

**IN THE SUPREME COURT OF SAMOA**

**HELD AT APIA**

**C.P. 128/96**

**BETWEEN:** **SAMOA LAND CORPORATION LIMITED** a duly incorporated company having its registered office at Fugalei

**Plaintiff**

**A N D:** **FOLASAITU RICHARD AH CHONG** of Vaivase-tai, Manager

**Defendant**

**Counsel:** P A Fepuleai for plaintiff  
K Ainuu for defendant

**Hearing:**

**Judgment:** 25 November 1997

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**JUDGMENT OF SAPOLU, CJ**

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The land in dispute in this case is about 449 acres in area and is situated at Tanumalala. It is more particularly described in the land register as :

“ALL that piece or parcel of land etc (refer to para 3 of statement of claim)”.

I am satisfied from the evidence of the Deputy Director of Lands who produced the relevant part of the land register that the plaintiff is the registered owner of the land in dispute.

The evidence of Mr Amosa who is an estate officer for the plaintiff was that it was about the end of 1994 or the beginning of 1995 that the defendant started to occupy the disputed land. The defendant set up a cattle and peanut farm on the land and also built a house on part of the land. Amosa also testified that the plaintiff had tendered the land for lease and had found a lessee. But because the defendant had been occupying the land for about the last two years, the intending lessee could not move onto the land. As a consequence the plaintiff has lost \$10,000 worth of rent.

The defendant on the other hand does not dispute that the plaintiff is the registered owner of the land situated at Tanumalala. What he was saying is that the disputed land belongs to the title Folasaitu of his wife's family at Fasitoota and he is the present holder of that title. He also said that to his family's understanding the land was given to the Western Samoa Trust Estates Corporation to look after for his family. After the Western Samoa Trust Estates Corporation, the present plaintiff became the title owner to the said land. The defendant now wants the land back.

I do not accept the defendant's evidence. In my respectful view the defendant cannot have the said land. He has not established a valid title to the land. He is occupying the land without authority of the owner. He is therefore trespassing on the disputed land. I am satisfied that the disputed land belongs to the plaintiff.

Accordingly judgment is given for the plaintiff and the defendant and his family, servants and agents are ordered to vacate the land and remove all fences and other structures within 31 days.

General damages of \$10,000 are also awarded to the plaintiff together with costs to be fixed by the Registrar.

*TFM Sepulchre*  
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CHIEF JUSTICE