

TURI MAKOTO, ELIJAH BELAE, ELISHA BELAE, ELIOT WONG, CROPTON BEN –v- CHIEF CULLISI NAISI, EDRICK LUNA & 15 OTHERS.

IN THE WESTERN CUSTOMARY
LAND APPEAL COURT

Hearing: 11th January 2012 at Gizo
Judgment: 11th January 2012-01-12

Spokespersons: Cropton Ben for Appellants
Konseti Robert for Respondents



IN THE MATTER OF: HOVORO/DEKURANA Timber Right Appeal.

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The Appellants being an aggrieved party from the determination of Western Provincial Executive Committee as appeared in their Form II dated 20th May 2011 did filed four grounds of appeal to the Western Customary Land Appeal Court. Their grounds of appeal are as follows:

1. There was no objector present.
2. Other parties (Dekurana) insisting the time, as was not delaying some hours to wait until the time scheduled 4:30 pm on the day
3. We arrived 40 minutes late at the duration of the timber right hearing time.
4. False information on the Radio Service Messages.

These four grounds of appeal in our view raise issues relating to point of Law.

At the hearing before the Western Customary Land Appeal Court, the court raised a preliminary issue that it think fit to be discussed before deciding whether to proceed on to the full hearing of the appeal.

The issue is; whether this court has jurisdiction to hear this appeal when it raises issues on point of law?

Both parties were given opportunity to make any submission on the question raised.

Appellants' spokesperson submits that Western Customary Land Appeal Court has power to hear their appeal. He did not give any authority to support his arguments.

Respondents spokesperson submit that Western Customary Land Appeal Court has no power to entertain the appellants grounds of appeal as it raise issues on point of law.

The Court upon hearing both parties' submissions and upon reading the grounds of appeal ruled that the provision under Forest Resources and Timber Utilization Act provide that any person aggrieved by the Determination of the Provincial Executive made under section 8 (3) (b) or (c) and section 9 (2) (b) of the same Act may appeal to the Customary Land Appeal Court having jurisdiction to the customary for the area in question.

That means the appeal in this case must be against the determination of the Western Provincial Executive and it must raise issues on point of custom. The four grounds of appeal filed by the appellant's raise issues on point of law in which this court lacks jurisdiction to entertain. The right avenue is the High Court.

We have no power to deal with these grounds of appeal therefore these four grounds of appeal must be struck out. The determination of Western Provincial Executive on persons to grant timber right on Dekurana/Hovoro is upheld.

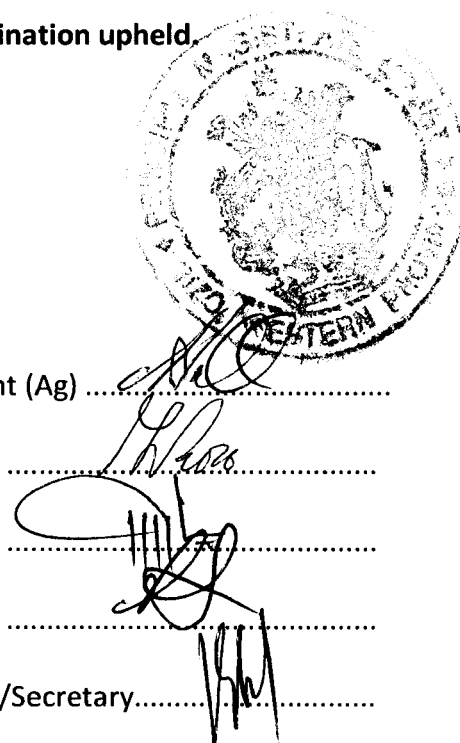
ORDER

1. **Appeal Struck Out.**
2. **Western Provincial Executive Determination upheld**
3. **No further order made.**

Dated this 11th day of January 2012.

Signed by:

Mr. Allan Hall	-	President (Ag)
Mr. Willington Lioso	-	Member
Mr. Erick Kituru Ghemu-	-	Member
Mr. Tane Ta'ake	-	Member
Mr. Davis D Vurusu	-	Member/Secretary.....



Right of Appeal Explained.