

**IN THE SOLOMON ISLANDS COURT OF APPEAL**

<b>NATURE OF JURISDICTION:</b>	Appeal from Judgment of The High Court of Solomon Islands (Lawry J)
<b>COURT FILE NUMBER:</b>	Civil Appeal Case No.2 of 2024 (On Appeal from High Court Civil Case No.515 of 2021)
<b>DATE OF HEARING:</b>	21 October 2025
<b>DATE OF JUDGMENT:</b>	31 October 2025
<b>THE COURT:</b>	Muria P Gavara-Nanu JA Morrison JA
<b>PARTIES:</b>	GREENLAND ENTERPRISES LIMITED  -V-  ROSE PIKO  LEADLY LUKISI  ATTORNEY GENERAL
<b>ADVOCATES:</b>	
APPELLANT:	L. Chite
RESPONDENT:	S. Kilua H. Lapo
<b>KEY WORDS:</b>	
<b>EX TEMPORE/RESERVED</b>	RESERVED
<b>ALLOWED/DISMISSED</b>	ALLOWED
<b>PAGES</b>	1 - 6

## JUDGMENT OF THE COURT

1. The Appellant is appealing the decision of Lawry PJ, as the primary judge given on 8<sup>th</sup> December 2023 in the judicial review proceeding titled *HCSI-CC 515 of 2021* which was filed on 7<sup>th</sup> September 2021 to be struck out. His Lordship ordered costs for the Claimants on standard basis.
2. The strike out order by the primary judge was based on a Notice of Discontinuance dated 15<sup>th</sup> November 2023 filed by the First Claimants, namely John Kokoro and Jerry Pakivai.

### **Grounds of Appeal**

3. The Appellant raises five grounds of appeal, which can be summarized as follows:-
  1. *The primary judge erred in law and or procedure in accepting the Notice of Discontinuance as having validly terminated the Claimants' claim.*
  2. *The primary judge did not give adequate time and opportunity to the Appellant to be heard. The primary judge should have also heard from the 16 remaining timber rights grantors besides the First Claimants.*
  3. *The learned primary judge erred in law and or procedure in purporting to strike out proceeding in its entirety when the Appellant who was the Second Claimant in the proceeding and a party to the proceeding, and had its claims against the Respondents which were still on foot.*
  4. *The learned primary judge erred in law and or procedure in setting down a Chapter 15 Conference for the Claim for judicial review then prematurely striking out the claim, presumably under Rule 9.75 of the Civil Procedure Rules, 2007 ("the CPR" hereon). The learned primary judge should have dealt with the issues of dismissal or strike out at such Conference under Rules 15.3.18 and 15.3.20 of the CPR.*
  5. *The learned primary judge erred in law and or procedure in striking out the judicial review claim without giving adequate opportunity and time for the Appellant's counsel to make proper submissions on striking out, thereby depriving the Appellant its right to be heard.*
  6. *The learned judge erred in law and or procedure in failing to provide written reasons for striking out the said claim.*

## Submissions

### (i) By the Appellant

4. The Appellant submits that the First Claimants in the judicial review proceeding represented 16 other timber rights grantors, whose rights were granted by the Choiseul Provincial Executive on 17<sup>th</sup> March 2021. Those 16 timber rights grantors were also Appellants in Western Customary Land Appeal Court, together with the First Claimants in HC-CC 515 of 2021. But the Notice of Discontinuance was signed only by the two Claimants viz; John Kokoro and Jerry Pakivai. It is submitted that only those two who signed the Notice of Discontinuance should have been removed from the proceeding and retained the remaining 16 timber right grantors to prosecute their claim.
5. It is argued that the Appellant being the Second Claimant was not affected by the Notice to Discontinue and was still a party to the proceeding. It is therefore submitted that the primary judge was required to set the matter down for Chapter 15 Conference. In this case, the Conference was not held.
6. It is submitted that the remaining 16 timber right grantors were prejudiced by the orders of the prime judge to strike out the proceedings. They were denied the right to present their views regarding the Notice of Discontinuous filed by the two Claimants. It is submitted that this was a clear breach of natural justice by the primary judge. The Appellant relies on *Caribbean Broadcasting Corporation v. Amalgamated Workers Union and Others* [2002] UKPC 42, in support of the argument that the notwithstanding the Notice of Discontinuance by the two Timber rights grantors, the right of the remaining grantors is still alive and on foot and therefore should still be allowed to prosecute their claims.
7. The Appellant submits that the primary judge should have dealt with the issue of dismissal or striking out in a conference under *Rules 15.3.18* and *15.3.20* of the *CPR*.
8. It is submitted that the learned primary judge erred in striking out the whole proceeding when other parties to the proceeding were not part of the Notice of Discontinuous.
9. It is submitted that the learned primary judge erred in striking out the proceeding without hearing from the parties and their legal representatives.

