

APPELLANT: EIDOU MONG KARL

JUDGMENT:

This appeal is against the determination by the Nauru Lands Committee of the boundaries of land named Atamar, portion 388, in Meneng District. The determination was published in Government Gazette No. 33 of 1966.

The facts in this appeal are somewhat similar to those in Appeal No. 20. Atamar belonged to the late Chief Nobob, one of the three Great Chiefs of Nauru at the time of the First World War. He expressed the wish that his heir should distribute some of his estate to certain beneficiaries. One of these was the appellant's brother, Nobob Ekarumen, whom Chief Nobob had adopted. It was Chief Nobob's wish that Nobob Ekarumen should be given the portion named Atamar.

After Chief Nobob's death his heir failed to carry out his wishes. In 1938 a number of claims were made in respect of land comprising the estate. The Administrator carried out a thorough investigation and made certain findings which were published in the Supplement to Government Gazette No. 39 of 1938. I have already, in my judgement in Appeal No. 20, dealt at some length with the meaning and legal effect of those findings. Nothing which I have heard in this present appeal has led me to any different conclusion here.

I am satisfied that Nobob Ekarumen was not entitled as of right to become the owner of the land but Chief Nobob's heir had an obligation of honour to give it to him. I am satisfied also that, just as he was not legally obliged to give the land at all, he was not legally obliged to give the whole of it, although he had an obligation of honour to do so.

When the Nauru Lands Committee made its determination, Respondent 12, as the present senior member of Chief Nobob's family, the successors to his estate, told the Committee that the amount given to Nobob Ekarumen was only one acre. He told this Court that he believed that that

was the area which his father, previously the senior member of the family, had given.

From the evidence presented in this appeal it seems that the one acre shown by Respondent 12 as the area given by his father may not be the whole of the portion which his father was under an obligation of honour to give.

If so, his father possibly unwittingly, failed to fulfil his obligation of honour. However, as it was not a breach of a legal obligation, the appeal must fail accordingly.

7th May, 1969.

Acting Chief Justice.

Court: Before formally dismissing the appeal and confirming the determination of the Committee, I should like to know whether Respondent 12 is willing himself to look further into the question of what his father's obligation was and, if necessary, to put matters right.