IN THE SUPREME COURT OF NAURU

AT YAREN

[APPELLATE DIVISION]

Case No. 118 of 2015

IN THE MATTER OF an appeal against a decision of the Refugee Status Review Tribunal TFN 15008, brought pursuant to s 43 of the *Refugees Convention Act* 1972

BETWEEN

CRI 026

Appellant

AND

THE REPUBLIC

Respondent

Before:	Crulci J
Appellant:	Self-represented
Respondent:	R. Knowles
Date of Hearing:	24, 25 May 2017
Date of Judgment:	29 August 2017

CATCHWORDS

APPEAL - *Refugees – Refugee Status Review Tribunal – Point of Law – Error of Law – Relocation Principles - Relevant considerations – Appeal DISMISSED*

JUDGMENT

1. This matter is before the Court pursuant to section 43 of the *Refugee Convention Act* 2012 ("the Act") which provides:

> **43 Jurisdiction of the Supreme Court**
>
> (1) A person who, by a decision of the Tribunal, is not recognised as a refugee may appeal to the Supreme Court against that decision on a point of law.
>
> (2) The parties to the appeal are the Appellant and the Republic.
> ...

2. The determinations open to this Court are defined in section 44 of the Act:

> **44 Decision by Supreme Court on appeal**
>
> (1) In deciding an appeal, the Supreme Court may make either of the following orders:
> (a) an order affirming the decision of the Tribunal;
> (b) an order remitting the matter to the Tribunal for reconsideration in accordance with any directions of the Court.

3. The Refugee Status Review Tribunal ("the Tribunal") delivered its decision on the 29 November 2015 affirming the decision of the Secretary of the Department of Justice and Border Control ("the Secretary") of the 19 February 2015, that the Appellant is not recognised as a refugee under the 1951 Refugees Convention[1] relating to the Status of Refugees, as amended by the 1967 Protocol relating to the Status of Refugees ("the Convention"), and is not owed complementary protection under the Act.

4. On 23 December 2015, the Appellant lodged an application for an extension of time within which to file a Notice of Appeal under s. 43 of the Act until 31 March 2016. On 15 March 2016, the Appellant filed a Notice of Appeal. However, the initial application for an extension of time was not valid as it did not specify that it was necessary in the interests of justice that time be extended, meaning the enlivening discretion of the Court in s. 43(5)(a) was not met. On 3 May 2017, the Appellant filed a further application for an extension of time, which said "The Appellant considers it necessary in the interests of the administration of justice that the order be made".

5. The Court proceeds on the basis as suggested by the Respondent[2], vacating the order made by the Acting Registrar on the 23 December

[1] 1951 Refugee Convention and 1967 Protocol, also referred to as "the Refugees Convention" or "the Convention".

[2] Respondent's written submissions, 12 May 2017 at [14]

2015 and extending the time up to the date of hearing for the filing of the appeal, the grounds set out in the notice of which was purportedly filed on the 15 March 2016.

BACKGROUND

3. The Appellant was born on 13 July 1975 in Sialkut in Punjab Province, Pakistan. He is a Mohajir and a Sunni Muslim. He moved to Karachi in 1978. Between 2003 and 2005 the Appellant lived in Sialkut; then returning to Karachi in 2005 as he had married and said he needed to care for his family. The Appellant also lived in Lahore for 12 months from 2010 to 2011 before fleeing Pakistan.

4. The Appellant has five siblings who live variously in Karachi, Dubai, Libya and Sialkut. His parents live in Karachi. He has two children born in Sialkut in August 2009 and December 2010.

5. The Appellant claims a fear of harm arising out of a dispute at a cricket game with a man called Munir Tunda, who was a senior member of the Muttahida Qaumi Movement ("MQM"); he claims that the MQM will find him anywhere in Pakistan and seek revenge. He also claims a fear of harm from ongoing civil and political violence in Pakistan.

