

IN THE HIGH COURT OF SOLOMON ISLANDS

Civil Jurisdiction

Civil Case No. 485 of 2021

BETWEEN:	Colton Au and John Defona <i>(Representing the Fa'alau/Fabusia Tribe of Central Kwara'ae, Malaita Province)</i>	Claimants
AND:	Johnson Tome and Martin Lagwairara <i>(Representing themselves and members of their family)</i>	First Defendants
AND:	Matthew Maefai <i>(Representing Himself and members of his family)</i>	Second Defendant
AND:	Peter Kinita Irobina <i>(Representing the Aimela Tribe)</i>	Third Defendant

Date of Hearing: 21 January 2026

Date of Judgment: 21 January 2026

Counsel:

Mr L Kwaiga for the Claimants

Mr B Titiulu for the First Defendants

No appearance for the Second Defendant

Mr D Lidimani for the Third Defendant

Nott PJ

JUDGMENT ON AN ANSWER TO A SPECIAL CASE

Background

1. The Claimants assert original customary ownership of the land on which Lot 7 on Parcel Number 151-007-5 is situated. It is common ground that Lot 7 is recorded in the Customary Land Register as customary land, under the description Lot 7, PN 151-007-5 (to be referred to as "Lot 7"), with a registration date of 12 December 1968.
2. The First Defendants assert that the land was purchased by their father in 1928. The Claimants deny that any such purchase occurred or that it affected customary ownership of Lot 7. The Second

Defendants also assert that they (or their predecessors) purchased the relevant land in 1942, which claim is likewise denied by the Claimants.

3. On 13 June 2016, at Auki, Malaita Province, the Claimants and the First, Second and Third Defendants attended a chiefs' hearing convened to determine ownership of Lot 7 under customary processes. On 17 June 2016, the chiefs issued a determination in favour of the First and Second Defendants.
4. On or about 22 June 2016, the Claimants, being aggrieved by that determination, referred the dispute to the Malaita Local Court. On 4 July 2017, the Local Court made an interlocutory ruling that the proceeding raised questions of law and procedure concerning the Court's jurisdiction or powers to hear and determine the matter and adjourned the case pending direction from the Registrar of the High Court on that question.
5. Following delay in the referral process, the Claimants filed a Special Case in the High Court pursuant to r 16.75 on 20 August 2021. The matter was first mentioned in this Court in October 2021. Since then, it has been listed on a number of occasions, including for trial on more than one date, without final determination. That history is noted only as background. The reasons for it are not relevant to the resolution of the stated question and are not addressed further in this judgment.

Legal Framework

6. The procedure for referring a question to the High Court by way of Special Case is governed by Chapter 16 of the **Civil Procedure Rules**. Rule 16.74 provides that a question referred to the High Court must be in the form of a Special Case. Rule 16.75 prescribes the mandatory content. The Special Case must state the questions to be decided, briefly state the facts and attach all documents necessary for determination of those questions and be divided into consecutively numbered paragraphs. The structure of the rule reflects that the Special Case procedure is directed to the determination of discrete questions of law upon a settled factual platform, rather than the resolution of contested facts.
7. The limited role of the High Court in dealing with a Special Case is made explicit by r 16.81. Where a Special Case does not state the facts or attach the documents necessary to enable the Court to decide the questions raised, the Court may amend the Special Case by agreement (r 16.81(a)), return it for amendment in the manner directed (r 16.81(b)), or, in a civil proceeding, receive evidence, make findings of fact, and amend the Special Case accordingly (r 16.81(c)). The inclusion of the latter power does not convert a Special Case into a trial. It confirms that the ordinary function of the Court is not to determine contested facts but to decide questions of law on assumed or agreed facts, and that any fact-finding under r 16.81(c) is exceptional and directed to curing deficiencies in the Special Case. Rule 16.82 is consistent with that confined conception. It permits the Court to draw from the facts stated in, and documents attached to, the Special Case any inference (of fact or law) that might have been drawn if proved at trial. It does not authorise the Court to travel beyond the stated factual foundation or to resolve factual controversies that have not been assumed or agreed.

