



IN THE: MALAITA CUSTOMARY LAND APPEAL COURT **DATE: 23/07/15**
CLAC Case No. 2/15 - PAUPASU/OHENA LAND

BETWEEN: Jim Sutamauri **Appellants**

AND: Attorney General (representing Malaita Province) **First Respondent**

AND: Joachim Nihokeni **Second Respondents**
Robert Makoki
Bob Philip Horoto
Timothy Houanihau
Steward Mamuiasi

AND: Southern Forest Industry **Third Respondent**

JUDGMENT

1. Before the proceedings commenced, the secretary disclosed that he acted as solicitor for Chris Wate in 2006 in a case that is unrelated to this one. He explained that Chris Wate is not a party to this case but he is the owner of the third respondent. We then asked the appellant whether he has any objections to the clerk presiding over this case with us. The appellant said that he had no objection so we proceeded to hear the case.
2. This is an appeal against the determination by the Malaita Provincial Executive for grant of timber rights to the third respondent on Paupasu and Ohena lands on West Are Are. The determination was held at Pipsis Village on 11, April, 2015.
3. The first ground of appeal is that the Malaita Provincial Secretary does not have the powers to hear and make a determination for grant of timber rights over customary. Only the Malaita Provincial Executive does but even then it must have a quorum.
4. We dismiss this ground of appeal. The records show that the determination was conducted by 10 members of the Malaita Provincial Executive (MPE), including the premier, Peter Chanel Ramohia. On the question of whether MPE had a quorum when it made the determination, the appellant did not address the court on the issue so we presume that he has decided not to pursue it. We note, however, that there is no provision in the Forest Resources and Timber Utilisation Act (Cap 40) which requires a quorum.
5. The second ground of appeal says that the second respondents are not the rightful persons entitled under customary law to grant timber rights over Paupasu and Ohena lands. This is

an issue of custom which can only be determined by hearing evidence on the relevant customs. As an appeal court we cannot deal with it. We also dismiss the second ground of appeal.

6. The third ground of appeal is that the Malaita Provincial Executive proceeded with the timber rights hearing and made the determination without considering the objections raised by the appellant's agent at the hearing. We have asked the appellant to explain the nature of his agent's objections but he failed to provide an explanation to the court. In the absence of such an explanation, we were unable to make a proper determination of the issue raised and dismiss this ground of appeal as well.
7. The fourth and final ground of appeal is that the consent form for negotiations (Form 1) was not signed or endorsed by a person called Boniface Araiiasi. We don't know who this person is or what interest he has in the lands in question. Nor did the appellant explain to the court why Mr. Araiiasi's signature, or the absence of it, provides a legal basis for an appeal. We dismiss this ground of appeal also.
8. For the reasons stated above, we dismiss this appeal altogether and recommend to the appellant that if he still claims ownership of Paupasu and Ohena, then he should pursue those claims through the chiefs and the Local Court, rather than by way of an appeal against a timber rights determination.

Adam Kwaeria	President:
Jackson Leaafuna	V/President:
Stanley Toata	Member:
Joel Rex Funusulia	Member:
Jacinet Bebatee	Member:
Israel Ratu	Member:
Jacob Rahe	Member:
Edwin Saramo	Clerk:

Adam Kwaeria
Jackson Leaafuna
Stanley Toata
Joel Rex Funusulia
Jacinet Bebatee
Israel Ratu
Jacob Rahe
Edwin Saramo

