

IN THE HIGH COURT OF SOLOMON ISLANDS
Civil Jurisdiction
(Maina PJ)

Civil Case No.418 of 2024

BETWEEN:	VICTOR MAESI	Applicants
AND:	BARTHLOMEW TARO	First Defendant
AND:	ZACHARIAH PUTARO, MORRIS KERETARO (Deceased), AND THOMAS WALE TORO	Second Defendant
AND:	ATTORNEY GENERAL (Representing Makira Local Court)	Third Defendant
AND:	ATTORNEY GENERAL (Representing Makira Customary Land Appeal Court)	Fourth Defendant

Date of Ruling: 6th November 2025

Rano for the Applicant
Puhimana the first and second Defendant
Kelesi P for the third and fourth Defendants

RULING

Maina J:

1. The Applicant, Mr. Victor Maesi, applies under Rule 15.3.9 of the Civil Procedure Rules 2007 ("CPR") for leave to extend the time to file a judicial review claim. The proposed claim challenges decisions relating to Bwanamou customary land.
2. The leave application relates to the decisions of the Marogu House of Chiefs (2009), Makira Local Court decision (2024) and the matters arising from chiefs' hearings and prior determinations affecting customary ownership and timber rights.

3. The Applicant seeks quashing orders in respect of the decisions listed above, to be filed within seven days of leave being granted.

Brief Background and Procedural History

4. This land has a long and complex history of dispute with previous proceedings include the:
 - (i) Arosi 2 Council of Chiefs (2007) – handwritten decision regarding ownership,
 - (ii) Marogu House of Chiefs (2009) – handwritten decision, later reproduced as a typed decision in 2016,
 - (iii) Haununu Ward Chief (2014) – decision awarding the same land to a different party,
 - (iv) Makira Local Court (2024) – ownership determined in favour of Bartholomew Taro and;
 - (v) Makira/Ulawa Customary Land Appeal Court (MUCLAC, 2022) – determination of timber rights, referencing prior decisions.
5. The Applicant contends that prior decisions contained errors of law, including breaches of res judicata, functus officio, and procedural improprieties. Allegations are also made regarding fraudulent alteration of the Marogu House of Chiefs' 2009 handwritten decision to the typed 2016 version.
6. The Respondents oppose the application, citing abuse of process, finality of judgments, and the lack of sufficient justification for extending time.

Issues for Determination

5. The Court must determine:
 - (i) What is the status of the chief's decisions with the Arosi 2 Council of Chiefs (2007), Marogu House of Chiefs (2009) and Haununu Ward Chief (2014)?
 - (ii) Whether leave should be granted to extend time for filing a judicial review,
 - (iii) Whether the Applicant has shown substantial justice requires the extension,

- (iv) Whether the application constitutes an abuse of process, given prior decisions of MUCLAC and the Local Court.

Submissions of the Parties

Applicant:

6. Counsel Rano among others things submits:

- (i) The delay in filing was caused by institutional failure, particularly the delay in the issuance of the Marogu House of Chiefs' decision (handwritten 2009 vs typed 2016),
- (ii) Conflicting decisions from Haununu Ward Chief (2014) and prior chiefs' hearings caused confusion
- (iii) Protracted litigation between 2004–2016 diverted the Applicant's attention and resources,
- (iv) The Applicant resides in a remote area with limited access to shipping and legal services, resulting in further delays,
- (v) Prior decisions, including the typed Marogu House of Chiefs 2016 ruling, may involve fraudulent alteration, requiring judicial review (*Kuper v Regina*¹),
- (vi) Applicant asserts rights under Rule 15.3.9 CPR, which allows the Court to extend time if substantial justice requires.

Respondents:

7. Counsel for the First and Second Respondents (Puhimana Lawyers) argues:

- (i) Delay is inexcusable and not a legitimate reason for extension,
- (ii) MUCLAC's 2022 determination addressed timber rights and ownership of Bwanamou land, referencing prior chiefs' decisions,
- (iii) Makira Local Court 2024 decision settled ownership in favour of Bartholomew Taro,
- (iv) The Applicant's claims risk reopening matters already conclusively decided, amounting to abuse of process,
- (v) Alleged delays due to financial hardship or remoteness are insufficient to justify extension,

¹ [2017] SBCA 18; SICOA-CRAC 5 of 2017 (13 October 2017)

(vi) Prior chiefs' decisions are non-binding; relevant issues have been properly determined by competent courts.

8. Counsel for the Third and Fourth Respondents (Counsel Kelesi) emphasized the discretionary nature of Rule 15.3.9, citing *Laise v Kajapala*, and states that discretion is exercised only if substantial justice requires it.

Applicable Law

9. With the time for filing claim for a quashing order, Rule 15.3.8 of the CPR provides that a claim for a quashing order must be made within 6 months of the decision.

10. Further Rule 15.3.9 of the CPR provides that the court may extend the time within or outside of the prescribed period for making a claim if it is satisfied that substantial justice requires it.

11. The power of the court is also stated in Rule 26.6 of the CPR which states that the court or a judge may by order extend or abridge any time fixed by the rules or by any judgment or order.

Principles from Case Law:

12. Counsels referred to the cases which the court had dealt with the similar issues and in cases of:

- *Laise v Kajapala*², the discretionary power of the court to extend time requires substantial justice, considering delay and prejudice;
- *Kuper v Regina*³, the fraud or tampering with official records can justify judicial review; and
- *Ulasi v Ngwaefuana*⁴ with procedural irregularities in Local Court referrals.

