

IN THE SUPREME COURT OF NAURU

LAND APPEAL NO. 23

DEIRANOUW - APPELLANT

RULING

When this Appeal was called on I informed the appellant that it appeared that this Court had no jurisdiction to entertain it. I invited the appellant's representative to address me which he did calling particular attention to Article 10 (9) of the Constitution of Nauru.

This Appeal is against the decision of the Supreme Court on 24th June, 1968, refusing to grant special leave to appeal against a decision of the Nauru Lands Committee published in Government Gazette No. 1 of 1961. The appellant complains that the President of the Court in 1968 was not impartial and had an interest in the land in dispute. It is this alleged partiality which has formed the basis of the appellant's representative's submission that the Supreme Court was acting unconstitutionally.

The present Supreme Court was established under the Constitution of Nauru so that it came into existence on Independence Day. Provision was made in Article 96 of the Constitution for the powers and functions of the Chief Justice to be exercised or performed, until a Chief Justice was appointed, by not less than three persons who had been Magistrates of the Central Court immediately before Independence Day. When they performed the judicial functions of the Chief Justice by sitting to hear the appellant's application they formed the Supreme Court as constituted by the Constitution. The present Supreme Court is the same Court; it has not been reconstituted in any way. When a Court has finally decided a matter it cannot subsequently entertain an Appeal against that decision. For this reason it is not possible for this Court to entertain the present Appeal.

Possibly what the appellant is seeking to do is not to appeal against the decision of the Supreme Court given on 24th June, 1969, but to have it declared unconstitutional. I doubt whether a Court can declare its own decision to be unconstitutional; even if it could, however, it would not be appropriate to entertain such an application in the present case. The appellant's application was for leave to appeal against the determination made by the Nauru Lands Committee in 1961. In February, 1961, his appeal against that determination was heard by the Central Court and was dismissed, the judgement of the Central Court being published in the Government Gazette No. 30 of 1961. Under the provisions of the Nauru Lands Committee Ordinance, the determination of the Committee is final unless there is an appeal to the Central Court within 21 days and if there is such an appeal then the judgement of the Central Court is final. By "final" I have no doubt that the legislature intended to provide that there should be no further right of appeal. The appellant, therefore, exhausted in 1961 his right to appeal in respect of the determination of the Nauru Lands Committee. No statutory provision has been made since 1961 which would give the appellant a further right of appeal which he did not have then. In my view, therefore, the Supreme Court on 28th June, 1968, whether the members of it were partial or impartial, could not have granted the appellant's application as the Supreme Court had no jurisdiction to do so.

Accordingly for both the reasons which I have stated above, namely that this Court cannot hear an appeal against its own decision and on the ground that no further appeal against the Committee's determination can be entertained by any Court, I rule that this Court does not have jurisdiction to deal with this matter in any manner sought by the appellant.

25th April, 1969

ACTING CHIEF JUSTICE.