

BETWEEN:

Snyder Rini (Appellant)

AND

Silas Milikada (Respondant)

AND

In THE MATTER of appeal against Land
Acquisition offices determination
pursuant to Sections 64 and 65 of the
Land and Titles Act, Cap. 133

RULING

This is an application by the appellant Mr. Snyder Rini seeking further adjournment so that he could sought legal advise to include an additional point of appeal to two points originally filed on 30th October, 1998

My observations through the land and Titles Act has revealed that there is no provision to cater for such application. Nevertheless application for adjournment is the normal part and partial of the court process which commonly exercised, with discretion, by the courts. Hence application for adjournment is therefore guaranteed by Section 52(1) of the Magistrates Court Act.

The original appeal was filed pursuant to Section 66 (1) of the Land and Titles Act, against a determination recorded by the Land Acquisition Officer pursuant to Sections 64 and 65 of the Act, respectively.

In turning to the reasons for adjournment upon which the application was based Section 66(1) which expressly stated

"Any person who is aggrieved by any act a determination of the Acquisition Officer may within three months from the date of the record or determination appeal to a Magistrate's Court and such court may make such orders as it considers just."

That provision sets down a statutory duration, of course, subject to other conditions which the court may consider appropriate, whereby which an aggrieved party required to file his appeal including the points upon which he would argue before the appellate court.

The appellant in abiding with that provision filed an appeal on 30th of October, 1998, which contain two grounds of appeal.

From August to November, 1998 is sufficient time for the appellant to seek leave of court to file additional points of appeal.

To day is the actual date of hearing of the appeal. Parties had been informed and are now personally present in court.

Nevertheless granting of adjournment is a discretionary power vested upon the court to exercise, after considering that such adjournment may not prejudice any party.

In my ruling I refer to David Lilimae and Fox Irokani -v- Commissioner of Lands, Registrar of Titles and Rex Fera, HC - CC 298 of 1997, Page 12, where Judge Awich stated

"Court cannot decide a matter unless the matter has been brought to it as a case."


I cannot now decide on the third intended point of appeal. I have to base upon two points which had been filed. Hence I refuse to grant further adjournment so as to file additional point of appeal, its more than late - It is presumed that the appellant has a legal representative and should have advised on this issue.

Appeal Rights explained.

Appellant 1 - I shall appeal to the High Court against the ruling of the court.

Watts - I agree with Appellant, but we have spend money to attend this court.

Court : Cost of this hearing be borne by the appellant.
Case now adourn for further date.


REX FAUKONA
1/9/99