6. After moving around within Pakistan for several years, the Appellant left for Malaysia in 2011, and then travelled to Indonesia in 2012. In December 2013, the Appellant left Indonesia for Australia and arrived on Christmas Island on 15 December 2013. On 19 December 2013, the Appellant was transferred to Nauru.

INITIAL APPLICATION FOR REFUGEE STATUS DETERMINATION

7. The Appellant attended a Refugee Status Determination interview on 19 May 2015. The Secretary summarised the Appellant's material claims as follows:

    - *The security situation in Karachi and throughout Pakistan is very bad. There are ongoing targeted killings, violence and militant attacks.*
    - *In 2003, he had a fight with a man called Munir Tunda during a cricket match. He hit Munir Tunda with a wicket. As a result, Munir Tunda received permanent cuts to his face. He was shouted at and threatened by Munir Tunda.*
    - *He later found out that Munir Tunda was a senior member of the Muttahida Qaumi Movement (MQM). Munir Tunda's brother was also very senior in the MQM and was the secretary for the local area. The MQM in Karachi and throughout Pakistan are a notorious militant group who kill and extort money from people.*
    - *Munir Tunda and his supporters began a vendetta against him. He is now on the MQM hit list and they won't stop until they get him.*
    - *In 2003, about 10 days after the fight, he was beaten by five or six MQM members. After this beating, Munir Tunda's men would continue to*

approach him and fire guns around him. He was told that if he passed near them he would be killed. He also received threatening notes from them.

- *Approximately six months after the fight he saw MQM militants burn down his store. Subsequently when he was threatened and beaten he was told that they had burnt down his shop and they would do the same to him.*
- *He approached the police for help. They did not help him because they were sympathetic to Munir Tunda and the MQM. Immediately after reporting this to the police he was attacked again by the MQM. He believes the MQM were working with the police.*
- *After 2003, he started moving around Karachi without his family to avoid harm. He would still be found and beaten. He was beaten approximately once a month.*
- *He was in hiding in Karachi and did not leave his room. The MQM found out where he was staying and he was beaten and told he would not be left alone because he had dishonoured one of their members.*
- *After he was detected and beaten he went to live in Sialkut, Punjab where he remained in hiding. He could not work in Sialkut as he was only hiding there.*
- *In 2004, his brother "N" was beaten by MQM militants and received head injuries.*
- *He feared the MQM would continue to target his brother; in 2005 "N" fled to Libya where he continues to reside today.*
- *In 2005, he returned to Karachi and went to live in a different area. He thought it might be safe as he had now been gone for a couple of years and was married and needed to take care of his family.*
- *Following his return to Karachi he suffered more threats from MQM members. They would beat him when they found him, threaten to kill him or fire guns at him but they missed.*
- *He feared that if he remained in Pakistan he would be killed and so in 2006 he left Pakistan and went to Malaysia. He remained in Malaysia for one to two months. He was on a tourist visa which had expired. He could not settle in Malaysia and suffered threats to his ability to subsist. As he had to care for his family he returned to Pakistan. He believed he could live in Pakistan given the period of time that had passed since the dispute began.*
- *In 2008, MQM militants tracked him down and started to throw rocks at him, beating him and telling him they would not let him live because he had attacked their boss. Munir Tunda beat him with others, swore at him and told him that he would give him a life where he would not be able to live or die properly. They kept telling him they would come back and they kept beating him. He would also be called and threatened over the phone. He kept changing his SIM card following which they would beat his brother, "A", on multiple occasions and demand his phone number.*
- *In 2009, the MQM militants approached him at his house to look for him. They threatened his wife and threw a letter at her which said they would kill him. He was fearful they would find him and as such he travelled back and forth to Lahore in an effort to avoid him.*
- *In 2010, he fled to Karachi and went to live in Lahore where he remained in hiding until he could flee Pakistan. The MQM are present in Lahore and throughout Pakistan. The militants and Munir Tunda have shown they are dedicated to harming him and could not find him anywhere. He fears he could be tracked down in Lahore or anywhere in Pakistan.*[3]

[3] Book of Documents 56-57.

