## BERU HIGH COURT LAND APPEAL SESSION

(BEFORE HON JUSTICE V O MAXWELL C.J.)

HCLA 5/88

BETWEEN:

TEWAROI TENUBONO

Appellant

AND:

TOAKIRE TOBEN

Respondent

Heard on 10th April 1990

## JUDGMENT

This is an appeal from the decision of the Lands Magistrates in Case No BU18/87 delivered on 28th April 1987.

In Case BU18/87 the respondent sued the Arariki Island Council for trespass and damage to his land, claiming compensation.

At the trial the magistrates found that the respondent/Plaintiff was not the registered owner of the land. They therefore adjourned the matter to enable the respondent to summon his brothers to join him. At the resumed hearing only one of the brothers appeared to confirm that the Respondent/Plaintiff was the eldest in the family and should sue on their behalf. The magistrates after rejecting the request of the appellant before us for adjournment, found against the council and awarded the plaintiff \$150.

The council then appealed against the award on the ground that it was not responsible for the damage that it was the school committee and teachers who dug the pit.

At the hearing before us the council withdrew its appeal and we dismissed it. This was on 28th February 1989.

The appellant then filed a cross-appeal and we adjourned the cross appeal to this session to enable him produce the lease agreement between him and the council.

At the hearing the lease agreement produced shows that the appellant was not the registered lessee. In view of this we dismiss his appeal.

## ORDER

Appeal dismissed without costs.

The Hon Justice V O Maxwell

CHIEF JUSTICE

BETERO KAITANGARE

10.4.90

10.4.90

TEKAIE TENANORA

10.4.90