DANIA JORAM (HARRIS) DEFENDANTS

CIVIL ACTION NO. 22/99

BETWEEN : NAHESSON HARRIS PLAINTIFF

AND : IRA DABWIDO DEFENDANT

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ORAL JUDGMENT OF DONNE C.J.

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These two cases were heard together. There was in fact, no necessity for the later proceedings since the first proceedings 19/98 sought the same

relief against all three Defendants although only two were made parties. Duska Harris, Dania Harris and Ira Dabwido are the three Defendants against whom the relief is claimed.

It was first heard on the 3<sup>rd</sup> March 1999. At that hearing, Mrs. Deo appeared for the Defendants. Evidence was called by Mr. Kaierua including that of Mr. Capelle as to the ownership of the property in question and also on what, if any, custom would be applicable. Mrs. Deo objected to the authority of Mr. Capelle as an expert witness. After considering the matter I supported her objection and referred the matter to the Nauru Lands Committee since obviously there was a dispute between the parties as to ownership of the land and in view of section 6 of the Nauru Lands Committee Ordinance 1956-63, it was clearly a matter upon which only the Committee has jurisdiction to determine. The hearing was adjourned and a report was called for from the Committee on that question.

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On the 21<sup>st</sup> September 1999 the matter was again heard. The Report of the Nauru Lands Committee was presented and it showed that the Plaintiff was the sole owner of the house and land. On this occasion Mr. Audoa appeared on behalf of the Defendants. He objected to the Nauru Lands Committee's finding claiming it was biased and made contrary to law in view of the composition of the Members including Mr. Capelle. He had no evidence available to substantiate this and again, at the request of the Defendants, I adjourned the matter to enable them to establish that the Report and finding must be rejected. The burden of proof is on the Defendants and I would have expected some steps would have been taken by Mr. Audoa to adduce evidence to support his plea. I, however, have been advised by the Defendants that Mr. Audoa is absent from Nauru and, that he has not advised them that he would be unable to attend the Court. More importantly he, knowing that the Court would be in Session at this time, has not followed the established practice of advising it that he would be

unable to appear in any cause. Nor has he made arrangements for alternative representation of the Defendants who for this reason seek a further adjournment.

I declined further to delay the finalisation of this case. In justice, the Plaintiff who has had to concede two adjournments at the request of the Defendants, cannot be expected to experience further delay.

It is manifestly clear that the Nauru Lands Committee determine the Plaintiff the sole owner of the house. There is no evidence to allow that determination to be challenged or ignored and I accept it.

The Plaintiff, as owner of the property, uses it as his home. It is his undoubted right to invite or refuse to invite any person to enter it. He is, in law, the lawful occupier of the house. He has the lawful right to permit

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or refuse permission to enter his premises. Those who wish to do so must be invited by him, i.e. an invitee, a person who enters his premises by his permission.

I am satisfied on the evidence adduced in this case that the Defendants Duska Harris, Dania Joram and Ira Dabwido have conducted themselves badly on occasions in the house. However, that finding is irrelevant to the question of invitor and invitee. It is also to be noted that each Defendant has his or her own house. Duska and Ira live together in their home in Meneng. Dania Joram lives with her husband in the husband's family house at Anabar.

The finding that the property is the property of the Plaintiff allows the making of the following orders: -

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1. The Plaintiff is the sole owner and occupier of the house at No. 5 Aiwo District known as "Ianepe" Portion Nos. 54 and 55 respectively as determined by the Nauru Lands Committee.
2. As owner, the Plaintiff is entitled to the exclusive possession of the said property.
3. The Defendants have no right, title or interest in the property and are permitted to enter the same only as invitees of the Plaintiff.
4. The three Defendants are hereby restrained from entering the said premises unless or until invited or permitted so to do by the Plaintiff.

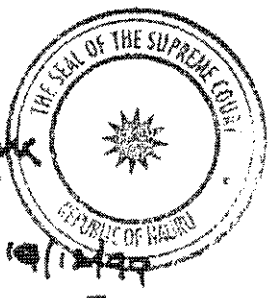
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The question of costs is reserved for further consideration, if necessary.

*Adom Donkor*  
CHIEF JUSTICE



A Certified True Copy  
of the Original:

*G. N. SAKSELA*  
REGISTRAR, SUPREME COURT

