IN THE HIGH COURT OF KIRIBATI
(BEFORE B SUTTILL C.)

HCLA 46/90

BETWEEN: BERETEKIRA MANGE & RAAKERA MAREKO Appellants
-VS-
AND: BWATI RUKA & IOTEBA KAUTE Respondents

Appellants: In person.

Respondents: Represented by Mr Lambourne

JUDGMENT

This is an old matter. The boundaries between the lands of the appellants and the respondents are in dispute.

It appears that part of the disputed lands were leased and a sketch plan attached to the lease was relied upon by the magistrates.

Objection is taken to the sketch plan in that it is not to scale and not drawn up by a surveyor.

The Lands & Survey have been unable to produce a sketch plan as points on the supposed boundary are in dispute by the adjoining landowners.

We also note that the magistrates court that heard the evidence was not composed of the same people who attended the site inspection and determined the position of the boundary.

This latter point, to us, appears highly irregular.

After all this time and with so much in dispute, it seems to us that the best way forward is to start again.

We accordingly allow the appeal and set aside the boundary determination of the magistrates. The case is remitted to the magistrates for them to determine the boundary between 748 (e) and 748 (a) Tamoa and 746(a) Manoku at Ambo in Tarawa.

The magistrate court must be comprised of the same 5 Magistrates throughout the proceedings and a member of the Lands & Survey must attend the magistrates at any site inspection ordered by them. The Appellants and Respondents in this appeal or their ouccessors in title, must also attend with the magistrates and Land Surveyor.

B. SUTTILL
Commissioner
30/1/1996

TEKAIE TENANORA
MAGISTRATE
(30/1/96)

BETERO KAITANGARE
MAGISTRATE
(30/1/96)

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