

COPY

IN THE SUPREME COURT OF NAURU

CIVIL ACTION NO. 8/2002

BETWEEN : **BEIYOUN IKA** PLAINTIFF
AND : **DANIEL AOEMAGE** DEFENDANT

DECISION

After hearing the case for the Plaintiff for the maintenance of the interlocutory injunction, Mr. Aingimea for the Defendant asked whether the Court wished to hear the defence following the evidence of Mr. Bop and that of Mr. Ika and sought the discharge of the injunction.

Upon hearing Mr. Bop, the Director of Lands & Survey, that he had made compass readings yesterday in the presence of the Pleader for the Plaintiff, and such readings show that the house, the subject of the injunction, was being erected on the Defendant's land and did not encroach upon the claimed land of the Plaintiff. He said his readings had an accuracy of two feet, and that the house was between 20 to 30 feet from the boundary of the unclaimed land.

I was satisfied that this evidence from the expert witness called by the Plaintiff was sufficient in itself to place the house outside the boundary of the unclaimed land to which Mr. Ika had made claim.

I, therefore, do not require further evidence from the defence and the injunction will be discharged forthwith.

Mr. Aingimea asked for costs.


Costs are granted to the Defendant on a party and party basis.

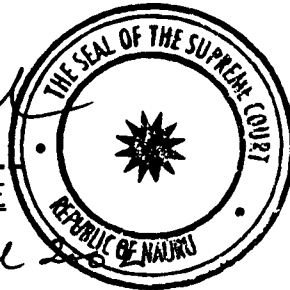
Damages arising from the injunction may be sought upon suitable proof. Costs and damages are to be a subject of a separate hearing before the Registrar.

ORDER.

1. Interlocutory Injunction granted to the Plaintiff by the Registrar on 15 March 2002 is discharged forthwith.

2. Costs of the day's proceedings granted to the Defendant on a party and party basis.
3. Damages to the Defendant arising from the injunction are to be granted.
4. The amount of costs and damages are to be assessed in a separate hearing by the Registrar.


BARRY CONNELL
CHIEF JUSTICE



16 April 2002