8. In the present case, no agreed statement of facts has been filed. However, for the purpose of determining the confined jurisdictional question, it is common ground between the parties that Lot 7 is recorded in the Customary Land Register as customary land, described as Lot 7, PN 151-007-5, with a registration date of 12 December 1968.
9. In ***Beldon v Honiara City Council Liquor Licensing Board*** [2010] SBHC 18, the Court emphasised that a case stated proceeds on a settled statement of facts and is not a vehicle for resolving disputed factual issues. Where the factual platform is inadequate, the proper course is to return the case for amendment, rather than attempt to determine the matter on an uncertain or contested foundation. In ***McQuade v Bycroft*** [2002] SBHC 38, Kabui J emphasised that a Special Case is appropriate only where there is a sufficient and settled factual platform. Where facts cannot be agreed, or where the resolution of the question requires evidence to be tested, the matter must proceed by trial. His Lordship further noted that if a decision on a Special Case is later shown to have proceeded on an erroneous statement of facts, the Court is not bound by that decision and the matter may be put in course of trial. Again, although there are no agreed facts in the present case, there is agreement amongst the parties as to the pertinent facts.
10. In ***Gatu v Solomon Islands Electricity Authority*** [1998] SBHC 72, the Court declined to permit a proceeding framed as an array of “questions” to operate as a surrogate merits determination. The decision underscores that procedures framed as questions of law must not be used to introduce factual assertions and argumentative propositions in place of evidence and that the Court must confine itself to the issues properly justiciable on the materials and procedure adopted.
11. Comparable authority supports the same approach. In Papua New Guinea, ***Timereke v Ferrie*** (N379, 31 May 1982) proceeded by “special case stated” on assumed and agreed facts; the Court answered legal questions on that footing, without purporting to resolve contested factual issues or finally determine the underlying dispute and emphasised that its ruling did not foreclose evidence being called in subsequent proceedings.
12. The same principles are well established at common law. In ***Bass v Permanent Trustee Co Ltd*** (1999) 198 CLR 334, the High Court of Australia emphasised that a court answering a case stated is confined to the facts as stated and must not travel beyond them or reformulate the controversy. The purpose of the procedure is to obtain authoritative answers to questions of law on a settled factual foundation, not to resolve disputed facts, determine substantive rights, or grant final relief.
13. In ***Fencott v Muller*** (1983) 152 CLR 570, the High Court cautioned that a Stated Case is inappropriate where the determination of the legal questions depends upon contested facts or where different factual conclusions could lead to different legal outcomes. In such circumstances, the procedure risks distorting the proper division between original jurisdiction and the determination of legal issues on a stated foundation.
14. Taken together, the rules and authorities confirm that a Special Case is a confined and disciplined procedural mechanism. Its function is to permit the High Court to determine discrete questions of law on a settled factual foundation, while preserving the role of the originating court or tribunal in resolving contested facts and granting consequential relief. Where those limits are not respected, Chapter 16 provides mechanisms to correct or return the Special Case so that the Court’s function remains properly confined.

15. This discipline assumes particular importance in customary land matters. Disputes concerning customary land commonly involve complex contested issues, genealogy, customary authority, historical occupation and boundaries, that are ordinarily resolved through the reception of evidence and the making of detailed factual findings in the exercise of original jurisdiction. The Special Case procedure is not designed to accommodate that process. Its utility lies in allowing the Court to provide authoritative guidance on threshold legal or jurisdictional questions, while leaving contested customary ownership questions to be determined in the appropriate forum.
16. The authorities establish four practical consequences. First, the Court must identify the precise question of law to be answered and proceed strictly on the assumed or agreed facts stated in the Special Case. Secondly, the Court must not allow the Special Case to become a substitute for trial, including by determining ownership or other substantive rights that depend on contested evidence. Thirdly, where the factual platform is inadequate or contested, the proper course is to return the Special Case for amendment under r 16.81, rather than attempt to resolve deficiencies by merits adjudication. Fourthly, any exceptional reception of evidence under r 16.81(c) is directed to curing defects in the stated case so the legal question can be answered; it does not transform the proceeding into a trial or a hearing for final relief.