13. The principles of *Res judicata* & *estoppel* is the finality of decisions prevents reopening matters already conclusively determined.

² [2024] SBCA 11; SICOA-CAC 21 of 2023

³ *Kuper v Regina* [2017] SBCA 18; SICOA-CRAC 5 of 2017 (13 October 2017)

⁴ [2023] SBCA 34; SICOA-CAC 9013 of 2021 (13 October 2023)

Analysis and Findings

Issue 1

14. There has been contentious matter with the status or standing of the chief's decisions related to this land.
15. With the background of the case and submission by the Applicant counsel, that disclosed and among things, the matters or facts relate to the various chief's hearings on this land.
16. The dispute on concern customary land had been taken before different houses of chief by the parties and with other party even used the decisions in the higher jurisdictions or courts. It may be one of the decisions of the chiefs that had reached the local court otherwise the others were not taken to local court.
17. By virtue of the Local Court Act as amended in 1985 and now with the provisions of sections 11, 12, 13 and 14 of the Act, it is the Chiefs and traditional leaders who has the power to hear the dispute on customary land. If the dispute is not settled at chiefs' level before it come to local court. It is well accepted by the indigenous people that Parliament recognised or saw the significant of chiefs in dispute settlement by passing the Local court (Amendment) Act 1985.
18. In practice, this Act gives power to the chiefs to hear and settle land dispute. The idea behind the law is to encourage people to settle land disputes peacefully, in accordance with their custom, without having to spend a lot of time and money with the courts.
19. The land must be located within the area where the parties and the chiefs live. It is important that chiefs of the area where the land is situated must hear and settle the land dispute.
20. When the chiefs hear a customary land dispute case and if none of the disputing parties takes the chief's decision to the Local Court, then the decision remains a customary ruling between the parties.
21. It is not legally binding or enforceable in the formal court system and the parties may choose to abide by it voluntarily, but if they do not, there is no legal mechanism to enforce it unless it is brought before the Local Court.

22. For the purpose clarity and by the requirements of the Local Court Act, such chiefs' decision or the status of the decisions summarily be:

- The chief's decision is not automatically statutory binding (in the sense of being final legal determination enforceable by the local court) if it is not accepted by both parties.
- The decision remains a valid customary attempt at resolution, and may be persuasive in later proceedings.
- The dispute remains open to formal referral to local court (any and then to high court appellant courts) because the statutory pathway has not been closed by mutual acceptance.
- If later the parties (or one of them) pursue the matter in the local court, the fact that the chiefs made a decision may be relevant evidence of customary process but it does preclude recourse to the court.

Issues 2, 3 and 4

23. With the delay and institutional factors, the Applicant attributes delay to institutional failure (e.g., 11-month delay for chiefs' decisions). For this issue the Applicant only refer to written decision than the common custom practice or system of oral decision.

24. With reference to chiefs' decisions it is interesting to note the provisions of section 12 of the Local Court Act (Cap19) that beside the court satisfied the dispute had been referred to the chiefs, all traditional means of solving the dispute have been exhausted and no decision of the chiefs wholly acceptable to both parties in connection with the dispute.

25. This provision requires a certificate of Unaccepted Settlement Form containing the required particulars and signed by two or more of the chiefs to whom the dispute had been referred, than any written decision.

26. With the remote location and financial constraints, though genuine, are insufficient alone to justify reopening matters already determined by competent courts.

27. The Fraud and Procedural Impropriety by the alleged alteration of the Marogu House of Chiefs' 2009 handwritten decision to the 2016 typed

version is serious, but MUCLAC 2022 reviewed these issues in the timber rights determination.

28. MUCLAC concluded ownership matters should be settled by competent Local Courts, reflecting appropriate supervisory oversight.
29. With the res judicata and finality, the Applicant's claims challenge matters that MUCLAC and Makira Local Court conclusively addressed.
30. Granting leave risks reopening settled disputes, contrary to principles of finality and legal certainty.
31. Further with substantial justice or while the Court has discretion under Rule 15.3.9, the overriding consideration is whether granting leave would achieve substantial justice.
32. In this case, the Court finds the issues raised by the Applicant have been adequately addressed by MUCLAC and the Local Court.
33. Extending time would reopen settled matters, causing prejudice to the Respondents and the delay, hardship, and procedural confusion do not outweigh the need for finality.
34. Allowing the Applicant to file judicial review now would constitute re-litigation of matters already decided, thus an abuse of process.
35. The consideration is emphasized on the principles of finality, judicial economy or judicial efficiency, and respect for competent authorities must prevail over delay and procedural irregularities where issues have been properly determined.
36. The Court notes Respondents' submission that the Applicant's application may constitute abuse of process, and finds this submission persuasive.

Conclusion

37. In the exercise of discretion under Rules 15.3.9 and 26.6 CPR, the Court refuse the application for leave to extend time to file a judicial review claim.

ORDERS OF THE COURT

- (i) The application for leave to extend time is refused,
- (ii) The Applicant may not challenge in the judicial review the decisions of Marogu House of Chiefs (2009/2016), Haununu Ward Chief (2014), Makira Local Court (2024) and MUCLAC (2022) timber rights determination,
- (iii) No order as to costs is made.

THE COURT



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Honourable Justice Leonard R Maina
Puisne Judge