

IN THE SUPREME COURT OF NAURU

LAND APPEAL NO. 6/2002  
CIVIL ACTION NO. 20/2002  
CIVIL ACTION NO. 21/2002

BETWEEN : **LIEBE WHIPPY & ORS** APPELLANTS  
AND : **NAURU LANDS COMMITTEE &** RESPONDENTS  
**AMANDA HARRIS & ORS**

IN COURT  
TUESDAY, 6 AUGUST 2002

Mr. V. Gadoengin for Appellants  
Mr. B. Dowiyogo for Second Respondents  
Mr. Adam (Nauru Lands Committee) present.

**RULING ON PRELIMINARY QUESTIONS.**

UPON hearing Mr. Gadoengin for the Appellants/Plaintiffs and Mr. Dowiyogo for the Second Respondents in the matter of Land Appeal No. 6/2002, Civil Action 20/2002 and Civil Action No. 21/2002, where Mr. Gadoengin was seeking an order for mandamus in Civil Action No. 21/2002, an appeal against land determination of Portion 418 Meneng within Land Appeal 6/2002, and a declaration that the determination of owners of PL “**UEO**” is still ongoing with consequential orders in Civil Action 20/2002.

I determine as follows: -

1. The seeking of an order for Mandamus against the Nauru Lands Committee cannot be maintained.
2. There can be no appeal against the land determination contained within G.N. 103/2002 of Government Gazette No. 22 of 24 May 2002.

3. Though not the subject of argument this morning by Mr. Gadoengin, there can be no declaration granted that the determination of owners of PL “**UEO**” is still ongoing as was sought in Civil Action 20/2002.

## **REASONS.**

**MANDAMUS** - As stated in argument there was no duty to be carried out by the Nauru Lands Committee. The Nauru Lands Committee had been ordered by the Court on 21 September 2001 to award the land to the issue of Atto Detsingaiya. This had been done.

**LAND APPEAL** - Such an appeal may be entered within 21 days against a decision of the Nauru Lands Committee, but there can be no appeal against the land appeal decision of the Supreme Court and the Gazette Notice of 24<sup>th</sup> May 2002 made it clear that the determination was a result of the Supreme Court decision. Section 7(3) makes it clear that a decision given on an appeal by the Court is final.

**DECLARATION** - No time was spent on argument on the relief sought in Civil Action 20/2002 and possibly for good cause. The Plaintiffs were seeking from the Court a declaration which was the very opposite of what had happened, namely, that there had been a final decision in the land appeal. It was noted that the Plaintiffs had withdrawn the action against the Nauru Phosphate Corporation.

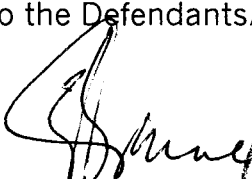
Late in the proceedings this morning, Mr. Gadoengin changed his grounds and sought a re-hearing of the land appeal. This had not been part of any of his earlier applications. But such an application had to overcome, not only such oversight as has been mentioned, but the fact that this case had been, in one form or another, before the Court as Land Appeal No. 6/1997 for the better part of five years and the Detsingaiya family through Amanda Harris and others for some three years. There had been any amount of time available for the Appellants to intervene but they had not. The Court does not see any good or sufficient reason to take what would be an extraordinary step to re-open an already concluded appeal to latecomers even though such an appeal might have been restricted in

issue. The Court, therefore, will not entertain an application for any form of re-hearing. At some point of time, limits must be placed on Court availability to tardy litigants. Five years, in this case, was more than enough, even given the unusual development of the appeal which was, in fact, before the Court and with the Nauru Lands Committee on a number of occasions before a final decision was made.

Apart from the three actions, the Appellants had secured, ex parte, an interim injunction on 31 July 2002 against the Second named Respondents. That injunction is hereby discharged.

Consequent upon the above Ruling (contained in numbers 1, 2 and 3) I now make the following **ORDERS** –

1. Land Appeal No. 6/2002 is dismissed
2. Civil Action No. 20/2002 is dismissed
3. Civil Action No. 21/2002 against the Nauru Lands Committee and Amanda Harris and Ors, is dismissed
4. The interim injunction granted to the Appellants on 31 July, 2002, in Land Appeal No. 6/2002 is discharged
5. Costs awarded to the Defendants/Respondents in each matter.

  
**BARRY CONNELL**  
CHIEF JUSTICE  
6 August 2002