Scope of Question on the Special Case

17. The questions referred to the Court by way of Special Case were originally framed broadly. Upon consideration of the scope of the Special Case procedure, and following submissions from all parties, it is common ground that the issues could be confined to a single threshold question of law.
18. The task of the Court on a Special Case is confined by r 16.75 and 16.82 of the *Civil Procedure Rules*. Those rules require that the questions posed be capable of determination on the facts assumed or stated, without the need for findings of contested fact or the granting of substantive or operative relief. Where questions, as framed, exceed that limit, the Court is not obliged to answer them and may confine its consideration accordingly: r 16.81.
19. That confined approach accords with authority. A Special Case is not a vehicle for determining ownership, resolving factual disputes, or directing registration outcomes. Questions framed in those terms exceed the proper scope of the procedure and cannot be answered without departing from the Court's limited function: *Beldon v Honiara City Council Liquor Licensing Board* [2010] SBHC 18; *McQuade v Bycroft* [2002] SBHC 38; *Gatu v Solomon Islands Electricity Authority* [1998] SBHC 72. The same principle has been articulated in comparable common-law authority: *Bass v Permanent Trustee Co Ltd* (1999) 198 CLR 334; *Fencott v Muller* (1983) 152 CLR 570.
20. Properly analysed, only one issue raised by the Special Case is capable of determination within those limits. That issue is a threshold question of law concerning jurisdiction. The remaining questions, insofar as they invite determinations of ownership, the binding effect of earlier decisions on disputed facts, or directions affecting the land register, fall outside the scope of the Special Case and are not answered.

21. The question which the Court will determine has been agreed by all counsel and reflects the jurisdictional issue which the Malaita Local Court appears to have intended to refer. It is confined to the following:

Whether, as a matter of law, the existence of an entry in the Customary Land Register affects or limits the jurisdiction of the Malaita Local Court to hear and determine disputes concerning that land.

Submissions

22. Counsel for the Claimants submit that Lot 7, having been registered as customary land, falls within the statutory definition of “customary land” contained in s 2(1) of the **Land and Titles Act**. That provision defines “customary land” as any land (other than registered land, except land registered as customary land, or land in respect of which a person is or becomes entitled to be registered as owner of an estate pursuant to Part III) that is lawfully owned, used, or occupied by a person or community in accordance with current customary usage, and includes land deemed to be customary land under paragraph 23 of the Second Schedule to the repealed Act.
23. Counsel submit that the existence of an entry in the Customary Land Register does not, as a matter of law, alter the legal character of the land or remove it from the category of “customary land” within the meaning of the Act. Lot 7, Parcel No. 151-007-5, registered in the Customary Land Register on 12 December 1968, remains customary land notwithstanding that registration. On that footing, disputes concerning customary ownership, authority or entitlement in respect of that land fall, in principle, within the jurisdiction conferred on Local Courts to determine customary land disputes. Counsel therefore submit that registration alone does not exclude or displace the Local Court’s jurisdiction to hear and determine such disputes.
24. Counsel nevertheless submit that, because Lot 7 is recorded in the Customary Land Register, any determination of customary ownership that is inconsistent with the existing register would necessarily require rectification of that register. Reliance is placed on s 229 of the **Land and Titles Act**, which confers power on the High Court to order cancellation or amendment of a land registration where authorised by the Act, or where the Court is satisfied that a registration has been obtained, made or omitted by fraud or mistake. It is contended that the Local Court has no equivalent statutory power to order rectification of the Customary Land Register, and that to the extent a proceeding would require such rectification, jurisdiction lies exclusively with the High Court.
25. Counsel for the First Defendant submits that Lot 7 is recorded in the Customary Land Register as “customary land”, with no registered individual owner. On that basis, the land falls within the statutory definition of customary land under s 2 of the **Land and Titles Act** (Cap 133), which definition is adopted by s 11 of the **Local Court Act** (Cap 19)
26. It is submitted that, pursuant to s 254(1) of the **Land and Titles Act**, Local Courts have exclusive jurisdiction in civil matters arising in connection with customary land, subject only to limited statutory exceptions. None of those exceptions apply in the present case. Further, the jurisdictional pre-conditions in s 12(1) of the **Local Court Act**, namely referral to chiefs, exhaustion of traditional dispute resolution mechanisms, and the absence of a mutually acceptable chiefs’

decision, are said to have been satisfied on the evidence contained in the sworn statements before the Court, such that no statutory limitation on jurisdiction arises. Counsel also referred the court to the Form 1 that had been filed with the Malaita Local Court.

