

IN THE KIRIBATI COURT OF APPEAL] Land Appeal No: 2023-02831
LAND JURISDICTION]
HELD AT BETIO]
REPUBLIC OF KIRIBATI]

BETWEEN: **TEIKEAKI TEETIKU**

APPELLANT

AND: **TAUTETI BAIBUKE**

RESPONDENT

Before: Nelson JA
 Khan JA
 Amten JA

Date of hearing: 02nd July 2025

Date of decision: 07th July 2025

Counsels: *Ms Taaira Timeon* for the Appellant
 Mr Banuera Berina for the Respondent

JUDGMENT OF THE COURT

Background

- [1]. Both the appellant and the respondent shared a common boundary. Both purchased their plots on the same land, Tekawa 644i/1/2a.
- [2]. In 1996, in case 292(a)/96, Baibuke Tauro, the father of the respondent, purchased his portion of the land Tekawa 644i/1/2a from the landowner, Teuati Tekaa'i ("Teuati"). Subsequently, in case 519/96, another segment of the same land was sold to Akineti Kabuati by Teuati.
- [3]. In 1997, in case 14/97, the boundaries of the respondent's land were established, extending from the lagoon side to Akineti's residence.
- [4]. In 1999, in case 260/99, Akineti Kabuati sold her portion of the same land to the appellant.
- [5]. In 2004, in case 45/04, the respondent's father sought a boundary determination against the appellant to validate the boundary of his portion as per case 14/97. However, the application was dismissed because the court found that the respondent's father lacked locus standi, as the portion to be determined was registered under his son, the respondent, and the appellant, who was the defendant at that time, was not involved in case 14/97. Consequently, the case was dismissed summarily.
- [6]. In 2017, in case BD 57/17, the respondent sought a boundary determination with the appellant. Parties were heard and case 292/96 (continued in 292(a)/96) and 14/97 were referenced. At the end, the court followed the boundary established in case 292/96 and in case 14/97 in that the boundary of the respondent's land starts from the appellant's land and end at the Catholic maneaba. The appellant felt aggrieved with the decision and appealed against such decision to the High Court.
- [7]. In the High Court, the appellant raised two grounds, namely;

(a) *The Magistrate Court erred in law in adjudicating a land boundary determination between the land of the appellant and the respondent when such land boundary had been concluded in case 45/04 that the appellant was not bound by the land boundary adjudicated in case 14/97 because it was between the land Tekawa 644i/1e/3 and 644i/1e/4 and the appellant's land was Tekawa 664i/1/2a which the magistrate court was estopped from hearing it again. The whole legal rights and obligations of the appellant and respondent were concluded in CN 45/04 and such decision remained in force unless reversed by the High Court. The magistrate court in case number BD 57/17 had overruled the decision of the magistrate court in CN 45/04 which was an error in law.*

(b) *The magisrate's court erred in law in adjudicating the [and boundary in case number BD 57/17 between the land Tekawa 664e/1e/3 and 664e/1e/4 when the appellant did not have proprietary interest in it. The appellant owned Tekawa 664i/1/2a but not Tekawa 664e/1e/4. Further in the alternative, the respondent did not even have proprietary interest in the land 664e/1e/3.*

[8]. Following the parties' submissions, the High Court rejected both grounds. Regarding the first ground, the court determined that res judicata and estoppel did not apply since the boundaries of the portions belonging to the appellant and respondent were not established in case 45/04. Case BD 57/17 was correctly proceeded with. Concerning the second ground, the court opined that it had not been presented in the lower court and therefore should not be introduced in the High Court either.

The appeal

[9]. The appellant was not happy with the decision of the High Court and hence the appeal to this Court. Through his counsel, he advanced the same grounds and arguments before the High Court.

Analysis

[10]. After considering Ms. Timeon's arguments, we conclude that the appeal lacks merit. Firstly, she has not identified any legal point that demonstrates an error of law made by the High Court. Her arguments, although raises the issue of estoppel and therefore a question of law, were solely founded on her interpretation of case 45/04, which we find to be clearly incorrect. While it is true that the respondent's father sought a boundary determination as per case 14/97, the court never determined the boundaries because the respondent's father lacked the authority to initiate those proceedings, and the appellant (who was the defendant at that time) was not involved in case 14/97. No evidence was adduced; it just dismissed the matter summarily. The matter regarding the boundary between the appellant's and respondent's lands was therefore never conclusively resolved. The boundary determination done in case BD 57/17 was therefore not barred by case 14/97. Consequently, we agree with the observation of the High Court that *res judicate* and *estoppel* are not applicable.