8. The Secretary accepted the following claims as credible:

- He is a Mohajir and a Sunni Muslim.
- He was born in Sialkut in Punjab Province, Pakistan.
- He was married in November 2006 in Sialkut in Punjab Province, Pakistan.
- He has two children born in Sialkut in August 2009 and December 2010.
- He has been a resident of Sialkut, Punjab province, Pakistan.
- He has been a resident of Karachi, Sindh province, Pakistan.[4]

9. However, the Secretary found that there were credibility issues in respect of the following material claims:

- He is involved in a feud with a powerful member of the MQM called Munir Tunda.
- He has been threatened and assaulted by MQM members and/or supporters of Munir Tunda.
- He has repeatedly fled Karachi to Sialkut, Malaysia and Lahore and subsequently remained in hiding because of such assaults and threats.[5]

10. The Secretary said that it was put to the Appellant that despite having been repeatedly threatened and assaulted in Karachi (and his brother being repeatedly assaulted and subsequently fleeing Karachi in April or May 2005) it was of concern that the Appellant returned to Karachi in July 2005. The Appellant responded by saying that he did not know that his brother had fled Karachi at the time; and his father told him that the security situation in Karachi had improved. He also said that there were more employment opportunities in Karachi.

11. The Secretary said it was implausible that in those circumstances, the Appellant's father would tell him it was safe to return to Karachi, and that the Appellant would leave his employment in Sialkut because Karachi offered more employment opportunities.[6]

12. The Secretary additionally considered it to be implausible that, having been assaulted after his return to Karachi in 2005, the Appellant would return and stay in Karachi (despite being tracked down in 2008 having had rocks thrown at him and being beaten) until 2009.[7]

13. The Secretary further found that, given the Appellant's wife and children reside in Sialkut, it was reasonable to expect that the Appellant would have remained in Sialkut and not returned to Karachi in 2005 and 2006. It was also implausible that the Appellant would have remained "in hiding" in

[4] BD 58.
[5] BD 58.
[6] BD 60.
[7] BD 60.

Sialkut, when he claims to have returned to Karachi to work, considering that Karachi is where the alleged incident with the MQM occurred.[8]

14. The Secretary considered country information that indicated while violent crime is "clearly a problem in Karachi", it was not as high as in major cities in the United States, including Chicago, Detroit and New Orleans.[9] In addition, country information indicated that Mohajirs could "live in most cities safely", and only suffer "occasional social discrimination". Most attacks in Karachi were driven by political factors.

15. Given the Appellant did not have a political profile, and was a member of the religious majority, there was no reasonable possibility of the Appellant being harmed upon return to Karachi.[10] The Secretary therefore did not consider the possibility of the Appellant facing harm in his alternative home region of Sialkut.

16. The Secretary concluded that the Appellant's claimed fear of harm on the basis of the feud with Munir Tunda, and the ongoing civil and political violence in Pakistan was not well-founded, and the Appellant did not attract refugee status. For the same reasons, the Appellant would not face harm if returned to Pakistan that would breach Nauru's international obligations. Consequently, the Appellant was not owed complementary protection.[11]

REFUGEE REVIEW TRIBUNAL

17. The Tribunal set out the claims put forward by the Appellant in a written statement dated 8 March 2014. The claims largely reflect those summarised by the Secretary and set out at [9] above; however, there are some differences.

