

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

HCLA 105/1990

**BETWEEN:**                      **TIMA KABATIKUA**                      **Appellant**  
**AND:**                              **UTIMAWA MANIBWEBWE**                      **Respondent**

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**J U D G M E N T**

The appellant claims that the respondent sold land which did not belong to him. The respondent was brother to the appellant's mother. The respondent sold the appellant's mother's share as well as his own before a distribution was made.

The appellant took the correct step in suing the respondent in the court below seeking a remedy for his alleged fraudulent action.

She had previously sued the lands court but that was clearly wrong. She, not unaturally, attaches some blame to them for allowing the lands of her mother to be sold without her consent.

However, as we said, in C/N 24/90 dated 22 March 1990 she did the correct thing by suing the respondent in the magistrates court.

The magistrates were quite wrong to hold that they had no jurisdiction because they had approved the sales.

These were fresh proceedings regarding those transaction and the parties and the issues were different. Those proceedings were the only avenue open to the appellant.


The appeal is allowed. The case is remitted to the magistrates with a direction to continue C/N 24/90 and hear and determine the issues between the parties. If the same bench cannot be convened the case may begin de novo.



**B. SUTTILL**  
Commissioner  
(8/10/1996)



**Tekaie Tenanora**  
Magistrate  
(8/10/96)



**Betero Kaitangare**  
Magistrate  
(8/10/96)