

KALENA TIMBER COMPANY LIMITED AND DONALD ODIKANA LEZUTUNI (*Representing himself and Majority of his tribe*)-**V-EDDIE MAENA KIDOE, MARVIN LEZUTUNI AND GWEN ABANA** (*Trading or Holding themselves out as Reresare (Veala) Development, or Veala Reresare Development Company*), **AND ATTORNEY-GENERAL** (*Representing the Commissioner of Forests*) **AND RERESARE DEVELOPMENT COMPANY LIMITED, AND JACK LAGOBE, DALCY TOZAKA, TEDDY PAVO, EDDIE KIRIA, ALLAN GILAI AND MAKIVA OKAVAKI, AND DELTA ENTERPRISES LIMITED, TRADCO SHIPPING LIMITED, AND THE VESSEL PAULIN, AND ATTORNEY-GENERAL** (*Representing the Controller of Customs*) **AND ALL COMMERCIAL BANKS (ANZ BANK, NBSI AND WESTPAC BANKING CORPORATION)**

HIGH COURT OF SOLOMON ISLANDS
(Mwanosalua, J.)

Civil Case No.18 of 2005

Hearing: 22nd February 2006

Ruling: 23rd February 2006

G Suri for the Plaintiffs

A N Tongarutu for the First Defendants

N. Moshinsky QC, for the Attorney-General

J. Katahanas for the Third and Fourth Defendants

A. Radclyffe for the Ninth Defendant (*only representing Westpac Banking Corporation*)

RULING

Mwanosalua, J: By inter parte summons filed on 21st February 2006, the Plaintiffs seek interim injunctive orders against the First, Fifth, Sixth, Seventh and Eighth Defendants.

The Facts

This court issued injunctive orders against the First Defendants, their servants and agents, contractors and other persons having any interest on Veala Reresare Land on 1st September 2005. Order 1 directed the cessation of their logging operation on Veala Reresare Land immediately and restrained them from carrying on any logging and related activities on the land, except the removal and export of the logs felled before 1st September 2005.

The Case for the Plaintiffs

The Plaintiffs alleged that the First and the Fifth Defendants have continued to harvest logs from Veala Reresare Land and have been exporting the logs overseas. And that the First and the Fifth Defendants had not accounted for the proceeds of the logs exported.

The Case for the First Defendants

The First Defendants alleged that the current operation of the First and Fifth Defendants was limited to the extraction of logs felled prior to 1st September 2005 from the bush and the export of those logs.

The evidence supporting the case for the Plaintiffs.

Maelia Rihau is a Senior Forestry Officer. He carried out an inspection of Veala Reresare Land on 5th November 2005. His inspection Report (**Exh "DG2"**) showed that a new log pond was constructed and a 2.0km road was extended to a felling site. A Police Constable, Erickson Biara (PC211) who accompanied Rihau also made his report. His report showed a new road being constructed and trees were felled the previous week as shown by tree stumps of which photographs were taken. On 7th October 2005 D/Sgt.569 John Matapaza visited the logging camp on Veala Reresare Land. His enquiries revealed that between four and five hundred logs were felled for export. He was still at the camp when a Land Cruiser vehicle owned by the Fifth Defendant arrived. He saw workers and three 07 Stilhil chainsaws in the vehicle. He took photographs of the workers, the vehicle and the chainsaws (see *photographs annexed to his statement and Exh. "DG3"*).

The Decision

There is evidence that the First and the Fifth Defendants have continued to fell trees for export and carried out activities associated with logging after 1st September 2005. The activities of the First and Fifth Defendants were not simply the hauling and the export of logs felled before 1st September 2005. Their activities also included the extension of the logging road, felling of logs and the export of the logs overseas. They were in clear breach of the order of this court of 1st September 2005. I granted leave to Counsel for the Plaintiffs for abridgment of time for service of the summons and affidavits as there was urgency for a hearing. There was urgency because the Seventh Defendant was ready to load logs for export. I have decided to grant the interim orders sought by the Plaintiffs, and further orders, except the order sought in paragraph (3) of the summons.

The Orders of the Court

1. The time for filing and service of the summons and affidavits is abridged.

2. That the Sixth and Seventh Defendants by themselves, their officers, agents and servants are restrained forthwith from continuing loading onto the marine vessel, Paulin, or any other vessel for which the Sixth Defendant is an agent, the logs harvested from Veala Reresare Land situated on Vella La Vella or filed at the Dalveen Bay until the First and Fifth Defendants have complied with the following conditions:
 - (a) That the First and Fifth Defendants or their log buyer pay into an IBD account in the name of the Solicitors for the parties the full balance of the log proceeds, after deducting and paying the export duty to St Government.
 - (b) That the First and Fifth Defendants do give a written undertaking by their Counsel to file in this court, within seven days after departure of the log ship, a sworn affidavit of the full particulars of the logs so exported specifying in respect of each log the location on the Land from which the log was cut, species, volume, grade, log markings and the commercial value thereof. The said affidavit shall have annexed thereto true copies of the following documents:
 - (i) Complete tally sheets
 - (ii) Sales Contract
 - (iii) Customs entries for log export
 - (iv) Market price certificates
 - (c) That the First and Fifth Defendants to give written undertakings by their Counsel to file in this court, within fourteen (14) days, a full financial account of all logs harvested and exported from Veala Reresare Land ever since their logging commenced on the said land, specifying the log species, volume, grade, FOB value, and the operational expenditures.
3. That all Commercial Banks named herein do refrain from releasing any proceeds of logs export to the First and Fifth Defendants, except payment of export duty.
4. That the Marine Vessel, Paulin, shall be served by serving all documents and orders on its shipping agent.
5. That this matter shall return for inter parte hearing on Thursday 2nd March 2006.

6. That further material to be relied upon by parties are to be filed by Thursday 2nd March 2006.
7. Costs of this application is reserved.

Francis Mwanosalua
Puisne Judge