

**IN THE HIGH COURT OF SOLOMON ISLANDS**

Civil Jurisdiction

CIVIL CASE NO. 493 of 2024

**BETWEEN: GREENLAND ENTERPRISES LIMITED** Claimant

**AND: JOHN KOKORO, JERRY PAKIVAI, JEFFREY STEVEN SERO AND ALOSI JONAH**  
(Purporting to represent Volaikana tribe of South Choiseul,  
Choiseul Province) First Defendants

**AND: NEW VENTURE LIMITED** Second Defendant

**AND: FOO KUEK KIONG** Third Defendant

**AND: EVERWIND LIMITED** Fourth Defendant

**Date of Hearing:** 23<sup>rd</sup> October 2025

**Date of Ruling:** 30<sup>th</sup> October 2025

Mr. L. Chite for the Claimant

Mr. J. Iroga for the First Defendants

Mr. S. Kwaiga for the Second to Fourth Defendants

**RULING**

**AULANGA; PJ:**

1. There are two applications before the Court for consideration. First, the First Defendants seek restraining orders against the following individuals: Dagnald Dereveke, Nester Piko Masolo, Heather Haro Piko, Harrison Benjamin, Downtown Newman, and Derald Daniel. The orders would prohibit these persons either personally, through their agents, relatives,

or any individuals acting under their authority from making further sworn statements in support of the Claimant in this proceeding. Should the application be granted, the First Defendants further request that the Court strike out all sworn statements previously made by the aforementioned individuals from the record, and that costs be awarded. Second, the Second to Fourth Defendants request the Court's determination of a preliminary issue: whether the Memorandum of Understanding ("2013 MoU") dated 29<sup>th</sup> March 2013 should be declared illegal on the grounds that it was executed in contravention of section 7(1) of the *Forest Resources and Timber Utilisation Act (Cap. 40)*. It is their collective submission that, should the Court find the MoU to be unlawful, the Claimant's case would lack a valid cause of action and ought to be dismissed without trial.

2. In 2013, a dispute over the ownership of the Robroy Island arose within the Volaikana tribe. The contention was between two internal factions: one led by Chief John Kokoro, who was supported by the Claimant, and the other, identified as the Volaikana Soa group, led by Rosie Piko and backed by the Second Defendant. Both sides were driven by their respective interests in pursuing logging operations on Robroy Island.
3. To facilitate logging activities on Robroy Island, the Claimant entered into the MoU in 2013 with certain elders of the Volaikana tribe. Under the terms of the MoU, the Claimant was granted permission to conduct logging operations and committed to providing financial assistance to the tribe, including support for legal proceedings. The First Defendants agreed to formalize the arrangement by signing a Standard Logging Agreement once timber rights were approved by the Choiseul Provincial Executive ("CPE"). The MoU also contained a non-circumvention clause, prohibiting the First Defendants from entering into agreements with third parties that could undermine the MoU. Breach of this clause would trigger penalties, including reimbursement of expenses and damages amounting to SBD 5 million.
4. The Claimant's application for timber rights over Robroy Island was rejected by the CPE, leading to a series of court proceedings. The customary ownership of the Robroy Island was also litigated. The Customary Land Appeal Court, by order of the Court of Appeal in

CAC 22/2022, settled the ownership dispute. The issue of timber rights remains pending before the Court of Appeal in CAC 2/2024.

5. Despite the ongoing legal proceedings, certain members of the First Defendants entered into agreements with the Second and Third Defendants in 2022. In response, the Claimant executed the 2023 Supplementary Agreement (“2023 SA”) to reinforce the obligations under the 2013 MoU.
6. The Claimant, after becoming aware of the agreement between the First and the Second Defendants, filed this proceeding for breach of the 2013 MoU and the 2023 SA.
7. In the course of this proceeding, Dagnald Dereveke, Nester Piko Masolo, Heather Haro Piko, Harrison Benjamin, Downtown Newman, and Derald Daniel have provided sworn statements in support of the Claimant. The First Defendants contend that these individuals fall under the tribal leadership of Chief Kokoro, who, according to their customary practices, holds the exclusive mandate, authority, and power to speak for and represent the Volaikana tribe. The First Defendants further contend that these individuals were not authorised to provide evidence on behalf of the Claimant. Accordingly, they argue that the sworn statements should be struck out on the grounds that the deponents lacked authorisation from their tribal chief and that their involvement presents a conflict of interest.
8. The First Defendants rely on a sworn statement of Chief John Kokoro, filed on 14<sup>th</sup> March 2025, in support of the application. Apart from their written submission, there is no direct case authority cited to substantiate their contention. In legal proceedings, especially where precedent is crucial, the absence of supporting case authority can significantly undermine the strength of a party’s claim. It suggests that the argument may be novel, speculative, or lacking judicial endorsement.
9. The Claimant, in response, argues that the application is fundamentally untenable and ought to be outrightly dismissed. It lacks any legal foundation under the *Evidence Act*

2009. The Claimant further argues that the First Defendants seek an order that would, in effect, operate contrary to the proper administration of justice.