27. The First Defendant further submits that registration of the land as customary land under Part IIA of Cap 56 does not alter the nature of the land nor oust the jurisdiction of the Malaita Local Court. Rather, registration affirms the customary character of the land. While the filing of the present Special Case temporarily suspended the exercise of the Local Court's jurisdiction pending determination of the legal issue, it does not permanently affect or limit that jurisdiction.
28. Counsel for the Third Defendant submit that the current status of Lot 7 should not be accepted at face value without consideration of the legal process and circumstances by which that status was attained. It is submitted that the registration of Lot 7 as customary land occurred pursuant to a statutory process under the former land titles legislation and must be understood in that context.
29. On that footing, counsel submit that it is necessary to identify the statutory framework governing land that has been recorded as customary land but which falls within, or has been affected by, land settlement schemes. The submission proceeds on the basis that the applicable statutory provisions governing such land must be identified, as the absence of a relevant statutory pathway would render the argument indeterminate. Counsel submit that the legislation does in fact address this situation.
30. In that regard, reliance is placed on s 48(2) of the **Land and Titles Act**, which provides that land recorded as customary land may again be declared for settlement under that Part. Counsel submit that this provision, which is carried over from the former Land and Titles Ordinance, demonstrates that land recorded as customary land may nonetheless fall within a statutory settlement regime. It is further submitted that Part IV of the Act deals comprehensively with systemic land settlement.
31. Counsel submits that s 49(1) of the Act provides the statutory explanation for why Lot 7 remains recorded as customary land. That provision empowers a Settlement Officer, where the land is not ready for settlement because customary rights are not sufficiently determinate or where individual settlement is impracticable or undesirable, to direct that the land be recorded as customary land. On that basis, counsel submit that the present proceedings require consideration of whether the referral of the matter to the chiefs, which ultimately led to the present dispute, complied with the requirements of s 49.
32. The Third Defendant submits that such referral did not comply with s 49, as that provision does not recognise chiefs as Settlement Officers for the purposes of Part IV of the Act governing systemic land settlement. In consequence, counsel submit that the referral of the matter first to the chiefs and subsequently to the Local Court was, by operation of law, defective and contrary to the statutory scheme established by s 49 of the Act.
33. Counsel accept that chiefs and Local Courts possess jurisdiction in relation to customary land, but submit that such jurisdiction is subject to statutory limitations and restrictions. It is emphasised that the Local Court is a statutory court of limited jurisdiction and does not possess inherent jurisdiction equivalent to that of the High Court. Counsel further submits that, although Lot 7 is recorded as customary land, that status was attained pursuant to a statutory process and within

a defined statutory regime. It is submitted that neither chiefs nor the Local Court are recognised actors within that statutory regime as established under Part IV of the Act.

34. The Third Defendant accordingly submits that Lot 7 must be treated differently from customary land that has not been subject to any systemic land settlement process. It is contended that the exclusive jurisdiction of chiefs and the Local Court applies to customary land that has not been brought within such a statutory settlement framework, but does not apply where land has been recorded as customary land pursuant to that regime.
35. Finally, counsel submit that the historical reason for Lot 7 being recorded as customary land was its marshy and swampy condition at the relevant time, which rendered it unsuitable for development. It is contended that the primary purpose of settlement schemes under Part IV of the Act was to facilitate the development of land and that Lot 7 was excluded from settlement for that reason rather than as a reflection of settled customary ownership.

