IN THE KIRIBATI COURT OF APPEAL	]	**Civil Appeal No: 17 of 2024**
CIVIL JURISDICTION	]	
HELD AT BETIO	]	
REPUBLIC OF KIRIBATI	]	

BETWEEN: NABEIA TABUNA WITH BROTHERS, ISSUES OF ARAWAIA, NATAUA BWEBWE, BWEBWEARI, TITAKU TAURENGA AND EREATAA

APPELLANT

AND: KOBEBE TONGAIABA FOR ISSUES OF TINA ARAWA KOKORIA TIAON, TEMREKE JOE (ADMINISTRATRIX FOR THE ESTATE OF JOE INATIO TEANAKO)

RESPONDENT

Before: Semilota JA
Nelson JA
Khan JA

Date of hearing: *02nd July 2025*
Date of decision: *07th July 2025*

Counsels: *Ms Taaira Timeon* for the Appellants
Mr Banuera Berina for the Respondents

JUDGMENT OF THE COURT

Background

[1] The background facts are accurately and succinctly stated in the judgment of the High Court as follows:

> *"3. In TTT 03/07, the respondents took proceedings for a boundary determination between land Taruti 788-i/2 and Taruti 788-e/i. The lands are situated at the lagoon side of the road. Appearing for Taruti 788-i/2 were the 1st and 2nd respondents. Appearing for Taruti 788-e/i was Abera Moanteraoi. The parties came to a consensus boundary, and the court confirmed such.*
>
> *4. It was from this decision that the present applicants are seeking to quash by way of certiorari (the decision in TTT 03/07 - sic). Ms. Taaira, acting on their behalf, put forth the following grounds:*
>
> > *(a) Although they are also landowners, they have not been invited or summoned before the court in TTT 03/07 made a decision;*
> >
> > *(b) The decision thereat resulted in their land being reduced in size;*
> >
> > *(c) The 1st respondent was not the only landowner;*
> >
> > *(d) The 2nd respondent was not a landowner and therefore had no standing to appear."*

[2] The arguments of the parties are also helpfully set out in the High Court judgment:

"9. She further argued that although the 1st respondent is rightfully a party, she is not the only landowner for land Taruti 788-i; the applicants are also landowners and hence shared a common interest. The boundaries the 1st respondent pointed out, which the court accepted, are disputed by the applicants. They should and ought to have been invited to show the correct boundaries, but they were not. In particular, the 2nd respondent was not a landowner. He was only a licensee, and therefore had no standing, yet he was able to take part in the proceedings.

10 Mr. Banuera's response, for the 3rd respondent, was very straightforward in that the applicants have no title or interest in the matter before TTT 03/07. The lands in question belong to the 2nd and 3rd respondents, and they are located on the lagoon side of the road. The land belonging to the applicants is on the ocean side. The boundary determination in TTT 03/07 was done on the lagoon side, not on the ocean side."

[3] Based on the evidence adduced before it, the High Court concluded that the applicants had no interest in the lands in question. These lands are located on the lagoon side of the main road and are the property of the respondents. The applicants' lands are located on the ocean side of the main road, and their boundaries remain unaffected by the decision in TTT 03/07.

[4] The High Court accordingly declined leave to issue a writ of certiorari to quash TTT 03/07.

The appeal

[5] From this decision, the appellants now appeal asserting that the High Court erred in law because its *"conclusion was against the weight of the evidence..."*as *"there was evidence presented that Taruti 788-i was owned by the appellant."*

Furthermore, that there was "*no evidence adduced from the second Respondent...to show that he owned Taruti 788-i/2 on the lagoon side."* They allege that the High Court decision was therefore *"unsafe and against the weight of evidence"* and the *"conclusion arrived at was erroneous in law."*

Analysis

[6] The obvious difficulty with the appellant's argument is that what they are disputing are findings and conclusions of fact reached by the High Court based on the evidence it heard. This does not necessarily amount to an error of law unless it is manifestly clear that a conclusion or finding of fact is totally baseless and unsupported by any kind of evidence. Such cases can amount to an error of law because the conclusions and/or findings have no evidential foundation. But that is not the case here.

[7] In this matter, there exists ample evidence that the appellants have no interest in any land on the lagoon side of the main road. Their lands are situated on the ocean side of the road. The High Court rejected their suggestion that the land Taruti 788-i owned by them includes 788-i/2 which is owned by the Respondents. As stated by the High Court:

> *"...the applicant's land, Taruti 788-i, is situated on the ocean side and is therefore different from the portion referred to in **TTT 03/07**, which is Taruti 788-i/2. I also agree that the portion Taruti 788-i/2 used to be part of Taruti 788-i, however this has been changed to what is now when such portion was given to Taon, the ancestor of Kokoria, by*

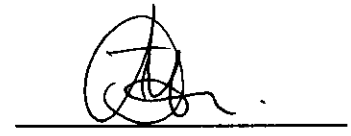
Arawaia in 1983. Taruti 788-i/2 is now therefore a different portion from Taruti 788-i."

Decision

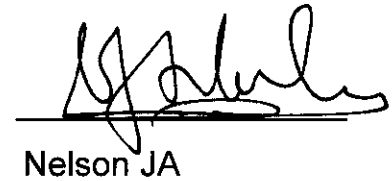
[8] No discernable error of law was committed by the High Court. The appellants may disagree with the conclusions of the learned Commissioner but that is no basis for asserting an error of law.

[9] There was more than sufficient evidence justifying the conclusions reached by the High Court. The appeal is accordingly dismissed.

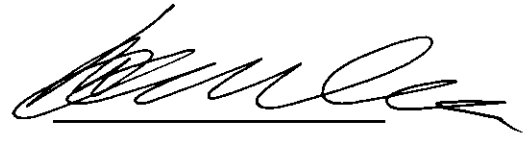
[10] The respondents are entitled to costs to be taxed by the Registrar if not agreed upon.



Semilota JA



Nelson JA



Khan JA