10. In this case, the Court must determine whether it is appropriate to grant a restraining order that would limit the Claimant's ability to present sworn evidence from witnesses in this matter. During the hearing, it appears that the witnesses sought to be restrained are those who will give evidence concerning the 2013 MoU and related matters that are central to the determination of this case. If that is so, the overarching issue becomes whether it is appropriate and just to restrain the Claimant from adducing sworn evidence from those witnesses, based on the grounds raised by the First Defendants.
11. It is generally accepted that the Court has broad discretion to regulate the admission of evidence in civil proceedings to ensure fairness and relevance. However, restraining a party from adducing evidence entirely is an extraordinary remedy that demands clear justification, if not, a clear legal basis. This is particularly important because parties in civil proceedings have the right to fully present their case, including the submission of sworn statements as evidence. That right is central to procedural fairness, which the Court is duty-bound to uphold.
12. In the present case, while customary authority may be relevant, it generally relates to the weight of the evidence rather than its admissibility. Such considerations are typically addressed during the trial itself, not through premature exclusion of evidence through an interlocutory application. The Court may evaluate whether the evidence is credible or admissible during the trial, but not at this preliminary stage as sought by the First Defendants.
13. The Court acknowledges the significant role of chiefs in customary matters and the cultural expectation that chiefs usually speak on behalf of the community. However, this respect for custom must be balanced against the principles of procedural fairness and justice in civil litigation. The Claimant's right to present evidence through the sworn statements of its witnesses cannot be unduly restricted or curtailed prior to trial. Furthermore, the Court also notes that the First Defendants have failed to identify any

legal basis, whether from the *Evidence Act 2009* or from case authorities that prohibit sworn statements on customary matters from individuals other than chiefs. This omission is fatal to the application.

14. It is the Court's view that evidence given by these individuals who are non-chiefs and might be signatories to the 2013 MoU will provide material evidence regarding the validity of that agreement and the 2023 SA. Hence, their sworn statements must not be unnecessarily excluded before trial.
15. In any event, those individuals do not require the authority of Chief Kokoro to give their sworn statements. Furthermore, it is the Court's view that their sworn statements or their decision to give evidence in support of the Claimant is not in conflict with Chief Kokoro's authority, nor do they undermine it. Instead, they represent independent, relevant testimony that the Claimant is entitled to present. The integrity of the trial process must be upheld and that evidence should be assessed on its merits during the trial and should not be excluded based on hierarchical or customary objections.
16. Premised on those reasons, it is the Court's view that granting a restraining order in these circumstances would unjustifiably restrict the Claimant's right to a fair hearing and could result in injustice.
17. The application by the First Defendants is refused forthwith, with costs to be paid to the Claimant on a standard basis.
18. The second application, as previously alluded to, is brought by the Second to Fourth Defendants. It seeks the Court's determination of a preliminary issue, namely, whether the 2013 MoU should be declared illegal on the principal ground that it was executed in contravention of section 7(1) of the *Forest Resources and Timber Utilisation Act (Cap. 40)*.
19. This application can be disposed of summarily. Section 7 of the Act provides as follows:

*“7.— (1) Any person who wishes to carry on business in Solomon Islands as a timber exporter or sawmiller, and desires to acquire timber rights on customary land shall make application to the Commissioner in the prescribed form and manner and obtain his consent to negotiate with the appropriate Government, the area council and the owners of such customary land. (2) When the Commissioner gives his consent to an application made under subsection (1), the Commissioner shall forward a copy thereof to the appropriate Government and to the appropriate area council.”*

20. Section 7(1) above requires any person seeking to acquire timber rights to apply to the Commissioner of Forests using the prescribed form (Form 1) and obtain consent to negotiate with the appropriate provincial government and landowners. Section 7(2) further mandates that, once consent is granted, the Commissioner must forward the application to the relevant authorities. These provisions establish a mandatory statutory process for the acquisition of timber rights, and any attempt to circumvent this process renders the acquisition invalid or unlawful. However, the Act does not preclude parties from entering into preliminary agreements, provided such agreements do not purport to confer timber rights outside the bounds of the statutory framework.

