

IN THE GUADALCANAL CUSTOMARY)
LAND APPEAL COURT)

CLAC case number: 34 of 2013

Customary land ownership Appellant Jurisdiction

IN THE MATTER OF: **THE LOCAL COURT ACT [CAP 144]**

AND **THE LANDS AND TITLE ACT (CAP 93)**

IN THE MATTER OF: **TAIVU/KAMAU CUSTOMARY LAND APPEAL**

BETWEEN: **JAMES ONOI** *Appellant*

AND

**JOEL TOME
HENRY TABULE
NELSON LEUA**

Respondents

JUDGMENT

1. This is an appeal filed against the decision of the Guadalcanal Local Court over the Taivu/Kamau customary land hearing held on 20th day of March 2013.
2. The Appellant was not satisfied with the Guadalcanal Local court who deliberately determined over a case filed by the Ghaubata House of Chiefs. His appeal was basically based on the ground that the Local Court has no jurisdiction to preside over the case because it was unprocedural, and has no legal basis in law.

3. At the outset, the matter was listed before the Guadalcanal Local Court and deliberates on it.
4. This court has the opportunity to assess the decision of the GLC which was made available for perusal.
5. It was noted from the outset that both parties were represented during the local court proceeding. They were given opportunity to make representation in relation to the issue. Both parties confirm that neither one of the parties do file any court proceeding to the Local Court after the Ghaobata Houase of Chiefs determined otherwise.
6. The Guadalcanal Local Court is correct to redirect both parties that the way this case was filed is not proper. Thus, the GLC has considered section 12(1) of the Local Court Act, 1985;
7. It is also clear at the outset that there is no filing of the matter by any of the contested parties, which contravening section 12 of the Act.
8. To constituted a proceeding at the Local Court, there must be a proceeding filed and registered with the local Court upon payment of the prescribed fee. This is in addition to the filing of the Form 1 certificate, technically, an appeal against a chief's determination. Filing of Form 1 Certificate, although mandatory, does not constitute of itself an appeal or proceeding in court.
9. It is important to note here that for jurisdictional requirements, the referral must be done by an aggrieved party.
10. In our case, the Chiefs filling Land case No: 3 of 2007 are therefore in no legal position whatsoever to appeal their own determination. More so, they are in no position to set out the grounds of appeal for determination by Local Court.
11. The Guadalcanal Local Court has no jurisdiction to make ruling on such case. What the GLC supposed to do in this case is that they reject the application without orders.

12. Having considered the above submissions, this court has unanimously agreed that the GLC is wrong to make orders on a defective proceeding; therefore, the order was null and void.

Order

- The ruling of the Guadalcanal Local Court held on 20 March 2013 is set aside;
- Declaration that the finding of the Ghaubata House of Chiefs of June 2007, unless overturned, remains a valid and binding decision;
- This appeal to the GLC is defective on the basis of mistake and or error.
- No order as to cost.

Decision was verbally announced on and written judgment delivered on dated this..... 22nd May 2015

Signed:

1. John SEKETALA (President)

2. Fr. John GATU (Member VP).....

3. Martin TSUKI (Member)

4. Henry LUI (Member)

5. William Rex POCHO (Member)

6. Jim SEUIKA Clerk/Member.....