18. Before the Secretary, the Appellant said that after 2003, he moved around Karachi without his family to avoid harm, but was nonetheless found and beaten once a month. He then remained "in hiding" in Karachi, but was again detected and beaten, following which the Appellant decided to move to Sialkut. However, before the Tribunal, the Appellant just said he moved to Sialkut about 10 to 15 days after his shop was burnt down.[12]

19. The Appellant's evidence in relation to violence towards himself after he went to live in Lhandi, another district in Karachi, with his wife also varies. Before the Secretary, the Appellant said the MQM and Munir Tunda threw rocks at him and beat him. However, before the Tribunal, the Appellant said that he did not encounter the MQM men in Lhandi; only in Korangi, where he went to get groceries, about 20km from Lhandi. The MQM men

[8] BD 61.
[9] BD 64.
[10] BD 65.
[11] BD 66 – 67.
[12] BD 194 [21].

then threatened and interrogated the Appellant's brother about the Appellant's address and phone number.

20. The brother gave the men the Appellant's phone number but warned the Appellant and he changed his SIM. The men went to the brother and made him call the Appellant. The men told the Appellant to meet at the place where the fight occurred and would telephone the Appellant with the date and time. The Appellant changed his SIM and address, and avoided any encounters with the men.[13] However, the brother was punched and kicked several times.[14]

21. Before the Secretary, the Appellant claimed that a letter was delivered to his wife threatening to kill the Appellant at his home in Karachi. However, before the Tribunal, the Appellant claimed that the letter was delivered to Lahore. This was put to the Appellant and he said the evidence he gave the Tribunal was correct.

22. The Tribunal accepted various aspects of the Appellant's evidence, including that the Appellant got into a fight at a cricket game with a person called Munir Tunda;[15] was threatened five or six days after the fight by associates of Munir Tunda;[16] had his shop smashed and burnt by associates of Munir Tunda;[17] and returned to Karachi from Sialkut in mid-2005 to support family.[18]

23. However the Tribunal did not accept that:

- Munir Tunda held a top position with the MQM;[19]
- after the Appellant's shop was smashed and burnt the MQM men beat the Appellant once a month;[20]
- the MQM interrogated, threatened and assaulted the Appellant's brother to obtain the Appellant's contact details after he was sited in Korangi;[21]
- the MQM men delivered a threatening letter to the Appellant's home in Lahore in 2010.[22]

24. The Tribunal's doubts regarding these aspects of the Appellant's evidence emanated from inconsistencies in the Appellant's claims, as set out above. In addition in respect of the letter, that the MQM men did have the Appellant's address as they never interrogated and threatened the brother. Further given the alleged interrogations, threats, and assaults,

---

[13] BD 196 [31] – [33].
[14] BD 196 [33].
[15] BD 197 [40].
[16] BD 197 [42].
[17] BD [44].
[18] BD 198 [48].
[19] BD 197 [41].
[20] BD 198 [45].
[21] BD 199 [49].
[22] BD 199 [51].

once having obtained the Appellant's address, it was implausible that the men would then simply write him a letter threatening again to kill him.[23]

24. While the Tribunal did not accept that the associates of Munir Tunda were "waging a systematic vendetta against him", it did accept that Munir Tunda or his associates may opportunistically harm the Appellant if he was encountered in Karachi.[24] The Tribunal therefore accepted that there was a real possibility that the Appellant would be harmed if returned to Karachi.[25] The Tribunal however, considered it reasonable for the Appellant to relocate to Lahore or Sialkut in Punjab Province where there would be no real possibility of harm from Munir Tunda or his associates.[26]

25. In regards to the Appellant's claimed fear of harm from ongoing civil and political violence in Pakistan, the Tribunal accepted that while there was a level of insecurity in Pakistan, Punjab Province is relatively secure. Given that the Appellant did not have a political profile and was a member of the religious majority, the Appellant was not a person at risk of being targeted in an attack.[27] Therefore the Tribunal found that the Appellant was not a refugee.[28]

26. For the same reasons, the Tribunal found that returning the Appellant to Pakistan would not breach Nauru's international obligations, and the Appellant was not owed complementary protection.[29]

