



IN THE SUPREME COURT OF NAURU
AT YAREN DISTRICT

LAND APPEAL No. 9/2017

CIVIL JURISDICTION

BETWEEN

DIANA ITSIMAERA AND OTHERS

Applicants

AND

BENEFICIARIES OF THE ESTATE OF ROBERT DEBRUM

First Respondents

AND

NAURU LANDS COMMITTEE

Second Respondent

Before: Khan, J
Date of Hearing: 23 October 2020
Date of Ruling: 6 November 2020

Case may be referred to as: Diana Itsimaera and Others v Estate of Debrum and NLC

CATCHWORDS: Nauru Lands Committee (Amendment) Act 2012 – Where application for leave to file appeal out of time made after 28 years – To appeal against a decision made in 1989 by Nauru Lands Committee – Where after the 1989 decision there are subsequent decisions following the death of the wife and three children of the deceased – Whether the applicant waived there rights - Whether the applicants are bound by the Limitation Act 2017 – Whether the application should be granted to file appeal out of time.

HELD – Application refused.

APPEARANCES:

Counsel for the Applicants:	V Clodumar
Counsel for the First Respondent:	P Ekwona
Counsel for the Second Respondent:	B Narayan and J Togoran

RULING

INTRODUCTION

1. This is an application for leave to file appeal out of time against Gazette Notice No. 45 G.N.No. 308/1989 dated 27 September 1989 (G.N. 45) in respect of the Estate of Robert Debrum in which the Nauru Lands Committee (NLC) made determination in respect of various land portions mentioned in the Gazette.
2. NLC determined the following to be the beneficiaries of the Estate of Robert Debrum in respect of his various land portions:
 - a) Ronald S Debrum;
 - b) Edmond S Debrum;
 - c) Leslie S Debrum;
 - d) Ida S Debrum;
 - e) Felisisima S Debrum (LTO)

PROPOSED GROUNDS OF APPEAL

3. The applicants' proposed grounds of appeal are:
 - 1) That the children of Robert Debrum were not Nauruan citizens and they do not qualify to be treated as members of the Nauruan Community under Article 72(2) of the Constitution of Nauru;
 - 2) That Nauru Lands Committee did not have jurisdiction to make their determination in G.N. 45;
 - 3) In the alternative, if NLC had jurisdiction to make the determination then it acted in breach of the Administration Order 3 of 1938, in that, it failed to call a meeting of the family to distribute the estate.

HISTORY OF PROCEEDINGS

4. After the determination by the NLC in GN 45 the applicants filed an application for judicial review on 11 February 2014 in Miscellaneous Cause No. 11 of 2014.
5. On 20 May 2014 the applicants filed an ex parte application for interim injunction and an order for interim injunction was granted by Registrar G Leung restraining the payment of monies due and payable to the estate of Robert Debrum.
6. On 29 September 2014 the applicants filed a Writ of Summons and Writ for Order Certiorari.
7. On 10 February 2017 the first respondent filed an application for the strike out of the action under Order 15 Rule 19 of the Civil Procedure Rules 1972.

8. On 9 June 2017 the strike out application was heard and a ruling was delivered on 29 September 2017 and the Writ of Certiorari was struck out as it was filed without leave of the Court¹.
9. Although this action was struck out, an order was made that the striking out does not raise the issue of res judicata, as a proper action was not filed.
10. On 3 October 2017 the applicant filed the present action and on 6 October 2017 an ex parte interim injunction was granted by Acting Registrar Mr Lomaloma restraining the payment of the moneys due and payable to the Estate of Robert Debrum.

RELEVANT LAW

11. This application is made pursuant to Section 7(1) of the Nauru Lands Committee (Amendment) Act 2012 where it is stated:
 - 1) A person who is dissatisfied with a decision of the Committee may appeal to the Supreme Court against the decision:
 - a) Within 21 days after the decision is published; or
 - b) With the leave of the Court.

