

## Pulu v Bloomfield

Land Court  
Hill J  
Land Case 1/1980

17 September 1980

10 *Land - person permitted to occupy land and build a house on it is only a licensee, not lessee, and can be required to move upon reasonable notice*

*Land - person permitted to occupy land cannot challenge the title of the person granting such permission if later sued for possession*

*Appeal - stay of execution pending appeal in cases for possession of land should not be granted if appellant has other accommodation to move to and the case has gone on for a long time*

20 Nola Bloomfield was permitted by Tevita Pulu to erect a house on land occupied by him. After his death, his widow, Mele Pulu, demanded that Nola leave, and brought proceedings in the Land Court to evict her.

### **HELD:**

Upholding the plaintiff's claim.

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- (1) A defendant being sued for possession of land cannot challenge the title of the person who originally granted permission to occupy the land;
  - (2) A person permitted to erect a house on land does not have a lease, but only has a licence coupled with an interest, and can be required to leave at any time provided that a reasonable notice is given;
  - (3) A stay of execution pending appeal should be refused in view of the fact that the case had been going on for a long time and the defendant had other properties to which she could move.

### Judgment

This is a claim for possession by Mele Pulu of a piece of Land on which there stands a house belonging to the defendant Nola Bloomfield. The history of how Nola came to be there is not basically in dispute. Back in 1960 - 61 Nola and their sisters wanted to move off their father's allotment. The reason was that there were too many boys, their father's sons no doubt, living there and they wanted to be somewhere else. Nola according to Mele came along and saw Mele's former husband, he is dead now, Tevita, and asked if she or they could build a house there. He agreed and Nola says that he in fact himself pointed out on the ground the place where her house was to be. This makes it quite clear that Nola holds as a result of the permission of Tevita when he was alive and this is the one case where somebody who is sued for possession cannot simply say I am in possession you prove you have got a better title than I have. This is in some ways fortunate for the Plaintiff because it has become apparent in the course of this case, that she might be in grave difficulties about establishing a title. However, because of the rule that somebody who holds by permission of someone else cannot dispute that person's title she, as a successor in title to her husband, does not have to prove a good title. This is another example of those unfortunate cases, which are too frequent here, where somebody says to a friend, "come along and build a house on my allotment," and then things go wrong and the person who built the house finds that they have got no right to stay on the land. Because there is no lease, the most that can be said is that there is a licence coupled with an interest. Therefore, in my view Nola is going to have to move her house off this land. But on the other hand as she has been there since 1962, she is obviously entitled to a reasonable time to make arrangements to move her house. I expressly do not decide any question relating to the title of Mele because I do not consider it necessary.

I am now asked to grant a stay of execution of this judgment on the basis that the Defendant wishes to appeal to the Privy Council. I've looked at the Supreme Court Rules, and I see that you have to get an Order for a stay, a Notice of Appeal does not act as a stay by itself. I think the same rule ought to apply in Land Cases and I apply it under Rule 33 of the Land Court Rules. This lady has been there for some considerable time, but she does have other properties to which no doubt a move can be made and on the whole, taking into account the fact that this case has been going for sometime I think 4 months would be a reasonable time to delay the execution. I refuse a stay, if the Defendant wants one she will have to go to the Privy Council: see Rules 7 and 8 Court of Appeal Rules - Privy Council Rules of Procedure 1916. The Defendant to pay the Plaintiff's cost and the maximum allowed to the 2nd Defendant, I think that is the equivalent of 10 shillings.