

CC - 76/93.HC/Pg.1

EARTHMOVERS SOLOMONS LTD -v- MAELUA & ANOTHER

High Court of Solomon Islands

(Muria CJ)

Civil Case No. 76 of 1993

Hearing: 5 May 1993

Judgment: 19 May 1993

T. Kama for Plaintiff

J. Wasiraro for the Defendants

MURIA CJ: This is an application to attach the defendants for contempt of Court Order. That order was made on 16/3/93 restraining the defendants from entering and remaining on the plaintiffs land in Parcel No. 192-001-11 and further restrained from building any permanent or semi-permanent building or structure on the land.

There was no dispute that the defendants had not complied with the Order of the Court by continuing to remain on the land and building houses on the said land. What the defendants contended was that they relied on the authority of one Eric Ata who put them on the land. They said that they believed Eric had the right to put them on the land which Eric said was outside the plaintiff's land.

The defendants did not give evidence but Eric was called and gave evidence on behalf of the defendants. Mr Eric Ata stated that the area on which he put the defendants was in Lot 9 and not in Lot 10 which is the plaintiff's land. I do not need to go into Eric Ata's evidence as I do not accept his story. Eric could not tell the court where Lot 9 was. Further in cross-examination, Eric Ata confirmed that the defendants' houses were about 50 metres to the west of the Labour Line which, on the map, is inside Lot 10.

I have no doubt that Eric Ata now realised that the place where he put the defendants is in the plaintiff's land. He might not have realised it then. I think he was mistaken. The land on which the defendants were put by Eric Ata is clearly the plaintiff's land.

As for the defendants, I feel the evidence was such that, although they had breached the Order of the Court, it would be inappropriate for the court to commit them to prison in this case. The Central figure on the non-compliance of the Order of the Court was Eric Ata.

For the reasons I have mentioned, I find the defendants were in contempt of Court Order. I will not make a committal order at this stage but instead I order that the defendants have 30 days within which to vacate the plaintiff's land and within that 30 days also to remove any of their properties from the plaintiff's land. Should the defendants failed to comply with this order, a committal order shall issue against the defendants on the application of the plaintiff without further notice to the defendants.

I feel Eric Ata should be made to share the costs in these proceedings. I therefore order that the defendants 50% of the plaintiff's costs and the other 50% to be paid by Eric Ata.

(G.J.B. Muria)

CHIEF JUSTICE