10. The Appellant submits further that the learned primary judge erred in not giving reasons for his decision to strike out the proceeding. It is submitted that this was a denial of procedural fairness to the Appellant and the remaining 16 timber right grantors.
11. The Appellant therefore seeks orders that the Appeal be allowed and the orders of the primary judge set aside and the matter be remitted to the High Court to be re-hearing.
12. The Appellant seeks costs of this appeal and the hearing in the court below.

**(ii) By the First Respondent**

13. Mr Ronald Dive, counsel for the First Respondent has filed submissions in writing purportedly against the Appellant's submissions.
14. However, we have also received a sworn statement by the First Respondent dated 26<sup>th</sup> October 2025. This sworn statement was filed following Direction by the Court. The sworn statement expresses the desire for the matter to be remitted to the High Court to be re-heard. The sworn statement is discussed below in our judgment.

**Consideration**

15. This appeal was scheduled for hearing on Tuesday 21<sup>st</sup> October 2025, at 9.30am. The First Respondent, who is an elderly woman, was not able to attend the hearing; but her adult son who was present in court was allowed by the Court to explain the reason for her not attending the hearing in person. The son told the Court that the First Respondent could not attend the Court hearing because she has difficulty in walking. The Court ordered that the First Respondent file any supporting documents for her case by 28<sup>th</sup> October 2025. The Court ordered that the appeal be heard on paper.
16. In her sworn statement she expressed that the matter should be remitted to the High for re-hearing. Paragraphs 6, 7, 8 and 9 of the Statement are relevant, they are as follows: -

*"6. After consulting my new Solicitors, I have been advised that the dismissal orders made by the High Court which is now the subject of appeal was based*

*on the Appellant having no standing to pursue a Claim for Judicial Review against the decision of the Western CLAC as the Appellant is a company and not a landowner that owns any customary land who could make out a claim or case over customary land.*

*7. I say that since the Second Claimant's Appeal is on foot, the Court should hear the Appeal and not accept the proposed consent orders.*

*8. I pray that the Court accepts my reasons stated herein so that justice can be served.*

*9. The statement deposed to above are true to the best of my knowledge and understanding. I acknowledge this statement is to be used in court and is subjected to the penalty of perjury".*

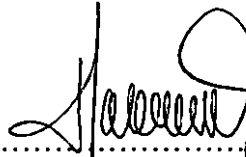
17. The proceeding before the court below was a judicial review proceeding which was struck out by the primary judge on 7<sup>th</sup> December 2023, under *Rule 17.3*. The basis of the strike out order was the Notice of Discontinuance filed by the First Claimants, namely John Kokoro and Jerry Pakivai on 15<sup>h</sup> November 2023. The Notice was filed under *Rule 9.68*. No Notice of Discontinuance was filed by the Appellant.
18. The issue of Appellant's standing was potentially an issue before the court below under *Rule 15.3.16 to 15.3.18* of the *CPR* once the Respondents discontinued. The process under these *Rules* was not exhausted by the primary court, it had to be followed as it was necessary for a Conference which had to be held under *Rule 15.3.18* to address the issue of Appellant's standing together with other issues listed under *Rule 15.3.18*.
19. In the circumstance of the case, we are of the view that the proper order for us to make is to allow the appeal and remit the matter to the High Court to be re-heard and to deal with the matter of the Appellant's standing and other related issues under *Rules 15.3.17* and *Rule 15.3.18* of the *CPR*.
20. In the result we make the following orders: -
  1. The Appeal is allowed.
  2. The orders of the primary judge given on 7 December 2023 are set aside.
  3. The matter is remitted to the High Court to be re-heard.

4. Parties to pay their own costs of this appeal and the costs of the hearing before the primary judge.

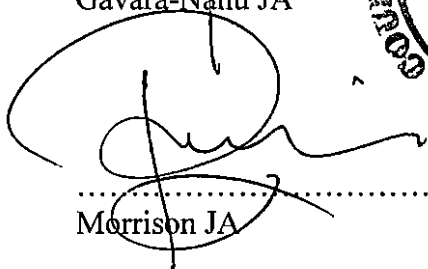
21. Orders accordingly.



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Muria P



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Gavara-Nanu JA



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Morrison JA