

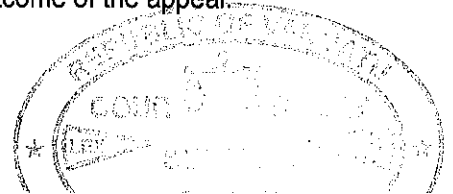
BETWEEN: August Tabi and Steward Bule
Appellants

AND: Ezekiel Bule
Respondent

Date: 17 September 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr Jim N. Vohor for the Appellant
No appearance for the Respondent

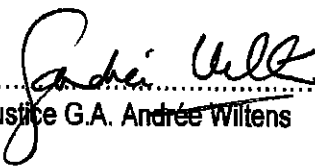
Decision

1. The appellants applied for leave to appeal out of time. The original decision being appealed was published on 14 May 2021. The Notice and Grounds of appeal was filed on 14 July 2021 – 14 months after the decision.
2. The appeal grounds refer to an error of fact.
3. One difficulty the appellants face is that the trial proceed on the basis of no steps having been taken by the appellants and the Court having only the evidence of the Respondent and his witnesses to consider. It is difficult to see how an error of fact can be maintained in these circumstances.
4. The delay in dealing with the appeal is said to be shortage of funds. That does not explain why the Notice could not have been filed on a pro forma basis and time sought to gather together the necessary funds to argue the appeal.
5. I accordingly neither accept the reasons for the delay as being satisfactory, nor do I consider there any prospects of a successful appeal. Leave is therefore declined to file the appeal out of time.
6. Further, the appellants sought a staying of execution pending the outcome of the appeal.



7. The difficulty with this contention is the delay. The judgment of 14 May 2020 ordered the appellants to vacate certain land within 21 days of service of the judgment.
8. The application for stay is simply far too late. I decline this application.
9. The appellants can, if they wish, pursue both aspects further with the Court of Appeal.

**Dated at Luganville, this 17 day of September 2021
BY THE COURT**


Justice G.A. Andrée Wiltens