AFFIDAVITS OF THE PARTIES

12. In support of the application Maria Hiram (nee Moses) filed an affidavit dated 3 October 2017.
13. NLC filed an affidavit of Iturinmar Diringa dated 21 May 2018, a member of the Nauru Lands Committee; he opposes the application for leave to file an appeal out of time; he stated that under the Limitation Act 2017 no one can make a claim to recover land after a lapse of 20 years. He referred to the affidavit of Diana Itsimaera and stated that when NLC made the determination she was an adult. I note Diana Itsimaera did not file an affidavit in this application, but filed an affidavit in the judicial review application which was struck out.
14. Maria Hiram filed a supplementary affidavit on 5 September 2018 and stated as follows at [5(a)] and [7]:

[5(a)] The materials are as follows:

- a) The letter dated 7 August 1984 from the Vice Chairman of Nauru Lands Committee to the Director of Lands and Survey informing the Director that the Committee were unable to determine the Estate of Robert Debrum despite seeking assistance from Dr Mani (Doctor of Law from India who was the Chief Secretary in the 1980's) and Messrs Rai and Sharma from the Justice Department. The issue is the status of Robert Debrum who has lived out of Nauru for 64 years. Referred to exhibit MH/01.

¹ [2017] NRSC 19; Miscellaneous Cause No. 11 of 2014, Khan J dated 29 September 2017 at [14]

- [7] I was aware that Theodore Moses and Augustine Hedmon consulted the Government lawyer Peter MacSporran about claiming the estate of Robert Debrum. A petition in a letter form was prepared and signed by all the landowners resident in Nauru addressed to the Registrar to appoint one of the landowners as the administrator of the estate of Robert Debrum. I don't know what happened to the application to the Supreme Court. Refer to exhibit MH/03.

LETTER AND PETITION

15. I shall set out the contents of the letter and petition referred to in the affidavit of Maria Hiram. The letter from Nauru Lands Committee dated 7 August 1984 reads as follows:

*“Mr M.L. Lala,
The Director of Lands and Survey,
Republic of Nauru*

Dear Sir

I regret to say that this case concerning the late Robert Debrum is beyond our line of determination.

The Committee previously had sought settlement with more intelligent people, Dr Mani, Mr Rai and Mr Sharmar and to no avail.

There is a certain law existed, concern any people (Nauruan) who has deserted the island for such lengthy period and for the person concerned the late Robert Debrum he has been away for over 64 years.

He left Nauru in 1920 to be a student in Majuro and stayed there since, without even a day to return to his birth place for a visit or a glance in knowing how his families on Nauru are doing.

He married a Saipanese lady Arriola Salas and left Majuro on 4/7/1948 and stayed there until his death leaving behind these children, Ronald, Edward, Robert and Ida.

Herewith attached a family, lined down from grandmother, a pure Nauruan by the name of Eibagan who married a German Mr Rasch.

Please study thoroughly and seek advise form from the Chairman, as we at the moment couldn't determine this matter.

Yours faithfully

*P.A. Dowadi
Vice Chairman*

16. The petition dated 9 May 1986 reads as follows:

*The Registrar, Supreme Court,
c/- Yaren District,
Republic of Nauru*

Dear Sir

1. *We, the undersigned, immediate next of kin to Robert Debrum deceased, a Nauruan by birth, but who was permanently resident in Saipan, and whom, we have been led to believe, that he died over ten years(10) ago, would wish now to apply to the Supreme Court, for the administration of his estate, as required under section 63(5)(c)(1) of the Succession, Probate and Administration Act 1976.*
2. *We are the only Nauruans – who are entitled to succeed to Robert Debrum's estate, and we have enclosed herewith a copy of a recent signed Petition date 6 April, 1986, to the Vice Chairman, Lands Committee, evidencing the fact, that we are all the immediate next of kin to Robert Debrums deceased, and we all have agreed in our signed petition to the Committee that the Committee shall distribute the estate of Robert Debrum as required of it, under the existing Statute, which is the Administration Order No. 3 of 1938, Paragraphs (2) of such Statute which reads,

“the distribution of the property shall be decided by the family of the deceased person assembled for that purpose”. (unquote).*
3. *We appeal to the Supreme Court to consider our application for the administration of Robert Debrum's estate, on the understanding that there is exist – a Family Agreement – as required under the provisions of the Administration Order No. 3 of 1938, Paragraphs (2) of such Statute. And that the family agreement have been made known to the Lands Committee, as per our letter dated 6 April, 1986, which was addressed to the Vice Chairman of the Committee. At present the estate of Robert Debrum have not yet been finalised by the Committee, but we have requested it to do so as soon as possible.*
4. *We expect that this estate should be distributed as soon as possible, as it now long overdue as evidenced by the non-distribution of the monies being held by the Curator of the Intestate Estate, in the name of Robert Debrum deceased.*
5. *If the estate of Robert Debrum have not been finalised soon, Section 12 of the Succession, Probate and Administration Act 1976, will have to be effected forthwith by the Curator of Intestate Estate, and the properties and assets of Robert Debrum deceased, should therefore henceforth constitute Government revenues.*
6. *At present, there are two phosphate lands – which we owned in conjunction with the late Robert Debrum and which are to be signed for Surface Rights, and we all have signed of course, with the exception of Robert Debrum deceased, and because his estate has not yet been distributed, the surface rights for these two phosphate lands have been held up quite unnecessarily.*

7. *When Robert Debrum was alive, he never visited Nauru, and if he has any children who survived him, they have never visited Nauru to this day.*
8. *We also understand that there are no counterclaims – to our claim over Robert Debrum's properties and assets in Nauru.*

We therefore humbly submit the above grounds in support of our application for the grant of administration of Robert Debrum's estate.