Analysis

36. The Court approaches this issue mindful of the settled limits on High Court intervention in customary land matters. The authorities repeatedly emphasise that the Court must not, under the guise of jurisdictional analysis, descend into the resolution of factual controversies or the determination of customary rights. The function of the Court in these proceedings is confined to answering the Special Case. It is not to determine customary ownership, to identify those with authority to speak for the land, to define boundaries, or to adjudicate competing claims of entitlement. Those matters fall outside the scope of this proceeding and beyond the jurisdiction presently engaged.
37. Consistently with that approach, this section proceeds on assumed facts and does not examine the correctness or validity of the entry in the Customary Land Register. The question for determination is a confined one of law: whether, on the assumption that such an entry exists, it affects or limits the jurisdiction of the Malaita Local Court to hear and determine disputes concerning the land.
38. The analysis must begin with the statutory characterisation of the land. Proceeding on the assumed fact that Lot 7 is entered in the Customary Land Register pursuant to processes formerly contained in Part IIA of the **Land and Titles Act** (Cap 56) (now repealed), the relevant legal consequence is that, by force of the legislation itself, the land is customary land.
39. Section 2(1) of the **Land and Titles Act** defines “customary land” to include land “registered as customary land” and land deemed to be customary land under repealed legislation. The definition does not merely acknowledge the historical fact of registration; it effects a legislative classification. Land registered as customary land is, for all statutory purposes, customary land as a matter of law. The analysis therefore does not turn on the former process of registration, but on the present statutory consequence that flows from it. The Court accordingly proceeds under the current statutory framework governing customary land disputes, including the **Land and Titles Act** (Cap 133).

40. That statutory classification is critical. Once the land is identified, by definition, as customary land, the legal consequences that follow are governed by the statutory regimes applicable to customary land. Registration under Part IIA did not convert customary land into registered land under Part III of the Act, did not create indefeasible title and did not alter the juridical nature of the land. Its function was classificatory and administrative, not constitutive. The **Land and Titles Act** draws and preserves a deliberate distinction between customary land and registered estates, and nothing in the Act suggests that the mere act of recording customary land was intended to remove it from the customary land regime or to reallocate jurisdiction over disputes concerning it. Nothing in Part IV of the **Land and Titles Act** alters the statutory definition of registered customary land as customary land, nor does it contain any express reallocation of jurisdiction away from the Local Court in disputes concerning customary land.
41. Counsel for the Third Defendant submitted that the jurisdictional analysis must be informed by Part IV of the **Land and Titles Act**, and in particular s 49, on the footing that land recorded as customary land within a settlement area must have been directed to be so recorded by a Settlement Officer acting under that provision. It was contended that any failure to comply with the requirements of s 49 rendered the subsequent referral of the dispute to chiefs, and thereafter to the Local Court, defective. That submission cannot be accepted. Section 49 is concerned with the administrative management of systemic land settlement schemes and explains the circumstances in which land may be directed to be recorded as customary land where individual settlement is impracticable or undesirable. It does not confer, qualify or limit the jurisdiction of any court, nor does it impose a condition precedent to the exercise of jurisdiction by a Local Court in respect of disputes concerning customary land.
42. Properly construed, s 49 explains why land may remain recorded as customary land within a settlement framework; it does not require a court, decades later, to reconstruct or verify historical administrative compliance as a precondition to determining jurisdiction. To treat s 49 in that way would render the resolution of customary land disputes dependent on proof of administrative decisions made many years ago by officers who are no longer available, in circumstances where the Act provides no mechanism for such an inquiry. Such a construction would introduce uncertainty and impracticability into the statutory scheme and is inconsistent with Parliament's allocation of responsibility for the primary determination of customary land disputes to the Local Courts. The Act recognises no separate category of 'settlement customary land' attracting different jurisdiction
43. Once land is identified, by definition, as customary land, the allocation of jurisdiction follows as a matter of statute. Parliament has conferred exclusive original jurisdiction over disputes "affecting or arising in connection with" customary land on the Local Court, subject only to the conditions imposed by s 11 to 14 of the **Local Courts Act**. In **Bavare v Nerapa** [2011] SBCA 22, the Court of Appeal confirmed that the **Land and Titles Act** and the **Local Courts Act** establish a complete and exclusive statutory hierarchy for the resolution of customary land disputes, under which the High Court has no original jurisdiction to determine customary ownership, boundaries, authority or use. The High Court's role is strictly derivative and supervisory, arising only after the Local Court's jurisdiction has been properly engaged and exercised. As **Daiwo v Lano** [2011] SBHC 15 similarly makes clear, customary ownership is a foundational factual question that must be resolved through the statutory processes before any claim dependent upon customary title can be entertained by the High Court.

