

IN THE GUADALCANAL CUSTOMARY)
LAND APPEAL COURT)

CLAC case number: 24 of 2014

Customary land ownership Appellant Jurisdiction

IN THE MATTER OF: **THE LOCAL COURT ACT [CAP 144]**

AND **THE LANDS AND TITLE ACT (CAP 93)**

IN THE MATTER OF: **KOVALISE CUSTOMARY LAND APPEAL**

BETWEEN: **BILLY BELAKAKE**
MATHIUS GARA *Appellants*

AND
JOHNSON VOGITHIA
JOHN ILLIE
JOSEPH NONORO
SAMUEL KURIANA *Respondents*

JUDGMENT

Introductions

1. The appellants Mr Billy BELAKAKE and Mathias GARA were not satisfied on decision of the Guadalcanal Local Court (GLC) in LC number 04 of 2014 which held on the on 14th of May 2014. They appeal to the GCLAC base of the following grounds.

Ground1.

- *The Guadalcanal Local Court (GLC) committed an error of law of law when it held that Kovalise Customary Land is registered land and refused to hear the said dispute with the reason that it had no jurisdiction to hear to hear the said dispute over Kovalise Customary Land.*

- *The GLC findings that Kovalise is a registered land against the weight of the evidence presented before the Guadalcanal Local Court at during the said hearing.*
- *There is clear documentary evidence provided by the office of the Commissioner of Lands, the Office of the Registrar of Titles, and the office of the Survey General, that Kovalise land is outside of the boundary of the registered land, which the Respondents claim to be Kovalise registered land.*
- *The GLC had no power in law to make the orders it purported to have on the 14th May 2014.*

2. The Appellant therefore seeks the following orders:

- The order of the GLC quashing the respective decisions of the Gaobata house of Chiefs is quashed and set aside.
- The order of the GLC that the Gaobata Council of Chief be barred in law to hear or caused to entertain to hear registered land under perpetual estate title is beyond its power and is therefore null and void and should also be set aside.
- That a different constituted GLC be ordered to hear this dispute afresh or GCLAC hear fresh evidence and make a determination on the ownership in custom of Kovalise Customary Land between parties.
- Respondents pay the cost of this appeal.

Brief background of the case

3. This is a dispute over Kovalise customary land between Billy Belakake and Mathias GARA who represents the Luvu Agotha clan and Luvu Malaghai sub-tribe on one party, and Johnson Vogithia, John Ilei, Joseph Nonoro and Samuel Kuriana who represent their tribes on the other party.
4. The dispute was presided over by the Gaobata Council of Chiefs and awarded to Billy Belakake and Mathias Gara are the rightful ownership of Kovalise customary land.

5. Mr Johnson Vogithia and his tribe appeal the Gaobata Chiefs decision to the Guadalcanal Local Court (GLC) in which the Gaobata Council of Chiefs decision was turnover in favour of Johnson Vogithia and his tribe. The GLC based their findings on the basis that the land in disputes is a registered land under the perpetual estate of Johnson Vogithia and others.
6. The Appellant contended that the GLC is wrong in law when it held that Kovalise is a registered land. He presented some of the documentary evidence in support of his submission. A letter from the Commissioner of lands who confirmed the land in dispute is not a registered land. He had relied on some documentary evidence from the Chief Registrar of Title who also confirmed that Kovalise customary land is not a registered land.
7. Mr. Billy BELAKAKE has contended that there is a High Court case regarding this dispute is still pending at the High Court. It was confirmed that civil case No: 344 of 2014 was listed to the 16th of April 2015 for mention.
8. On the other hand, the Respondent still maintained that the Kovalise Land is part of the perpetual estate registered as Ngalibiu to Metapona on parcel number 192-003-14.
9. Having considering submissions from both parties, the court confirmed that the evidence of the Appellants is based on documentary evidence. For example, a letter from the chief surveyor of lands, and confirmed by the registrar of titles that "*the lines forming the triangle in question (Kovalise land) was not a registered land or block and it was situated within a customary land.*"
10. After a careful assessment made by the court panellist, they have unanimously agree that they could not able to make their findings due to civil case number 344 still pending at the High Court.
11. A conclusion reached that the matter is adjourned generally awaiting the outcome of civil case No: 344 at the High Court.

Order

- Appeal allowed generally giving both parties to proceed with civil case No: 344 of 2014.
- Awaiting outcome of the High Court case.
- No orders as to cost.

Decision was verbally announced on and written judgment delivered on dated this..... 07th May 2015.....

Signed:

1. John SEKETALA (President)
2. Fr. John GATU (Member VP).....
3. Martin TSUKI (Member)
4. Henry LUI (Member)
5. William Rex POCHO (Member)
6. Jim SEUIKA Clerk/Member.....

