SOUTH TARAWA HIGH COURT SESSION (HON JUSTICE F. MUHAMMAD C.J.

HCLA107/90

BETWEEN:

N. TAOING TEKABANG

Appellant

AND:

RAAU TUNGARU

Respondent

JUDGMENT

This is an appeal against Case No. BA 81/90 which the magistrates heard on the 16th March, 1990. The original case was BA 81/90 in which the appellant in this case was the defendant, and he was ordered to leave the plot upon which he has been living. The ground upon which the plaintiff claimed the possession of the land was that this land was given to the father of the defendant as a temporary arrangement. So that while he was looking for alternative place to settle, he could settle on his land. In our view the protection given a plot holder did not apply because it was not the arrangement that he should settle there permanently on any basis which is recognized by the lands code.

There was no land given by the defendant to the plaintiff in return for that land, and therefore there was no basis upon which he could have legimately acquired the use of that land. It was a concession made which can be withdrawn at any time. Having decided to withdraw that concession, he was entitled to evict the appellant in this case. The owner excercised that right by going to the magistrate to ask for the eviction of the appellant.

In our view the magistrates were absolutely right in granting that eviction order. Appellant has raised another issue that the land may not belong to the Respondent anyway. We are satisfied that plot No. 32 which is this land has

been allocated to the respondent, and if there is any dispute regarding the ownership, that dispute will have to be decided by the court when the so-called owner applies to establish his ownership. Until then the present owner as appears on the record will continue to own that land.

For the reasons aforesaid we have decided that the appeal will be dismissed.

The Hon. Justice Fagir Muhammad CHIEF JUSTICE

17/06/91

Betero Kaitangare Magistrate



Tekaie Tenanora Magistrate