



REPUBLIC OF NAURU

**IN THE SUPREME COURT OF NAURU
CIVIL JURISDICTION
YAREN**

Land Appeal: 53/2012

BETWEEN : **Antonius Heinrich** Appellant
AND : **Josephine Jones and others** 1st and 2nd Respondent
AND : **Nauru Lands Committee** 3rd Respondent

AND

**IN THE SUPREME COURT OF NAURU
CIVIL JURISDICTION
YAREN**

Land Appeal: 51/2014

BETWEEN : **Audrey Tannang & others** Appellant
AND : **Beneficiaries of the Estate of Udibe** 1st Respondent
AND : **Beneficiaries of the Estate of Agirouwa** 2nd Respondent
AND : **Nauru Lands Committee** 3rd Respondent

AND

**IN THE SUPREME COURT OF NAURU
CIVIL JURISDCTION
YAREN**

Land Appeal: 53/2012

BETWEEN : Jerome Reweru Appellant
AND : Nauru Lands Committee 1st Respondent
AND : Josephine Gadeouwa & Ors 2nd Respondent
AND

**IN THE SUPREME COURT OF NAURU
CIVIL JURISDCTION
YAREN**

Land Appeal :122/2015

BETWEEN : Audrey Tannang & Ors Appellants
AND : Beneficiaries of the Estate of Gumwear Jone 1st Respondent
AND : Beneficiaries of the Estate of Udibe 2nd Respondent
AND : Beneficiaries of the Estate of Agirouwa 3rd Respondent
AND : Nauru Lands Committee 4th Respondent

AND

**IN THE SUPREME COURT OF NAURU
CIVIL JURISDICTION
YAREN**

Land Appeal :125/2015

BETWEEN : Jerome Reweru
Appellants

AND : Nauru Lands Committee

1st Respondent

AND : Josephine Gadeouwa & Ors

2nd Respondent

AND

**IN THE SUPREME COURT OF NAURU
CIVIL JURISDICTION
YAREN**

Land Appeal: 127/2015

BETWEEN : Tyran Capelle
Appellants

AND : Nauru Lands Committee

1st Respondent

AND : Josephine Gadeouwa & Ors

2nd Respondent

Before : Khan J

CATCHWORDS: With the consent of all parties- lawyers allowed to appear before Nauru Lands Committee to formulate and articulate their client's case – this is not to compromise the position of Nauru

lands committee in the determination of the dispute as mandated by the Nauru Lands Committee Act

Counsel: Mr V Clodumar, Mr N Ekwona,
Ms M Depaune/ (Ms Chappelle in person),
Mr D Aingimea,
Mr T Knox (Ms Josephine Gadeouwa in person),
Mr J Udit Solicitor General

DECISION

Introduction

- 1 The following appeals relate to all that piece and parcel of land comprised in Portion 94(Portion 94) Buada District, the land commonly known as Abotsijij:
 - (a) Land Appeal No: 53/2012 Antonius Heinrich and others v Nauru Lands Committee
 - (b) Land Appeal No: 51/2014 Audrey Tannang & others v Beneficiaries of the Estate of Udibe Beneficiaries of the Estate of Agirouwa and Nauru Lands Committee
 - (c) *Land Appeal 3/2015* Antonius Heinrich and others v Nauru Lands Committee
 - (d) *Land Appeal No: 122/2015* Audrey Tannang & others v Beneficiaries of the Estate of Udibe, Beneficiaries of the Estate of Agirouwa, Beneficiaries of Gumwear Jone and Nauru Lands Committee
 - (e) *Land Appeal No: 125/2015* Jerome Reweru n Nauru Lands Committee and Josephine Gadeouwa and other
 - (f) *Land Appeal No 127/ 2015* Tyran Capelle v Nauru Lands Committee and Josephine Gadeouwa and other

- 2 The appellants in the various appeals are seeking orders from this court that the Nauru Lands Committee decisions comprised in the following Gazette notices be set aside: -
 - (i) *Government Gazette No 124/2012 under Gazette Notice No 501/2012*
 - (ii) *Government Gazette No 131/2014 under Gazette Notice No 611/2014*