44. Once that foundation is established, the jurisdictional analysis follows. Section 11 of the **Local Courts Act** confers original jurisdiction on Local Courts on “questions of customary land”. That conferral is expressed in general and unqualified terms. The statute does not distinguish between customary land that is recorded and customary land that is not, nor does it exclude land entered in the Customary Land Register from the scope of that jurisdiction. In the absence of clear statutory language to the contrary, land which is, by definition, customary land falls within the subject matter jurisdiction conferred by s 11.
45. That conclusion is reinforced by the **Land and Titles Act** itself. Section 254(1) provides that, subject to s 12, 13 and 14 of the **Local Courts Act**, a local court has exclusive jurisdiction in all civil matters “affecting or arising in connection with customary land”, other than matters for which some other provision is expressly made by the Act and matters involving a determination whether land is or is not customary land. The statutory allocation of exclusive jurisdiction to local courts in matters “affecting or arising in connection with customary land” proceeds from the legal character of the land as customary land. It does not turn on whether the land is recorded in the Customary Land Register. On the assumed fact that Lot 7 is registered as customary land, it falls within the category of “customary land” to which s 254 applies, with the consequence that the Local Court is the primary forum for civil disputes concerning it (subject to the statutory gateways in s 12 to 14 of the **Local Courts Act**). For present purposes, the Court proceeds on the assumed fact of registration and therefore does not determine whether Lot 7 is or is not customary land; accordingly, the exception in s 254 concerning proceedings involving such a determination does not arise in this Special Case.
46. **Maeke v Pukuvati** [2016] SBHC 36 concerned land that had been converted from customary ownership into registered land and was therefore capable of being dealt with by the High Court in its original jurisdiction. The decision does not address land recorded in the Customary Land Register, nor does it concern the allocation of jurisdiction under s 254 of the **Land and Titles Act**. Its relevance lies in the more limited proposition for which it stands: that registration does not displace the continuing operation of custom in determining authority, entitlement and representation and that such matters must be proved in accordance with customary processes. If that discipline applies even where the High Court is properly seized of original jurisdiction over registered land, it applies with greater force where the land remains customary land as a matter of law and the statutory scheme allocates original jurisdiction elsewhere.
47. Once it is accepted that disputes concerning customary land fall, in the first instance, within the jurisdiction of the Local Court, the manner in which that jurisdiction may be engaged is governed by the **Local Courts Act**. Sections 12 and 13 impose mandatory jurisdictional preconditions in disputed customary land matters, including referral to chiefs, the exhaustion of traditional dispute-resolution processes, and the failure of those processes to produce a decision wholly acceptable to the parties. Compliance with those provisions is not optional. Authority in this jurisdiction makes clear that they operate as jurisdictional gateways. In **Veno v Jino** [2006] SBCA 22, the Court of Appeal held that failure to comply with the statutory requirements governing access to Local Court jurisdiction in customary land matters is fatal to jurisdiction. Section 14 operates in a separate and limited field, permitting consensual chiefs’ decisions to be recorded and deemed to be decisions of the Local Court. Read together, s 11 to 14 constitute a complete and exclusive statutory code governing how, and in what circumstances, customary land disputes may be brought before a Local Court.

