



spokesman. The price he claims is ridiculously high and does not follow Makira Custom. We also feel that it would be impossible for one man, living in a rural area to provide all the things that he claim he provided. It is not necessary, however, to go through his evidence in details for the reasons disclosed in the following paragraph.

In his evidence before this court Sihei admitted that he had planted new coconut trees in Kaokaona land after the High court Decision of 1973. That is enough to prove the Respondents claim. The explanation he gave was that Wariu an Area Constable said he had the right to do so and that he (Sihei) was the owner of the land. This is despite the decision of the High Court, and Sihei's criminal conviction for trespass on the land in Eastern District Magistrate's Court Criminal Case No. KK/50/80 as a result of which Sihei spent one month in prison. We do not accept that Sihei could reasonably believed much a statement by the Area constable even if it had been made. In any event it would not be a good defense to this claim even if it were proven.

We went to look at the land to make absolutely certain and to make sure there was no confusion. We saw many young trees inside the land, some no more that one year old. Sihei admitted to us that he had planted all of them and that they were inside the boundary of Kaokaona land fixed by the High Court in 1973 and these boundaries agreed by the two sides to this dispute during our brief survey.

The boundaries do not form part of this decision but we felt it important to record the agreement here as Sihei says he will soon start another case against Robinson claiming a different place of Land that borders Kaokaona land.

The agreed boundaries are :-

North, sea coast.

South the bottom of a ridge called Nonganawaoro running roughly parrallel to the sea coast and dropping down into the two rivers that form the eastern and western boundaries. This forms a natural boundary or spearline.

East, the Hao Rive  
West, the Maepua River

Thus Kaokaona land is in effect the coastal plain between the Hao and Maepua river in Bauro west, Makira Island.

As none of these points were disputed it was not necessary to carry out a detailed survey. The ridge can be seen clearly from the road.

We were particularly careful to make sure that the new claim that Sihei says he will make against Robinson does not affect this case. All parties agreed that it does not and we find accordingly. Sihei told us that he will claim from Robinson the land stretching south from the southern boundary of Kaokaona to Maraganipawa (ie. the ridge called Pawa) That claim must be decided by a separate Local Court but we remind the parties that if Sihei

has the same claim as Alusio, and claims through the same ancestors then the matter has already been settled and cannot be heard again.

During the survey Sihei presented a list of crops he said had been damaged by bulldozers belonging to the government when they made the recreation ground in the Kaokaona land. He wanted to claim compensation for these from Robinson. We pointed out that we could hardly judge such a claim raised at that stage in the proceedings. He has the right to make a further court case but if the damage was done more than six years ago then the law says that the claim must fail.

Accordingly we find that the appellant has yet been planting coconut trees in Kaokaona in defiance of the High Court Order of 1973. We advise Robinson to report immediately to the Police any further disobedience of that order so that criminal proceedings can be brought. We warn Sihei that he must expect serious consequences if he disobeys that decision again.

### **DECISION**

We confirm the decision of the Bauro Local Court given on 25/8/83 in all respects.

We add to that decision a provision that any coconut trees or any other plants either for Food or cash crops planted by Sihei or any member of his line without Robinson's permission will automatically belong to Robinson and his line.

Costs. We further order that Sihei must repay any expenses incurred by Robinson in this appeal.

To make a claim Robinson must send a list of his expenses to the Magistrate's Court office and within one month. That list will then be considered by this court in its next sitting. If the list is not submitted within one month and there is no good reason for the delay then the claim will not be allowed. Orders in accordance with the above.

Given at Kira Kira this 22<sup>nd</sup> day of August, 1986

Signed:

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Henry Awaihalae  
President

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Andrew Shipley  
Clerk to CLAC