(iii) *Government Gazette No: 165/2015 under Gazette Notice No 746/2015*

(iv) *Government Gazette No: 5/2016 under Gazette Notice No 2/2016*

Background

- 3 The background to these appeals is a judgment of Eames CJ delivered on the 19th of June, 2012, in which his honour made the following orders:
- (a) Quashed the decision of the Nauru Lands Committee published in Government Gazette No 161/2012; and
 - (b) Directed the Committee to convene a family meeting for the purposes of the determining the beneficial owners of portion 94 Buada, known as “*Abotsijij*.”
- 4 Following the judgment, the Nauru Lands Committee (NLC) convened a meeting to determine the beneficial owners of the Portion 94 and published its decision in the *Government Gazette No 124/2012 under Gazette Notice No 501/2012* as prescribed by section 6 A of the *Nauru Lands Committee (Amendment) Act 2012*. That decision was appealed. Whilst the appeal was pending, NLC published in the gazette three additional decisions. Each of them has also been appealed.

Terms of settlement

- 5 The parties and their counsel have had numerous discussions and negotiations to bring an end to the dispute, as they realised that with the nature of issues involved and the number of appeals and cross appeals filed this would have been a very costly exercise for them. It would have consumed a lot of the court’s time, and it would take a longer before some finality could be reached.
- 6 In the settlement reached between the parties it is agreed that the dispute will be presided over by newly appointed members of the NLC or its existing members who previously did not participate in the decision making process in this matter. All the parties have agreed that the status quo is restored to the decision of Eames CJ delivered 19th of June, 2012 and that the decisions of Eames CJ are final. Section 7(3) of Nauru Lands Committee Ordinance 1956 provides as follows: -

“(3.) Notwithstanding anything contained in any other law, a judgment of the Supreme Court given on an appeal under this section is final”

- 7 The parties and/or through their legal representatives have filed terms of settlement in the following terms:

“TERMS OF SETTLEMENT”

The various Appellants and Respondents by their legal representatives and the Nauru Land’s Committee after having considered the various decisions of the Nauru Lands Committee and numerous appeals being

filed against the respective decisions of the Nauru Lands Committee by one or more of the Appellants have all mutually agreed to bring finality to the various proceedings pending before the Supreme Court in respect of all the land comprised in Portion 94 Buada District Abotsijij as follows: -

(a) The Supreme Court to quash all the under mentioned decisions of the Nauru Lands Committee made following the decision of Eames CJ delivered on the in which His Honour directed: -

(v) Government Gazette No 124/2012 under Gazette Notice No 501/2012

(vi) Government Gazette No 131/2014 under Gazette Notice No 611/2014

(vii) Government Gazette No: 165/2015 under Gazette Notice No 746/2015

(viii) Government Gazette No: 5/2016 under Gazette Notice No 2/2016

(b) The status quo be returned to the decision of Eames CJ where His Honour after quashing the decision of the Nauru Lands Committee published in Government Gazette No: 161/2010 under Gazette Notice Number 690/2010 directed the Committee: -

“to convene all family members meeting to resolve the issues and to determine the owners of the said land.”

(c) The Nauru Lands Committee has new members who have not been part of the decisions made so far. The Chairperson is make administrative arrangements for the Committee comprising of the new members to convene to comply with Eames CJ's aforementioned decision.

(d) The members of the Committee so selected are to consider the matter de novo or afresh.

(e) The Committee is to hold such meetings hear and determine the owners of the said land within 3 months of the Order or Orders of the Supreme Court made herein.

(f) Leave is granted to the interested parties and their Pleaders or personnel representatives to appear before the Committee to make written and oral submissions as directed by the Nauru Lands Committee.

