

IN THE SUPREME COURT OF NAURU

Civil Jurisdiction

Land Appeal No. 1 of 1977

MARAKEN DAGAGIO

Appellant

v.

THE NAURU LANDS COMMITTEE

Respondent

4th February, 1977 at 9.00 a.m.

In Court

For the Appellant: (Mr. D. Gioura on record)

For the Respondent: -

Note: Registrar has informed Court that Mr. Gioura is absent from Nauru on Government business and has been so absent since before this appeal was listed. Not due back until at least 20/2/77.)

Respondents, all present except Eididiourupe (now deceased, estate represented by her widower Mr. Willy Adam), Eigoma, Dedoa, Eigogia, Issac Keno, Areoco, Ebenben, Diema, Magin, John Fred, Florina.

Petitioner's claim explained to the respondents.

Respondents say that claim is not correct.

ORDER: Adjourned until the next Sessions; date to be notified to parties by the Registrar.

I.R. THOMPSON
Chief Justice

Respondents inform the Court that they will try to choose one of their number to speak for all of them. If they do, they will inform the Clerk. Then only that person had to be served with notice of hearing.

26th May, 1977 at 9.15 a.m.

In Court.

For Appellant: Mr. D. Gioura

For Respondents: -

Interpreter: Miss A. Itsimaera, Clerk of Courts

Mr. R. Akiri asks to be joined as respondent. States that he has succeeded to title of Mrs. E. Macki to share in the land. Refers to Gazette No. 4 of 1962, G.N. 19/1962.

COURT: Very well. Leave granted.

AKIRI: The respondents have asked me to speak on their behalf. I have also been asked to speak for my brothers and sisters who are co-owners with me. They are Roy G. Deidenang, Ian I. Macki, Warwick M. Macki, May E. Macki and Joseph E. Macki. They have asked me to represent them; they are aware of these proceedings.

COURT: Leave granted.

Mr. Gioura agrees that ground of appeal is that the appellant had no hearing when the ownership of the land was decided.

COURT: When estate was being determined in 1961?

MR. A. DOGUAPE (Vice-Chairman, N.L.C.): No estate; it was as determination of ownership of the block.

COURT: What was the Gazettal in 1938?

DOGUAPE: Ownership. The seven persons named in G.N. 296/61 were determined as owners.

COURT: So, in 1961, the N.L.C. was concerned with who should inherit the shares of the six who had died?

DOGUAPE: Yes.

COURT: Which of the six people is it from whom the appellant claims to be entitled to inherit?

GIOURA: She is claiming to be entitled to be added to those seven people, not to inherit from any one of them.

COURT: Then it is the 1938 decision which she has to show to be ~~void~~ valid, not the 1961 decision, which is based on the 1938 decision.

GIOURA: Yes but the appellant has an interest in the land. His grandmother and the persons shown in Gazette No. 23 of 1938 were brothers and sisters.

COURT: The question of ownership as between them and his grandmother was decided in 1938 and was not a matter before the N.L.C. in 1961. It was not open to the N.L.C. in 1961 to add any other persons to the seven found in 1938 to be the owners. If you wish to show some irregularity, it must be in 1938.

GIOURA: In 1962 the Central Court allowed appeals against the 1961 decision on the basis that two other people owned shares in the land Atabio.

COURT: That may be so. I do not know on what basis those appeals were allowed. But so far as this Court is concerned, it will not allow the decision of 1961 to be challenged insofar as it is based on the 1938 decision. If you wish to challenge the 1938 decision you may do so but not in these proceedings and only on the basis of there having

been such gross irregularity then as to vitiate the decision made in that year.

ORDER: Appeal dismissed.

I.R. THOMPSON
Chief Justice

26/5/77