

**IN THE HIGH COURT OF KIRIBATI
HELD AT NIKUNAU
(BEFORE THE HON R LUSSICK C.J.)**

HCLA 235/88

| | | |
|-----------------|---------------------|-------------------|
| BETWEEN: | BOITU BEIARA | Appellant |
| AND: | TOOM AWIRA | Respondent |

J U D G M E N T

The appellant is now deceased but his son Boraing Boitu appears for the family. The respondent is not present but was served with a notice of hearing and the appeal will therefore proceed in his absence.

The appeal is against a boundary determination made by the magistrates' court on 12 August 1988.

In the hearing in the lower court the respondent was the plaintiff and the appellant was one of four defendants. In that case the record shows that all of the parties reached agreement on what was the correct boundary, including the appellant. The magistrates' decision was made in accordance with that agreement.

The grounds of appeal allege that the boundary pointed out by Teriano (which was the boundary to which all parties agreed) was wrong.

No reasons explaining this allegation were given in the notice of appeal and today the appellant's son merely explains that he received a smaller share than the others. He also claims that his father was not present when the boundary was determined but this is contradicted by the record which shows that not only was the appellant present but that it was he who proposed that Teriano indicate the correct boundary to which all agreed.

In the circumstances it is not possible for us to say that the magistrates were in error. The appeal is dismissed accordingly.

Right of appeal explained.



THE HON R B LUSSICK
Chief Justice
(11/06/96)



TEKAIE TENANORA
Magistrate
(11/06/96)



BETERO KAITANGARE
Magistrate
(11/06/96)