

**GANDLY SIMBE AND DERALD GALO (REPRESENTING THE DALI TRIBE)
AND PENDROSE PANEGA (REPRESENTING THE PUPURUKANA CLAN) -V-
ROBERT VAEKESA, JOHN KOKORO AND LEDLEY LUKISI
(REPRESENTING THE VATAROE/VOLEKANA TRIBE) AND AMON
KAMARO (REPRESENTING THE BABATANA COUNCIL OF CHIEFS).**

**High Court of Solomon Islands
(Palmer CJ.)**

Civil Case Number 371 of 2005

Date of Hearing: 24 August 2005

Date of Judgment: 6 October 2005

P. Tegavota for the Applicants (ex parte)

Palmer CJ.: The Applicants apply for leave to commence by Writ action for issue of orders of Certiorari to quash two determinations of the Babatana Council of Chiefs issued on or about 25th July 2005 in respect of **Sukuvai land** and the remaining land stretching from **Kozo Stream to Lalaguti Stream**. Sukuvai land stretches from Nombe (Nembe) Stream to Kozo Stream. The parties in the dispute over Sukuvai land were Robert Vaekesa and John Kokoro (representing the Vataroe Tribe) of the one part and Gandly Simbe, Penrose Ponisi and Nathaniel Mela (representing the Dali Tribe) of the other part.

The Applicants did attend at the hearing of the Babatana Council of Chiefs on the 11th – 12th July 2005 at Posarac Village, South Choiseul, but only for the purpose of registering their objections to the jurisdiction of the Babatana Council of Chiefs to convene and hear the two land disputes and then walked out of the hearings and did not return or participate in the hearings. They say that the area of lands being disputed by the parties before the Babatana Council of Chiefs had already been determined by earlier Chief's Committees on 16th February 1999 and 29th September 1999. They say that the same parties were involved in those earlier disputes. The lands in dispute cover the same areas and were dealt with by the **Senga Council of Chiefs** in respect of **Ologho (Oloko) land**, stretching from Loanga River to Kozo Stream and **Vure land** stretching from Kozo Stream to Lalaguti Stream of the one part and the second part stretching from Loanga River to Nombe (Nembe) Stream (referred to as **Siruka land**) before the **Ririo Chiefs Council** between Ppurakana tribe and Leokana Clan. In the Ologho land and Vure land disputes, the decision went in favour of the Dali Tribe. In the Siruka land dispute, the decision was in favour of the Ppurakana tribe. It appears those decisions have been further registered with the Local Court for re-hearing.

On or about 11th – 12th July 2005, Robert Vaekesa, John Kokoro and Ledley Lukisi (representing the Vataroe/Volekana tribe) ("**the first Respondents**") persuaded the Babatana Council of Chiefs it seems to convene a separate hearing over the same areas of land against the same parties and obtained decisions in their favour.

The Applicants now seek to challenge the jurisdiction of the Babatana Council of Chiefs to re-hear the dispute over those lands which they say had already been completed by the two earlier Chief's hearings and secondly that the Babatana Council of Chiefs are from

South Choiseul and not from the North East Choiseul area where the lands in dispute are situated. I accept the jurisdiction issue is an issue which this court is able to inquire into.

It should be borne in mind though that another issue also arises in that it is possible to argue under section 12(1)(b) of the Local Court Act (cap. 19), that the Local Court does not have jurisdiction to deal with these land disputes until all traditional means of solving the dispute have been exhausted. It may be argued that it would appear that in this instance the traditional means have yet to be exhausted, especially where there are competing chiefs councils/committees vying for jurisdiction authority over those lands and that until that jurisdictional issue is determined/settled, the Local Court does not have jurisdiction! This raises interesting question as to which chief's committee is the right chief's committee and where the parties do not agree, who is to determine which chief's committee is the right chief's committee? In this case, it seems that the first Respondents have declined to accept the jurisdiction of the Senga Council of Chiefs and Ririo Chiefs Council and in their place referred the matter to the Babatana Council of Chiefs who have also accepted jurisdiction over the same lands.

In any event, I am satisfied leave to commence writ action for orders of certiorari is granted.

The court.