

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

HCLA 139/1991

**BETWEEN:**       **BAURINE MOTEE**  
                  **TERENGAIETA TAMEKO**  
                  **KAINGATEITI MAERERE**  
                  **CLAUDE MAERERE**                               **Appellants**

**AND:**           **TOUABA BATAROMA**                               **Respondent**

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

On 12 November 1991 in an unnumbered case the magistrates determined the boundary of 732u.

The respondents were not present and the magistrates proceeded in their absence. In land matters the procedure when one party is not present by apparently wilful default is governed by S.28 of the Magistrates Courts Rules, Cap 52 (subsid) which empowers the court to appoint a relative of the absent party who may reasonably be expected to have good knowledge of the history of the title to the land in dispute, or other matter in issue, to represent the absent party and thereupon proceed to hear and determine the matter in issue.


This was not done in the court below and Mr. Lambourne, for the respondent, quite correctly concedes the appeal.

By consent the appeal is allowed. The determination of the boundary of 732u made on 12 November 1991 is set aside.

The case is remitted to the magistrates to determine the boundary of 732u with all adjacent landowners or their representatives present. The magistrates attention is drawn to Rule 28 of the Magistrates Courts Rules Cap 52 (subsid).

  
**Tekaie Tenanora**  
**Magistrate**  
**(15/5/96)**



  
**Betero Kaitangare**  
**Magistrate**  
**(15/5/96)**