

LAND APPEAL NO. 2

APPELLANT: ATUEN ATAM

Judgement

This appeal relates to two portions of land named Bogetoriar, portions Nos. 130 and 131, in Anabar District and is from the Nauru Lands Committee's determination published in Government Gazette No. 52 of 1967.

The appellant claims that both portions belonged solely to Eigamadauning and that he alone is entitled to succeed to the whole of both portions as her adopted son.

The Committee's determination is based on entries in the Land Registration Book, 1928, which show that one portion named Bogetoriar in Anabar District belonged to Degoregore and three portions of that name in the same district belonged jointly to Eigamadauning and three others, Agabuawa, Margareta and Baiduwok.

The only evidence adduced by the appellant to prove that the portions belonged to Eigamadauning alone was his own evidence that Eigamadauning herself told him this. He could not explain whence Eigamadauning derived her title and admitted that Agabuawa, Margareta and Baiduwok were closely related to her. In my view, the Committee acted properly in taking into account the entries in the Land Registration Book, 1928, a register prepared by the Chiefs in that year, and giving them more weight than the evidence of the appellant of a statement made by Eigamadauning in favour of her own interest.

I am satisfied that in 1928 portion 130 belonged to Dekeka and Degoregore and portion 131 jointly to Eigamadauning, Agabuawa, Margareta and Baiduwok.

The appellant claimed that, even if the land did belong to Dekeka, he was entitled to succeed to Dekeka as his adopted son. He gave evidence that he was adopted by Dekeka and Eigamadauning, who were husband and wife. He is the son of Margareta and asserted that, if she was found to have had an interest in the land, he should succeed to her interest as well as Eigamadauning's!

The appellant adduced no evidence other than his own to establish that he was formally adopted so as to acquire the right to succeed to Dekeka's and Eigamadauning's estate in the same way as a child born to them. The fact that he claims to be still entitled to succeed to his real mother's interest is significant. He admitted that the adoption was not registered and published in the Government Gazette, as some were in the years before the Second World War.

The appellant has failed to prove to any acceptable degree of probability that he was adopted by Eigamadauning and Dekeka so as to be entitled to succeed to their estates.

As far as portion No. 130 is concerned, the appeal is dismissed. The distribution of portion 131 should have been made on the basis of Agabuawa and Margareta each having had a half share, as Eigamadauning and Baiduwok died without issue. The second, third, fourth and fifth respondents are entitled to succeed to Agabuawa's share and the appellant and the sixth respondent to Margareta's share.

I therefore allow the appeal in part in respect of portion 131 and determine the shares as follows:

Demingauwe Agabuawa	- $\frac{1}{8}$;
Eigadeiu Jerry	- $\frac{1}{8}$;
Meauwo Agabuawa	- $\frac{1}{8}$;
Eidinugirio Baidoge	- $\frac{1}{8}$;
Atuen Atam	- $\frac{1}{8}$;
Imitsi	- $\frac{1}{8}$