Yours faithfully

SHAREHOLDERS

SIGNATURES

<i>T.C Moses</i>	<i>Sgd</i>
<i>Eliza B Detudamo</i>	<i>Sgd</i>
<i>Iwiden C Moses</i>	<i>Sgd</i>
<i>Augustine Hedmon</i>	<i>Sgd</i>
<i>Marina Ika</i>	<i>Sgd</i>
<i>Gloria Harris</i>	<i>Sgd</i>
<i>Eimoniba Temitsi</i>	<i>Sgd</i>
<i>Mervin D Hedmon</i>	<i>Sgd</i>
<i>Margaret Daniel</i>	<i>Sgd</i>
<i>Virginia D Hedmon</i>	<i>Sgd</i>
<i>Juliana D Hedmo</i>	<i>Sgd</i>
<i>Sophia D Hedmo</i>	<i>Sgd</i>
<i>Pelsina D Hedmo</i>	<i>Sgd</i>
<i>Linus D Hedmo</i>	<i>Sgd</i>
<i>Liana D Hedmo</i>	<i>Sgd</i>
<i>Eidogeiy D Hedmo (L.T.O.)</i>	<i>Sgd</i>
<i>Eidigin Rasch</i>	<i>Sgd</i>
<i>Eugene Amwano</i>	<i>Sgd</i>
<i>Esmeralda Amwano</i>	<i>Sgd</i>
<i>Itto Moses</i>	<i>Sgd</i>
<i>Sonia Hiram</i>	<i>Sgd</i>
<i>Maria Hiram</i>	<i>Sgd</i>
<i>Lilia Moses</i>	<i>Sgd</i>
<i>Piwi Moses</i>	<i>Sgd</i>
<i>Juliana Moses</i>	<i>Sgd</i>
<i>Diana Itsimaera</i>	<i>Sgd</i>
<i>Kenye P Ribauw</i>	<i>Sgd</i>

*Reply Address: Mr Augustine Hedmo,
Ewa District,
Republic of Nauru*

PART HEARING

17. On 1 April 2019 the application for leave to appeal was heard by me. Mr Clodumar made submissions that the late Robert Debrum was a Nauruan; and his wife was from Saipan

and all children were born in Saipan; and were not registered as Nauruan citizens; and that the Nauru Lands Committee did not have the powers or jurisdiction to grant his estate to his wife and children.

18. Mr Ekwona objected to leave being granted. Mr Udit agreed that the issues raised by Mr Clodumar were very complex and ought to be decided by this Court by way of a full hearing.
19. During the hearing it came to light that there were no minutes of the Nauru Lands Committee in respect of the determination relating to G.N. 45 and the matter was adjourned for the minutes of the determination to be filed.
20. NLC filed an additional affidavit of Mr Diringa on 7 August 2019 in which he disclosed the minutes of the Nauru Lands Committee dated 5 June 1989 and 28 June 1989.

ISSUES

21. On 12 March 2020 I requested the parties to address me on the following issues:
 - 1) The Nauru Lands Committee made a determination in Gazette No. 37/1989 in favour of:
 - a) Robert Debrum
 - b) Edmond Debrum
 - c) Leslie Debrum
 - d) Ida Debrum
 - e) Felisisima Debrum (LTO)
 - 2) All of Robert Debrum's children are deceased except Ida.
 - 3) The issue is whether having claimed to be the only Nauruans to be given the estate of Robert Debrum, and secondly, knowing that Robert Debrum had four children who were born in Saipan and had lived there all their lives and subsequently withdrawing the letter (petition) – whether the applicants can now claim:
 - a) That the Nauru Lands Committee failed to invite them to the hearing?
 - b) That the determination of Nauru Lands Committee is wrong as the children of Robert Debrum were not Nauruan?
 - c) Even if the Nauru Lands Committee's determination is incorrect or wrong, whether they waived their rights and are now estopped from raising it again.

