

CC 218-92.HC/Pg 1

SEKOVOLOMO (As Representative of His Tribe) -v-

EAGON FOREST RESOURCES
DEVELOPMENT CO (SI) LTD

First Defendant

OZOBATU Second Defendant

TEBURUKANA

Third Defendant

REREBATU Fourth Defendant

THE ATTORNEY GENERAL

Third Defendant

High Court of Solomon Islands

(Palmer J.)

Civil Case No. 218 OF 1992

Hearing: 17 September 1992 at Gizo

Ruling: 19 October at Honiara

P. Lavery for the Plaintiff

A. H. Nori for the First Defendant

P. Afeau for the Attorney General

PALMER J: This application can be shortly disposed of.

On the 24th of July 1992 an interim order was granted restraining the First Defendant from entering into and carrying out any logging operations within KOQOATOVO LAND.

On the 17th of September the application for extension was heard inter partes.

In that hearing it was confirmed that no logging is now taking place and that the company has withdrawn and moved on to other areas.

The issues in this case again stem from questions of who are the customary land owner of the area known as KOQOATOVO LAND.

The Second, Third and Fourth Defendants claim that they are the customary landowners and that the area of land marked as Koqoatovo Land is but part of Mavara Land and belongs to them.

There are clearly customary disputes over rights of ownership over that area of land. The Plaintiff alleges, inter alia, that he was never aware of the Timber Rights hearing held by the Choiseul Area Council in 1984 and therefore could not lodge a claim. Subsequently he was unable to lodge an appeal to the Customary Land Appeal Court as well.

Again the conduct of the Choiseul Area Council is being disputed and so they must be included as a Defendant.

There are serious issues raised in this case as well. Damages will not be adequate to compensate the Plaintiff for any loss that may arise if the injunction is withdrawn.

This is another of those logging cases in which the injunction will remain in force until trial.

The only concern raised by both counsels for the parties is the need to expedite matters from the Chiefs hearings and if the Court could give some sort of direction in this respect.

It seems obvious that if the question of ownership of Kogoatovo Land can be settled in law between the current disputing parties, then it may solve their respective claims.

Unfortunately, I do not consider it to be the right thing for this Court to direct Chiefs to hear a land dispute between two or several parties. This is a matter for the parties themselves to take action on and pursue.

The claims before this Court have stemmed from a determination made by the Choiseul Area Council and accordingly the claims in this action should be restricted to that.

The order made on the 24th July 1992 excluding the variation made on the 21st August 1992 is hereby enlarged until trial.

The Variation of the 21st August 1992 is accordingly revoked.

(A. R. Palmer)
JUDGE