[11]. Additionally, ownership of land is a matter of public record; such information can be obtained from the Lands Department. The matter addressed in BD 57/17 pertained to a boundary determination. Even if there has been an error concerning the plot numbers, this does not inherently impact the matter at hand. The court's role was not to adjudicate on the plot numbers or ownership; rather, it was tasked with determining the respective boundaries of the parties. We also observed that the appellant (the defendant then) never raises his objection during the initial hearing of BD 57/17.

[12]. From time to time, this Court has categorically articulated on the practice regarding appeals to this Court alleging errors of law by the High Court in its appellate jurisdiction. **Section 10(1)(b) of the Court of Appeal Act (1980)** provides, "(s)ubject to the provisions of the next succeeding subsection, and to section 123 of the Constitution, an appeal shall lie under this part of this Act in any cause or matter, not being a criminal proceeding, to the Court – (b) on any

ground of appeal which involves a question of law only, from any decision of the High Court in the exercise of its appellate jurisdiction under any enactment which does not prohibit a further appeal to the Court.” Rule 29(3) of the Court of Appeal Rules provides, “(t)he notice of appeal shall state precisely the question of law upon which the appeal is brought.”

[13]. In the case of **Tooma v Bareti [2007] KICA 3**, this Court stated in paragraph 10, *“(a)s this is an appeal from the High Court’s appellate jurisdiction, it must be on a point of law. This Court is not concerned with factual errors.”* In a more recent case, **Kamwaingatetaake Toani for issues of Bataua Mweretaka v Teabike Tekawa with sister and Ioanna Tarantekai, Land Appeal No. 5 of 2023**, unreported, this Court, at paragraphs 9 to 12, after referencing earlier Court of Appeal cases, articulated that:

“9. ...all appeals to the Court of Appeal...from the High Court in its appellate jurisdiction can only be on a question of law. Counsel must read these case precedents and eliminates unnecessary litigations. All these are judicial pronouncements by the Court of this Nation.

10. All Counsel practicing law in the Kiribati Courts must recognize this as law and not continue to bring such unmeritorious appeals to this Court. Court does not have jurisdiction to deal with such appeals based on questions of fact. The Court of Appeal on Land Appeal No. 7 of 2007 between Tanimwakin Tiaeki, the appellant, and Bebeta Tekaa, the respondent, said:

“This appeal cannot succeed. Whether there was fraud at the time of registration in 1948 is a matter of fact. So, any challenge to the High Court’s decision that fraud had not been proven can only involve a question of law. This Court does not have jurisdiction to hear the appeal.”

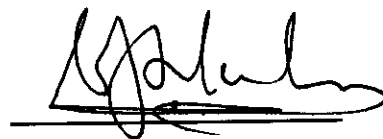
11. *With respect, this is the law as articulated and pronounced by the Kiribati Court of Appeal. Again, with respect, we agree with the pronouncement of that Court in 2007."*

[14]. We urge counsel to consider the law as articulated above as this appeal, along with others of a similar nature, constitutes a misuse of time and resources that the Court cannot afford. Counsel, like all members of the legal profession, must bear in mind that they have a primary obligation to the Court and to the administration of justice. This obligation necessitates lawyers to manage cases in an efficient, prompt, and honest manner, ensuring fairness and, crucially, preventing the misuse of the court's processes. Frivolous or unmeritorious arguments can constitute a breach of this obligation.

Decision

[14]. As there are no identifiable errors of law, the appeal is dismissed.

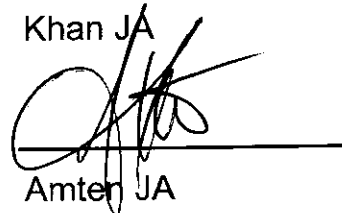
[15]. The appellant is ordered to pay the respondent costs to be taxed if not agreed.



Nelson JA



Khan JA



Amten JA