

**IN THE COURT OF APPEAL  
NIUE**

Application No: 11239

**IN THE MATTER OF:** Article 55A(3) of the Constitution of Niue

**BETWEEN** B & H ASEKONA  
Appellants

**AND** V PEAUVALE  
Defendant

**AND** THE NIUE GOVERNMENT  
Interested Party

Date: 19 January 2021 (NZ)

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**JUDGMENT OF CHIEF JUSTICE C T COXHEAD**

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[1] This is an application which seeks special leave to appeal a decision from the High Court of Niue delivered in 2006.

[2] Chief Justice at the time (Chief Justice Savage) made directions dated 2 April 2015 where he directed:

- a) That the intended Appellants file and serve on the other parties its full submissions and any other material it wishes to place before the Court of Appeal within one month;
- b) The Respondent and the Niue Government (who was a party to the proceedings in the lower Court), shall respond within one month by filing and serving the material they wish to put before the Court of Appeal;
- c) The intended Appellant will then have one month to [reply].

[3] The Chief Justice at the time, also noted that the intended appellants be served the physical address given in the application namely c/- Charlie Fuku Togahai and at both of the email addresses given, toalaw@outlook.com and toalaw22@gmail.com.



[4] The matter was referred to me and I made a further direction on 26 October 2020 that the intended appellants be served again with a copy of Chief Justice Savage's direction of 2 April 2015 by email to both of the email addresses given, toalaw@outlook.com and toalaw22@gmail.com.

[5] The Court emailed, as directed, on 27 October 2020.

[6] The Court has not heard from the appellants. The appellants have not filed and served on other parties its full submissions as directed.

[7] Given the inaction on behalf of the appellants, the matter is dismissed for want of prosecution.

Dated at Rotorua, Aotearoa/New Zealand this 19<sup>th</sup> day of January 2021.

C T Coxhead  
**CHIEF JUSTICE**