

IN THE SUPREME COURT OF NAURU

Civil Jurisdiction

Land Appeal No. 6 of 1976

27th October, 1976 at 9.10 a.m.

In Court

Before Mr. Justice I.R. Thompson, Chief Justice

For the Appellant: Mr. R. Kun

For the Respondents: -

Respondents absent except for Detabua Heinrich.

COURT:

Is this an appeal against the new determination of the additional area of land added to portion no. 269 by G.N. 128/76, or is it an application to set aside the determination of the boundaries of portion no. 269 published in Gazette No. 19 of 1961?

KUN:

It is an application to set aside the determination published in 1961. We do not dispute the new addition.

COURT:

There can be no appeal against that determination, only an application for it to be declared null and void due to a gross irregularity.

KUN:

The irregularity alleged is that the N.L.C. gave Heinrich & co. a new portion based on their submission that they had been left it by will. They did not produce the will.

COURT:

That concerns the merits of the determination, not its regularity. There could have been an appeal at the time. Was the applicant given a hearing at that time?

KUN:

Yes, I believe so, although not all the persons concerned were present.

COURT:

Is there any other ground of irregularity which you allege?

KUN:

That is all.

DECISION:

The ground on which this application is brought is concerned with the merits of the N.L.C.'s determination, not its regularity. The applicant was given a hearing on the matter before the N.L.C. made its decision. He could have appealed against it in 1961 but did not do so. This Court has no power to allow an appeal out of time. No irregularity is alleged which would render the decision null and void.

Accordingly the application is dismissed.

27th October, 1976

I. R. THOMPSON  
Chief Justice