

IN THE SUPREME COURT OF NAURU

Civil Jurisdiction

Civil Appeal No. 1 of 1978

Between

SAMUEL BILLIAM
Appellant

and

VASSAL GADAOENGIN
Defendant

10th May, 1978 at 9.20 a.m.

In Court

Before Mr. Justice I.R. Thompson, Chief Justice

For the Appellant: Mr. R. Kaierua, Pleader

For the Defendant: Mr. D. Gioura, Pleader

Appellant present.

Defendant present.

Interpreter: Mr. D.A. Harris, Clerk of Courts

COURT: There appears to be no basis for this appeal. The proper course for the appellant to have followed was to apply to the District Court u/o. 11 or 9 for the judgment to be set aside. Whatever the decision of the District Court, an aggrieved party would then, if he wished, appeal against it to this Court. There would then be evidence available and a decision to be considered. As it is, there is no evidence upon which this Court can decide the appeal and there is no decision of the District Court, only a judgment entered in accordance with rules of procedure. There is no allegation that it was entered in breach of those rules. The remedy which the appellant seeks is provided by the rules and he must seek it in accordance with those rules, rather than come straight to this Court.

MR. KAIERUA: The District Court made an order committing the appellant to prison.

COURT: That was mere execution of a judgment which was valid until it was set aside.

MR. KAIERUA: I was told by the magistrate to appeal.

ORDER: This appeal is premature and misconceived. It is dismissed. Costs to be costs in the cause, i.e. District Court Civil Cause No. 2 of 1977.

I.R. THOMPSON
Chief Justice

19/5/78