21. In commercial undertakings, a MoU typically outlines the parties’ intentions, delineates their respective roles, and sets conditions for the parties to enter into future formal agreements. As long as the MoU does not override or contradict statutory requirements, it remains lawful.

22. The Court has carefully reviewed the 2013 MoU and finds no clause that grants the First Defendants direct permission to conduct logging operations on Robroy Island without complying with the timber rights process under the *Forest Resources and Timber Utilisation Act*. On the contrary, clauses (E) and (F) in the “WHEREAS” section of the MoU expressly state that logging operations will only proceed following compliance with the Act. Accordingly, the MoU does not operate as a substitute for the statutory process. Rather, it constitutes a preliminary arrangement, contingent upon satisfaction of the legal requirements prescribed under the relevant forestry legislation. It remains subject to section 7 of the *Forest Resources and Timber Utilisation Act*.

23. In summary, the 2013 MoU does not purport to grant timber rights to the First Defendants. Rather, it designates the First Defendants as the exclusive party authorized to submit a Form 1 application to the Commissioner of Forests for the proposed logging operations in Robroy. The MoU is expressly conditional upon compliance with the statutory process prescribed under the Act.
24. There is no evidence before the Court to suggest that the 2013 MoU was employed to circumvent or replace the statutory requirements, nor that the proposed logging operations on Robroy Island will proceed without the consent of the Commissioner of Forests. The Court finds that the MoU does not override section 7 of the Act; rather, it anticipates and aligns with its provisions.
25. In this matter, the Claimant and the First Defendants entered into conditional or preparatory agreements, as embodied in the 2013 MoU, which contemplate future compliance with the statutory procedures under the *Forest Resources and Timber Utilisation Act*. Such agreements are not unlawful unless they are employed to circumvent the law or to confer rights in a manner contrary to statute.
26. Based on those reasons, the Court finds that the 2013 MoU is not unlawful under section 7 of the *Forest Resources and Timber Utilisation Act*. It constitutes a conditional agreement that both respects and anticipates the statutory process required for the acquisition of timber rights.
27. Another concerning matter is that this application is brought by the Second to Fourth Defendants. However, as the evidence overwhelmingly established, they are not the parties to the 2013 MoU. This has significant legal implications under the doctrine of privity of contract.
28. In contract law, the principle of privity dictates that only those who are parties to an agreement may sue or be sued. The parties may enforce its terms or challenge its validity (see: *Aerolift International (SI) Ltd v Mahoe Heli-Lift (SI) Ltd* [2003] SBCA 16). A third party

or, rightly put 'strangers' to the agreement who neither signed nor were intended to benefit from the agreement, have no legal standing to intervene in its operation. This rule preserves the autonomy of the contracting parties, and prevents outsiders from interfering in private arrangements unless specific statutory exceptions apply.

29. In this case since the Second to Fourth Defendants were not signatories to the 2013 MoU, they cannot assert any rights under it, nor can they seek to invalidate it. As such, this application in the Court's view amounts to a collateral challenge to a private agreement between the Claimant and the First Defendants. Without demonstrating a direct legal interest or showing that the MoU has been used to unlawfully affect their rights, the application by the Second to Fourth Defendants rests on tenuous ground, and lacks foundation.

30. Furthermore, the MoU itself is conditional and expressly subject to compliance with the statutory framework under the *Forest Resources and Timber Utilisation Act*. It does not purport to grant timber rights independently of the law. Therefore, even if the Second to Fourth Defendants disagree with its content or implications, they have no legal basis to seek its nullification.


31. In light of these considerations, the application is procedurally and substantively flawed, as it violates the doctrine of privity of contract, and fails to establish any legitimate ground for this Court to intervene.

32. This application is hereby dismissed with costs to be paid to the Claimant on a standard basis.

### **Orders of the Court**

- 1. The application by the First Defendants is dismissed.**
- 2. The application by the Second to Fourth Defendants is also dismissed.**

3. Costs are awarded to the Claimant, to be paid jointly and severally by the First to Fourth Defendants, on a standard basis.

THE COURT  
  
Hon. Justice Augustine Sylvester Aulanga  
JUSTICE  
POISNE JUDGE