THIS APPEAL

27. The Appellant's Notice of Appeal filed on 15 March 2016 reads as follows:

- *The tribunal has said that I should relocate to another city. It is not easy for us to change to another city. I have transferred my city from Karachi to Sialkot and for most of the time I was locked inside the house.*
- *The MQM are with the government, before their power was limited to Karachi but now they have access throughout Pakistan.*
- *I was shown a piece of paper that clearly states that the MQM has links with the government. The head of the organisation Altaf Hussain runs the party from London. He can do anything from London in Pakistan. The Tribunal has accepted in the decision that the MQM has links with the Government and army, so therefore it is easy for the MQM to find me throughout Pakistan.*
- *The Tribunal has asked me to change the city I live in, even though they know the situation is in the whole of Pakistan. I cannot relocate.*
- *The Tribunal decision states that I am a Tamil from Sri Lankan. This is a mistake. I am from Pakistan.*

---

[23] BD 199 [51].
[24] BD 200 [55].
[25] BD 200 [55].
[26] BD 200 – 201 [58] – [65].
[27] BD 202 [67].
[28] BD 202 [68].
[29] BD 202 [69].

- *The day I received a slip to attend the decision of the Tribunal the date was incorrect. The slip stated that I was to attend in 1900 instead of 2015.*
- *The person I had a problem with Monir Tunda, he and his family have a very close relationship with the head of the MQM.*
- *That was the reason that I changed my name in Pakistan. I tried to leave Pakistan but I was not allowed to at the airport. I changed my name and I announced my name change in the newspaper. I received a new passport and I left Pakistan from a smaller airport in Peshawar.*

28. The Appellant did not file written submissions and was absent at the hearing listed for 24 May 2017. An affidavit by a Claim Assistance Provider ("CAPs") solicitor dated 24 May 2017 deposes that on 3 May 2017, CAPs notified the Appellant in person that his Supreme Court hearing had been listed for 24 May 2017. On 18 May 2017, CAPs delivered an appointment slip to Broadspectrum in accordance with the usual procedures for Broadspectrum to deliver the slip to the client. The appointment slip was for 24 May 2017 at 9:00 am. The Court adjourned the matter until 25 May 2017 at 10:00 a.m. so that the whereabouts and well-being of the Appellant could be ascertained.

29. The Court reconvened on 25 May 2017 and again the Appellant was absent. The Respondent tendered into evidence an affidavit dated 25 May 2017 of Mr Rogan O'Shannessy, Senior Appeals Lawyer for the Republic of Nauru. According to the affidavit, Mr O'Shannessy attended Regional Processing Centre ("RPC") 2 with an interpreter to inform the Appellant that the case had been listed for the following day.

30. The Appellant said words to the effect that he did not attend Court because "*I have been told by the lawyers that my case is a losing case. I am not a lawyer. My case will be defended by a lawyer for the government. How can I win my case against a proper lawyer*?". Mr O'Shannessy said words to the effect of "*if you do not go to Court tomorrow morning, we will ask the Court to dismiss your appeal tomorrow.*"

31. The Appellant responded with words to the effect of "*I cannot go to Court because I am not a lawyer. I have asked for a lawyer but I have not been given one. I cannot win my case against a lawyer*". Mr O'Shannessy told the Appellant that CAPs had organised an appointment for the Appellant at 9:00 a.m. the following morning and the Appellant should go to the meeting and give advice as to whether he wishes to continue with his appeal. The Appellant said words to the effect of "*I will not make a decision to continue or not to continue my appeal. I have never asked for anything from the Government of Nauru. I came to Australia. I do not want to be in Nauru. I will not go to Court tomorrow. If I have a lawyer, I will go to Court. If I do not have a lawyer, I will not go to Court.*" The CAPs representative who attended the hearing on 25 May 2017 said that the Appellant had not attended the meeting organised for that morning.

32. The hearing proceeded in the absence of the Appellant under Order 30 Rule 1(2) of the *Civil Procedure Rules 1972* (Nr). That Rule provides as follows:

> **FAILURE TO APPEAR BY ALL PARTIES OR ONE OF THEM**
>
> ...
>
> (2) If, when the trial of a suit is called on, one party does not appear, the Court may proceed with the trial of the suit or any counterclaim in the absence of that party.

