

IN THE HIGH COURT OF KIRIBATI) HIGH COURT CRIMINAL CASE NO. 48 OF 2005
CRIMINAL JURISDICTION)
HELD AT BETIO)
REPUBLIC OF KIRIBATI)

THE REPUBLIC
VS
ATERA ARI

FOR THE REPUBLIC: MS RURIA ITERAERA
FOR THE ACCUSED: MR AOMORO AMTEN

DATE OF HEARING: 20 MARCH 2006

SENTENCE

Atera Ari: you have been found guilty of an offence under section 46 of the *Development Bank of Kiribati Act*. The penalty is a fine of \$1,000 or imprisonment for two years.

You have said that you did not realize you were committing an offence by transferring the land to Banuera while it was still security for a loan to your wife from the DBK: you were carrying out your mother's wishes. Most unfortunately, through an omission the loan had not been noted in the Land Register as an encumbrance on the title. If it had been the transfer to Banuera of the land would not have been made.

You are 62 years old, married with children and grandchildren. Your home island is Onotoa. You live a subsistence life style and what cash you have goes to pay grand children's school fees. You have no previous convictions.

Mr Amten has suggested you could pay a fine but I would rather any money you have should go towards paying off the loan. The alternative to a fine is a short term of imprisonment. In the circumstances especially the failure to enter the encumbrance in the Land Register, you should not have to serve that term of imprisonment immediately. You will be imprisoned for three

months but the term will be suspended if you will promise to be of good behaviour for the next 12 months.

If you do not commit any other offence in the next 12 months then you will not have to serve this three months in gaol. If you were to commit another offence within the next 12 months then you would be punished for that offence and be liable to serve this three months in prison as well.

Do you understand? Yes.

Do you promise? Yes.

Dated the 23rd day of March 2006

A circular seal of the Queensland Courts is visible in the background. The seal features a central emblem with a crown and a shield, surrounded by the text "QUEENSLAND COURTS". Overlaid on the seal is a handwritten signature in cursive script that reads "Robin Millhouse".

THE HON. ROBIN MILLHOUSE QC
Chief Justice