FURTHER ISSUES

- 4) Whether NLC made determinations in respect of Robert Debrum's deceased children and if so when those determinations were made to provide copies of those determinations to the Court.

- 5) If NLC made determinations in respect of the deceased children of Robert Debrum – whether those determinations would be an obstacle to this Court granting leave to this application to the applicants to file appeal out of time?

FURTHER SUBMISSIONS

22. Mr Clodumar filed written submissions on 23 June 2020 in response to the issues raised by me and in that he states:
- 1) NLC never invited the applicants to attend a meeting in 1989 when it made a determination of G.N. 45. He relies on the case of *Antonius Heindrich v NLC and Others*² where Eames CJ stated as follows at [60] and [63]:

[60] *In any event, there having been jurisdictional error which went to the very task that the Committee was obliged to conduct, the decision was void, amounting to no decision at all. Insofar as there may remain a discretion in these circumstances to refuse to grant a certiorari, this would not be an appropriate case to decline the orders sought. Issues of entitlement to royalties from the phosphate land are extremely important and valuable interests are at stake. It is important that the Committee adopt the correct approach in performing its tasks.*

[63] *I conclude that the Committee fell into jurisdictional error and its determination G.NN. 690/2010 published in Government Gazette No. 161 of 15 December 2010 is therefore quashed. I direct the Committee to convene a family meeting for the purpose of determining the present beneficial owners of Portion 94 Buada, known as 'Abotsijij'.*
 - 2) On the issue of estoppel, Mr Clodumar submits that the applicants are challenging the decision of NLC to pass the estate of Robert Debrum to his wife and children who were not Nauruan.
 - 3) In respect of the issue as to whether the determination in respect of children would be an obstacle to this Court granting leave Mr Clodumar submits that except for Ida the three other children of Robert Debrum are deceased.
23. Mr Ekwona made a brief submission. He submitted that the applicant's assertion that the children of Robert Debrum are not Nauruan is incorrect – that the applicants have misconstrued the provisions of Nauru Community Ordinance 1936-1962.
24. Miss Narayan, the Deputy Solicitor General, in her submissions concedes that NLC did not hold a family meeting as the immediate family members of Robert Debrum were not on the island and NLC communicated with his wife and children by means of letter and facsimile.
25. She submits that NLC accepts that the children are Nauruan as Robert Debrum was a Nauruan, and that if that decision is incorrect, then the applicants are precluded from raising that pursuant to Practice Note/1 of 2006 where it is stated:

² [2012] NRSC 11 (19 June 2012)

- ‘1) Where a land appeal is out of time is lodged with the Supreme Court is called upon to make use of its inherent power which has a strong recognition under section 72 of the Civil Procedure Act, *the grounds of such appeal are limited to allegations of gross irregularity of procedure in the determination of the Nauru Lands Committee, proven fraud, and failure of natural justice. It should be noted that error in application or interpretation of existing law will not be a ground of acceptance of appeal out of time.*’
26. On the issue of waiver she submits that because of the delay of 28 years the applicants are deemed to have waived their right to the appeal; further under the Limitation Act 2017 the applicants are estopped from challenging the decision of NLC in G.N. 45; and that the death of three children of Robert Debrum affects the jurisdiction of this Court to hear the appeal.
27. On 5 November 2020, Ms Togoran produced the following Gazettes in respect of the deceased wife and the deceased children of late Robert Debrum:
- | | |
|----------------------------|---|
| a) Felisisima Salas Debrum | Wife G.N.65, G.N.No. 321/2014 dated 7 May 2014; |
| b) Ronald Debrum | G.N. 87, G.N.No. 421/2014 dated 25 June 2014; |
| c) Leslie Salas Debrum | G.N. 29, G.N.No. 154/2014 dated 26 February 2014; |
| d) Edmond Salas Debrum | G.N. 17, G.N.No. 86/2014 dated 29 January 2013. |

CONSIDERATION

28. In *Capelle v Nauru Lands Committee and Others*³ Eames CJ stated at [9]:

“An application for leave to appeal out of time should not be judged by any strict formula or rigid formula. The relevant principles are well described in Halsburys Laws of Australia:

The discretion is unfettered and should be exercised flexibly with regard to the facts of the particular case. The court will not decide the application according to a formula created by erecting what are merely relevant factors in the arbitrary principles as to allow the automatic production of a solution. However, since the discretion to extend time is given for the purpose of enabling the court to avoid an injustice, the court must determine whether justice as between the parties is best served by granting or refusing the extension sought. A consideration relevant to the exercise of the discretion is that upon the expiry of the time allowed for the appeal the respondent has a vested right to retain the judgement unless the application is granted. Other relevant matters include the length of the delay in commencing the appeal, the reason for the delay, the chances of appeal succeeding if an extension of time is granted, the degree of prejudice to the respondent if time is extended and the blamelessness of the applicant. Leave to appeal out of time may be given subject to specified terms. The interest of justice and a hearing upon the merits are basal considerations.”

