

IN THE SUPREME COURT OF NAURU

CIVIL ACTION NO. 4/2001

BETWEEN : **NAURU PHOSPHATE CORPORATION**

PLAINTIFF

AND : **ELCHEN KAKIOUEA**

DEFENDANT

Kaierua for the Plaintiff
Ribauw for the Defendant

Date of Hearing : 24 September 2001
Date of Decision : 24 September 2001

DECISION OF CONNELL, C.J.

In this matter, the Nauru Phosphate Corporation (NPC) sought an injunction against the Defendant from entering

coconut lands Portion Numbers 167, 168, 177, 178 and 179 "Eateterang" in Aiwo District and from collecting monthly rents from occupants of blocks of houses in numbers 48, 49 and 50.

Put to proof, the Counsel for the Plaintiff did not lead any evidence. However, he stated to the Court that the NPC lease with the relevant landowners had expired on 30 March 2000. It had not been renewed. He was not able to prove assertions in the Statement of Claim in paras. 2, 3, 5 which were crucial to seeking an injunction. There was no basis in law why such an injunction could be granted.

The Defendant gave evidence of her ownership of "1/36" of the land in question, and further provided a consent document signed by almost all of the landowners granting her use in

the land. She stated in her evidence that there was not a current lease over the land nor was she currently negotiating with the NPC for a lease.

The Defendant in her defence also included a counter-claim but no evidence was led of any proof establishing the extent of damage which would entitle her to such relief.

The Plaintiff also sought after proceedings had commenced for an adjournment which was opposed by the Defendant. There was no basis for the adjournment and this was refused.

I ORDER that:

1. the application by the Plaintiff for an injunction against the Defendant is refused.

2. the action No. 4/2001 is otherwise dismissed.
3. the counter-claim of the Defendant is dismissed.
4. Costs are awarded to the Defendant.


BARRY CONNELL
CHIEF JUSTICE

24. 09. 01

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of the Original


SAMPATH B. ABAYAKOON
REGISTRAR, SUPREME COURT