33. This Rule requires that the matter be resolved on the merits, rather than simply dismissing the appeal without investigating the merits of the absent party's claims.[30] The Respondent made oral submissions on the Appellant's grounds of appeal at the hearing and relied on its written submissions filed on 12 May 2017.

34. The Respondent submits that the issues raised by the Appellant in his Notice of Appeal include the following:

    a. Q1: In finding that the Appellant could safely and reasonably relocate to Lahore or Sialkut or elsewhere in Punjab, did the Tribunal misapply legal principles relating to internal relocation?

    b. Q2: Does the Tribunal's erroneous reference in its decision to the Appellant as a Tamil from Sri Lanka, which error was subsequently corrected in any event, give rise to any error of law?

    c. Q3: Does any discernible error of law affect the Tribunal's decision?

35. In relation to the first issue, the Respondent submits that the Tribunal correctly applied legal principles relating to internal relocation, by considering if there was a place in Pakistan to which the Appellant could safely relocate, and, if so, whether it was reasonable for the Appellant to relocate to that place. Insofar as the Appellant's grounds challenge the Tribunal's relocation findings, those grounds do not involve any point of law and simply go to the merits of the Tribunal's fact-finding.

36. In relation to the second issue, the Respondent submits that the mistake in the original decision referring to the Appellant as a "Tamil from Sri Lanka" does not result in any appealable error. The Tribunal issued a corrigendum correcting the mistake, and, in any case, the mistake should be read in the context of the whole of the decision, which reflects that the Tribunal was aware of the Appellant's particular circumstances and bore those in mind in making its decision.

---

[30] Contra *Federal Court Rules 2011* (Cth) r 30.21 and *SZUIE v Minister for Immigration and Border Protection* [2014] FCA 1359 at [8] (per Flick J); *Randell v Minister for Immigration and Citizenship* [2012] FCA 50 at [8] (per Collier J).

CONSIDERATION

37. Under s 43(1) of the Act, any appeal to the Supreme Court from a decision of the Tribunal must be on "a point of law".

38. Australian courts have considered the need for courts performing judicial review to confine their review to whether the decision made by the Tribunal was made within the legal limits of the relevant power. In the often cited authority of *Attorney-General (NSW) v Quin*,[31] Brennan J said:

> "*The duty and jurisdiction of the court to review administrative action do not go beyond the declaration and enforcing of the law which determines the limits and governs the exercise of the repository's power. If, in so doing, the court avoids administrative injustice or error, so be it; by the court has no jurisdiction simply to cure administrative injustice or error. The merits of administrative action, to the extent that they can be distinguished from legality, are for the repository of the relevant power and, subject to political control, for the repository alone*".[32]
> (emphasis added)

39. In *Minister for Aboriginal Affairs v Peko-Wallsend* ("*Peko-Wallsend*"),[33] Mason J, as his Honour then was, said:

> "*The limited role of a court reviewing the exercise of an administrative discretion must constantly be borne in mind. It is not the function of the court to substitute its own decision for that of the administrator by exercising a discretion which the legislature has vested in the administrator. Its role is to set limits on the exercise of that discretion, and a decision made within those boundaries cannot be impugned*".[34]
> (emphasis added)

40. The Appellant's grounds of appeal also raise the issue of the principles to be applied in determining whether it would be reasonable for a person to relocate to a safe area within his or her home country. This Court has approved of the questions laid out by Hathaway and Foster in *The Law of Refugee Status* to be taken into account when considering the reasonableness of relocation. These questions include:

- Can the Appellant safely, legally and practically access an internal site of protection?
- Will the Appellant enjoy protection from the original risk of being persecuted?
- Will the site provide protection against any new risks of being persecuted or of any indirect *refoulement*?
- Will the Appellant have access to basic civil, political and socio-economic rights provided by the home country or State?[35]

---

[31] *Attorney-General (NSW) v Quin* (1990) 170 CLR 1.
[32] *Attorney-General (NSW) v Quin* (1990) 170 CLR 1 at 35-36.
[33] *Minister for Aboriginal Affairs v Peko-Wallsend* (1986) 66 ALR 299.
[34] *Minister for Aboriginal Affairs v Peko-Wallsend* (1986) 66 ALR 299 at 309.
[35] See, eg, *ULA 007 v Republic of Nauru* [2017] NRSC 40.