³ [2013] NRSC 4 (8 March 2013)

29. The applicant Maria Hiram in her affidavit refers to the letter from NLC dated 7 August 1984 and the petition dated 9 May 1986 referred to in paragraph 15 and 16 above.
30. Maria Hiram in her supplementary affidavit at [7] states:
- [7] I am aware that Theodore Moses and Augustine Hedmon consulted Government lawyer Peter MacSporran about claiming the estate of Robert Debrum. A petition in a letter form was prepared and signed by all landowners resident in Nauru addressed to the Registrar to appoint one of the landowners as the administrator of the estate of Robert Debrum. **I don't know what happened to the application to the Supreme Court. Refer to exhibit MH/03.** (emphasis added)
31. Maria Hiram was a signatory to the petition and yet she states that she does not know what happened to the petition to the Supreme Court. In paragraph 2 of the petition it is stated that the petitioners are the only people entitled to succeed to Robert Debrum's estate.
32. Maria Hiram states that she does not know what happened to the petition but Augustine Hedmon in his affidavit to the application for Judicial Review states at [10], [11] and [12] as follows:
- [10] I am one of the signatory of the letter of administration of the estate of Robert Debrum in 1986. Refer to exhibit DI/04. After I was approached by Theodore and his sister Eliza (first cousins) to withdraw the letter, I went to our lawyer and instructed him to stop the proceedings.
- [11] I do not recollect being invited to a family meeting when the Nauru Lands Committee made the determination of the estate of Robert Debrum in 1989.
- [12] The letter from Vice Chairman Dowadi dated 7th August 1984 has been with me when the family was investigating the estate of Robert Debrum in the 1980's. Refer to exhibit DI/03.
33. I find it hard to accept that she being one of the applicants and signatory was not aware of what happened to the petition.
34. Both Maria Hiram and Augustine Hedmon were also in possession of the letter dated 7 August 1984 from Nauru Lands Committee which set out the family from the grandmother to the wife and children of Robert Debrum and in the opening paragraph of that letter it stated: "*I regret to say that this case concerning the late Robert Debrum is beyond our line of determination*" and in the petition dated 9 May 1986 the applicants claim to be the "*only Nauruan – were entitled to succeed to Robert Debrum's estate*"; and yet the petition was withdrawn and the lawyer was instructed to stop proceedings.
35. It is not clear as to when the petition was withdrawn, but as stated the Nauru Lands Committee made a determination in respect of the estate of Robert Debrum on 27 September 1989 in G.N. 45 a period in excess of three years from the date of the petition.

36. No explanations has been advanced as to when did the applicants come to know about the decision of the NLC in G.N. 45; and that no explanations has been given as to why the applicants did not appeal against the decision. If the appeal was not lodged within 21 days' time period then the applicants were at liberty to file an application for a judicial review as their contention is that NLC acted without jurisdiction to allocate the estate of Robert Debrum to his spouse and children. In *Giouba v Nauru Lands Committee*⁴ Eames CJ stated as follows at [28]:

[28] *It is, however important to stress that the remedies of judicial review and declaratory relief are discretionary. Even when the Court finds error in the conduct of a body it may be inappropriate to grant relief. Furthermore, the principles that govern relief by way of judicial review, are not the same as those applied by the Court in conducting appeals against land decisions under the Nauru Lands Committee Act. Under that Act the Court can conduct what amounts to a complete re-hearing of the questions decided by the Committee and can substitute its own opinion for that of the Committee. With judicial review, the Court may quash the decision and/or send it back to be re-considered, but it could not substitute its own decision for that of the Committee. Judicial Review is concerned with the process whereby a decision is made, and not with the merits of the decision.*