48. Crucially, nothing in that statutory scheme is displaced or modified by the existence of an entry in the Customary Land Register. Registration does not create a new category of land immune from Local Court jurisdiction, nor does it confer exclusive jurisdiction on the High Court to determine disputes concerning customary interests in such land. The legislative scheme does not treat registration as jurisdiction-shifting. Rather, it treats registration as recording land that remains, in law, customary land, and therefore subject to the customary land dispute regime unless and until altered by a specific statutory mechanism.
49. That mechanism is rectification. Section 229 of the **Land and Titles Act** confers on the High Court exclusive jurisdiction to amend, cancel or rectify the land register. That power, however, is directed to the integrity of the register, not to the primary adjudication of customary ownership. In the customary land context, rectification is not a purely legal or administrative exercise. In a case such as this, where ownership is contested, it would almost inevitably require findings as to ownership, boundaries, genealogical authority, historical occupation and competing customary entitlements. Those are matters of primary fact. Parliament has allocated their determination, in the first instance, to the Local Court exercising its original jurisdiction under the **Local Courts Act**, subject to the statutory preconditions for jurisdiction.
50. The statutory structure is therefore sequential, not substitutive. Where customary ownership is disputed, that dispute must first be determined in the Local Court, provided its jurisdiction has been properly enlivened. Only once those factual and customary determinations have been made can the High Court's rectification jurisdiction under s 229 be meaningfully engaged. To permit rectification proceedings, or the Special Case procedure, to be used as a substitute for Local Court adjudication would invert the statutory order, undermine the jurisdictional gateways imposed by s 11 to 13 of the **Local Courts Act** and collapse the distinction drawn by Parliament between adjudicating customary rights and supervising the register.
51. That conclusion is reinforced by authority on the limits of the Special Case procedure. In **Beldon v Honiara City Council Liquor Licensing Board**, the High Court emphasised that a Special Case proceeds on assumed or agreed facts and is not a vehicle for resolving factual controversies or determining substantive rights. In **McQuade v Bycroft**, Kabui J similarly held that where facts cannot be agreed or evidence requires testing, the matter must proceed by trial. Although r 16.81(c) permits the Court, in limited circumstances, to receive evidence to cure deficiencies in the stated case, that power is remedial, not determinative. It does not authorise the Court to undertake a merits determination of ownership or to grant final relief affecting the register.
52. Accordingly, proceeding on the statutory footing that registered customary land is, by definition, customary land, the existence of an entry in the Customary Land Register does not, as a matter of law, affect or limit the jurisdiction of the Malaita Local Court to hear and determine disputes concerning that land, provided the jurisdictional requirements of the **Local Courts Act** are otherwise satisfied. What registration affects is not jurisdiction, but the pathway by which any alteration to the register may ultimately be sought.

Answer to the Stated Case

53. The question referred to the Court is whether, as a matter of law, the existence of an entry in the Customary Land Register affects or limits the jurisdiction of the Malaita Local Court to hear and determine disputes concerning that land.
54. Proceeding on the assumed footing that Lot 7 is recorded in the Customary Land Register pursuant to Part IIA of Cap 56, the existence of that registration does not exclude, extinguish, or otherwise limit the jurisdiction of the Malaita Local Court to hear and determine disputes concerning customary interests in that land.
55. Registration as customary land confirms the land's legal character as customary land but does not create a separate jurisdictional regime or withdraw the land from the operation of the Local Courts Act. The jurisdiction of the Local Court continues to be governed by, and is conditional upon, compliance with the statutory requirements prescribed by s 11 to 14 of that Act.
56. Registration does, however, affect the nature of the relief that may be granted. The Local Court has no jurisdiction to amend, cancel, or rectify an entry in the Customary Land Register. Relief of that kind lies exclusively within the jurisdiction of the High Court under s 229 of the **Land and Titles Act**.
57. To be clear, this answer involves no determination, and expresses no view, as to:
- a. *whether the jurisdiction of the Malaita Local Court has in fact been properly enlivened in the present matter;*
 - b. *whether the statutory preconditions to the exercise of that jurisdiction have been satisfied;*
or
 - c. *any question of customary ownership, authority, or entitlement.*

Orders

1. Pursuant to r 16.74 of the **Civil Procedure Rules**, the stated case is answered as follows: the existence of an entry in the Customary Land Register, does not exclude, extinguish, or otherwise limit the jurisdiction of the Malaita Local Court to hear and determine disputes concerning that land, provided the jurisdictional requirements of s 11 to 14 of the **Local Courts Act** are satisfied; however, the Malaita Local Court has no jurisdiction to amend, cancel or rectify the Customary Land Register, and any such relief lies within the jurisdiction of the High Court under s 229 of the **Land and Titles Act**.
2. No other questions as framed in the stated case are answered, those questions being outside the proper scope of a Special Case.
3. The Registrar is to provide sealed copies of this judgment to the Registrar of the Malaita Local Court and to all parties.

4. The proceeding is remitted to the Malaita Local Court to proceed according to law.
5. This file can now be closed.

By the Court



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Hon. Justice Gina Maree Nott
Puisne Judge