41. The Tribunal decision record indicates that the Tribunal took into account matters relevant to those questions in determining whether it would be reasonable for the Appellant to relocate to Lahore or Sialkut, or elsewhere in Punjab Province. Those matters include:

- The Appellant lived in Sialkut between 2003 and 2005, and during 2011, without experiencing any harm;[36]
- The Appellant lived in Lahore between 2010 and 2011 without experiencing any harm;[37]
- Punjab is the most prosperous province in Pakistan and is a large industrial and manufacturing base;[38]
- The Appellant speaks and reads Urdu, which is spoken widely throughout Punjab, and also speaks some Punjabi;[39]
- The Appellant has a portable skill and training and would likely be able to obtain employment;[40]
- The Appellant has relatives in Sialkut and his wife's family live there;[41] and
- Punjab is relatively secure and is safer than Karachi.[42]

42. The Tribunal therefore applied the correct principles in determining that the Appellant could safely and reasonably relocate to Punjab Province. In regards to other assertions made by the Appellant that the head of the MQM, Altaf Hussain, runs the party from London and "can do anything from London in Pakistan", and "it is easy for the MQM to find me throughout Pakistan", these assertions invite the Court to reconsider the merits of the Appellant's case. This is the role of the Tribunal and not of the Court.[43]

43. In regards to the error in the decision record that the Appellant is a Tamil from Sri Lanka, taken as a whole, the decision record indicates that the Tribunal was alert to the particular circumstances of the Appellant. At [8], the Tribunal accepts that the Appellant is a national of Pakistan.[44] At [56] – [65], the Tribunal discusses the reasonableness of the Appellant relocating within Pakistan.[45] At [66], the Tribunal considers the ongoing civil and political violence through Pakistan.[46] This error in the decision record therefore does not give rise to any error of law. Nor does the decision record give rise to any other error of law.

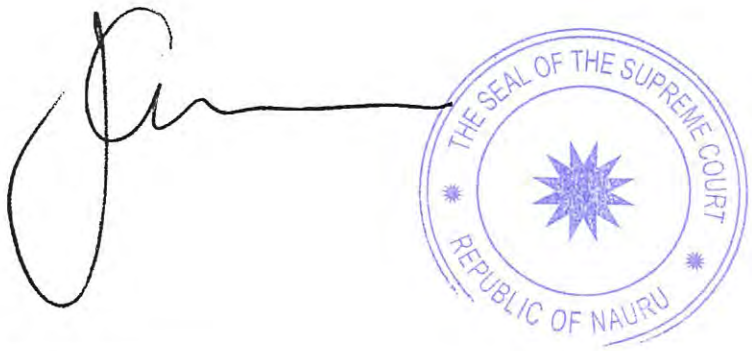
---

[36] BD 200 [58].
[37] BD 200 [58].
[38] BD 201 [60].
[39] BD 201 [61].
[40] BD 201 [62].
[41] BD 201 [63].
[42] BD 201 [64].
[43] *Attorney-General (NSW) v Quin* (1990) 170 CLR 1 at 35-36; *Minister for Aboriginal Affairs v Peko-Wallsend* (1986) 66 ALR 299 at 309.
[44] BD 190..
[45] BD 200 – 201.
[46] BD 201.

ORDER

44. (1) The Appeal is dismissed.

(2) The decision of the Tribunal TFN 15008 dated 29 November 2015 is affirmed.



Judge Jane E Crulci

Dated this 29 August 2017