37. The applicants had three legal options available to them – firstly, they could have sought a declaratory relief from the Supreme Court that they were the only ones entitled to the estate of Robert Debrum; and secondly, they could have filed an appeal against the decision of the NLC; and thirdly, they could have filed an application for judicial review to challenge the decision of the NLC that it did not have jurisdiction (as discussed earlier the applicants filed judicial review in 2014 but it was struck out for failure to comply with procedural matters). The applicants were aware that NLC conceded by its letter of 7 August 1984 that it did not have the powers to make the determination for the estate of Robert Debrum; and they themselves were of the same view as per paragraph 2 of the petition dated 9 May 1986; and yet they decided to withdraw the petition and stop the proceedings, and thus in my respectful opinion by their conduct they waived their right against the estate of Robert Debrum. The question is whether by waiving their right did the Nauru Lands Committee have jurisdiction to determine G.N. 45 and my view is that they did not have the jurisdiction – but notwithstanding that, I have to deal with this application under the provisions of the Nauru Lands Committee Act. Before I move on to discuss this application for leave to appeal, I shall say a few words about judicial review applications as Eames CJ stated in *Giouba* that it is “*a discretionary relief*”; and even “*where the Court finds error in the conduct of a body it may be inappropriate to grant the relief*”.

NAURU LANDS COMMITTEE (AMENDMENT) ACT 2012

38. I note that Miss Narayan has made submissions that Practice Note 1 of 2016 it is stated: “... it *should be noted that error in application or interpretation of existing law will not be a ground for acceptance of appeal out of time.*” In light of the Nauru Lands Committee (Amendment) Act the Practice Note 1 of 2016 is no longer applicable as no

⁴ [2011] NRSC 11 (13 July 2011)

restrictions are placed on the Supreme Court when determining an application for leave to allow appeal out of time.

39. With respect to the death of three children of the deceased and the determination of the estate by NLC the matter is further complicated. The original decision as discussed in the case of *Maria Smith v Nauru Lands Committee and Others*⁵ where it was stated at [24] that: "... the jurisdiction of the Supreme Court will only come into play if it were to hear the appeal '**against the decision**' which in my respectful opinion means the original decision. If in between the original decision there have been subsequent decisions, which is the case in this matter, then the Supreme Court would not be empowered to hear the appeal '**against the decision**' as the effect of all subsequent decisions is that they are valid and binding unless and until they have been appealed against; so it would be a futile exercise."

40. Recently I discussed the implications of the finding in the case of the estate of Maria Smith in *Anita Harris v Nauru Lands Committee and Others*⁶ where it was stated at [17] as follows:

[17] *In Maria Smith's case I had stated that if there were subsequent decisions after the '**original decision**', then this Court would not be empowered to hear the appeals '**against the decision**'. The situation in this matter is the same, as in the case of Maria Smith, that the death of three beneficiaries Gazette No. 23 is no longer in existence in its original form and; thus, this court is precluded from hearing the appeal '**against the decision**'.*

41. In Giouba's case Eames CJ stated at [28] that"

"Under that Act the Court can conduct to what amounts to a complete rehearing of the questions decided by the Committee and can substitute its own decision for that of the Committee."

The observations of Eames CJ are in line with the observations of the Full Court in *Vernier Addi and Others v Nauru Lands Committee and others*⁷ where land ownership had not changed.

LIMITATION ACT 2017

42. Further, the applicants are bound by the Limitation Act 2017 and in particular to section 13(1) and (5) where it is stated:

[13] Recovery of Land

(1) A proceeding to recover land shall not be commenced after a lapse of 20 years from the date the cause of action accrued.

⁵ [2018] NRSC 29; 12 July 2018, Khan J

⁶ [2020] NRSC 32 Land Appeal 15 of 2019 (16 October 2020) Khan J

⁷ [2014] NRSC 2; Case No. 10 of 2014 Madriawivi CJ, Hamilton, White J and Khan J

- (5) A Court shall not grant a relief in any proceeding or appeals from the Nauru Land Committee to the Supreme Court, which would result in a claim being barred under subsection (1).
43. Under section 13(5) this Court is precluded from granting a relief in any proceedings (which includes this application) or appeals from Nauru Lands Committee after a lapse of 28 years; and the determination by the NLC in G.N. 45 was made 31 years as of today.

CONCLUSION

44. The issues that the applicants are advancing now, in this application, is what they canvassed in the petition in 1986 (34 years ago); they themselves are responsible for the delay, and because of their delay they have lost their right to challenge the determination of NLC in G.N.45, and therefore the application for leave to file appeal is dismissed.
45. I order that the interim injunction granted by the Acting Registrar on 6 October 2017 shall be dismissed, and all monies held as a result of that order shall be paid out to the first respondent.

DATED this 6 day of November 2020.



Mohammed Shafiullah Khan
Acting Chief Justice