- (g) *The Nauru Lands Committee to issue a direction for its hearing which must be strictly adhered to by the respective parties. Non-appearance in the hearings or meetings of the Committee after being informed of the same shall not constitute a breach of natural justice.*
- (h) *The **FINAL DECISION** of Nauru Lands be published in the gazette accurately reflecting all the beneficiaries. The Nauru Lands Committee cannot publish more than one decision.*
- (i) *An Order quashing the respecting decisions of the Committee be entered in all file with a direction be given by the Supreme Court for the committee to convene, hear and determine the ownership of Portion 94 Buada District Abotsijij.*

Dated this day of June, 2016

Counsels involved have executed this terms of settlement as either counsel for Appellants or Respondents in respective appeals.”

- 8 The parties have submitted the above terms of settlement and are seeking orders be made in accordingly. I have considered the terms of settlement and agree that its effect is to restore the judgment of Eames CJ to enable the Nauru Lands Committee to re-determine the dispute afresh between all the parties after taking all the matters into consideration. I believe that this is the first time that legal representatives would be provided an audience before the NLC to formulate and articulate their client’s case and the issues for determination. This is indeed a very innovative idea and if it assists in resolution of land disputes, then this kind of approach ought to be encouraged.
- 9 The legal representatives will only play a limited role before the NLC and their role will be confined to the formulation and articulation of their client’s case and issues and their attendance shall not in any way compromise the position of NLC in determination of the dispute between the parties as it is mandated to do under the Nauru Land Committee Act 1956 (the Act) and its subsequent amendments.

Conclusion

- 10 Before I make the final orders I would like to thank all the parties including their legal representatives, which effectively comprises of almost the entire Nauruan bar with many years of legal experience and particularly in the area of land law, in taking these unprecedented steps to settle this dispute. As I said earlier this is indeed a very innovative approach and the parties ought to

be applauded for this. If this approach works then I see no reason why the Act should not be amended to allow lawyers' attendance limited to the formulation and articulation of their client's claim. I am told by all the legal representatives that the Solicitor General played an instrumental and indeed a very pivotal role in facilitating the terms of settlement and the court is very grateful to him.

11 I hereby make order as follows: -

(a) All the decisions published in the Gazette by Nauru Lands Committee Portion 94 Buada District, the land commonly known as Abotsijij following the decision of Eames CJ delivered on the in which His Honour directed are hereby quashed: -

(i) Government Gazette No 124/2012 under Gazette Notice No 501/2012

(ii) Government Gazette No 131/2014 under Gazette Notice No 611/2014

(iii) Government Gazette No: 165/2015 under Gazette Notice No 746/2015

(iv) Government Gazette No: 5/2016 under Gazette Notice No 2/2016

(b) The status quo be returned to the decision of Eames CJ where His Honour after quashing the decision of the Nauru Lands Committee published in Government Gazette No: 161/2010 under Gazette Notice Number 690/2010 directed the Committee: -

“to convene all family members meeting to resolve the issues and to determine the owners of the said land.”

(c) The Nauru Lands Committee has new members who have not been part of the decisions made so far. The Chairperson makes administrative arrangements for the Committee comprising of the new members to convene to comply with Eames CJ's aforementioned decision.


(d) The members of the Committee so selected are to consider the matter de novo or afresh.

(e) The Committee is to hold such meetings hear and determine the owners of the said land within 3 months of the Order or Orders of the Supreme Court made herein.

(f) Leave is granted to the interested parties and their Pleaders or personnel representatives to appear before the Committee to make written and oral submissions as directed by the Nauru Lands Committee.

- (g) The Nauru Lands Committee to issue a direction for its hearing which must be strictly adhered to by the respective parties. Non-appearance in the hearings or meetings of the Committee after being informed of the same shall not constitute a breach of natural justice.
- (h) The **FINAL DECISION** of Nauru Lands be published in the gazette accurately reflecting all the beneficiaries. The Nauru Lands Committee cannot publish more than one decision.
- (i) This order is in respect of appeal numbers 532012, 51/2014, 3/2015, 122/2015, 125/2015 and 127/2015. A copy of this order to be placed and remain in each appeal file as record.

Dated this 16 day of June, 2016



Mohammed Shafiullah Khan

Judge

