

IN THE KIRIBATI COURT OF APPEAL ]  
CIVIL JURISDICTION ]  
HELD AT BETIO ]  
REPUBLIC OF KIRIBATI ]

Civil Appeal No. 14 of 2011

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**BETWEEN**                      **TIANTA KORIRI AND SIBLINGS**                      **APPELLANTS**

**AND**                              **ATTORNEY-GENERAL IRO**  
   **THE DIRECTOR OF LANDS**    **RESPONDENT**

**Before:**                      Paterson JA  
   Williams JA  
   Barker JA

**Counsel:**                      *Kabwebwenang Tekinano & Meere Tekinano*  
   *(daughters of Tianta Koriri) for appellants*  
   *Birimaka Tekanene for respondent*

**Date of Hearing:**                      29 August 2011  
**Date of Judgment:**                      31 August 2011

## **JUDGMENT OF THE COURT**

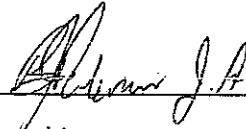
1. The appellant appeals against the decision of the Chief Justice given in the High Court on 18 December 2010 in which he issued an injunction at the suit of the respondent restraining the appellant 'and her siblings' from entering on to or interfering in any way on named land on Butaritari Island.
2. The land is owned by the State and leased to the Butaritari Island Council. A school and teachers' residences are situated on the land.

3. A brief history of the legal proceedings involving this land is necessary.
4. The High Court of the Gilbert Islands (Davis J) on 14 November 1975, on appeal from a Magistrate's decision in 1964, held that the land had been transferred to the Crown (now the Republic as successor) but that the appellant was entitled to compensation.
5. On 17 March 2000, the High Court (the Chief Justice and two magistrates) allowed an appeal by the respondent and the Island Council against the decision of a magistrate on 13 March 1992 which had held that the appellant had been the rightful owner of the land and awarded her unpaid rent. The Chief Registrar was ordered to amend the register in accordance with the 1975 decision.
6. The High Court in 2000 upheld the 1975 decision and declared that the land was owned by the Republic, despite a failure of the land register to show that. The Court noted that the Crown, from 1975 and the Republic from 1979, had done nothing to rectify the register. The Republic was to pay compensation to those who had apparently acquired rights since 1964. The present appellant was entitled to rent from 1975.
7. On 5 April 2001, this Court considered an appeal by the present respondent who sought to quash the order for compensation. The present appellant cross-appealed effectively against the 1975 judgment vesting the land in the (now) Republic.
8. This Court upheld the 1975 finding of Davis J and ruled that the appellant was entitled to compensation on a stated basis - but not

to be assessed as unpaid rent. The stated basis was "any detriment, inconvenience or loss that she can show she suffered or any other proper head of compensation she can establish".

9. On 18 January 2007, the High Court made an award of compensation to the appellant of \$25,000. The main head of compensation was the loss of the value of coconut trees. However, the Chief Justice was clearly contemplating compensation on all legitimate ground. He started his judgment with quoting from the Court of Appeal's basis mentioned in paragraph 8 of this judgment.
10. In his judgment of 18 January 2007, the Chief Justice expressly rejected a suggestion that the assessment was only for the loss of the trees but stated that it was on assessment of compensation of all losses flowing from the loss of title to the land. He affirmed again that the present appellant no longer had any title to the land.
11. In this Court, two of the appellant's daughters made impassioned pleas to the effect that the land was their mother's and did not belong to the State. Essentially, they wished to revisit the 1975 decision. They alleged fraudulent dealings of various sorts by various officials over the years.
12. Whilst the Court acknowledges the sincerity of the appellant's submissions and her hurt at not having access to what they see as her family's birthright, the Court is powerless to do anything for her and her family.
13. The various decisions summarised above make it clear that the Republic is the legal owner of the land. As such, it is entitled to an injunction to enforce its right of ownership.

14. The appeal is dismissed. We make no order as to costs.
15. The Court notes that the injunction is against 'Tianta Koriri and Siblings'. The law is that prohibitory injunctions must be very specific. We should have thought that the expression 'and siblings' is ineffective. All persons to be covered by the injunction should be named. At present, we see it as applying only to Tianta Koriri.



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Paterson JA



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Williams JA



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Barker JA