

IN THE SUPREME COURT OF NAURU

Civil Action No. 03/2005

BETWEEN: AMERIA ATOM & ORS PLAINTIFF
AND: EIDINIGEIRO DAKE DEENDANT


P. Ribauw for Plaintiffs
P. Nimes for Defendant

Hearing 13, 14 April 2005

ORDER

The Court orders that:-

1. the ownership of Atte portion 316 Anibare lies wholly with the Plaintiffs.
2. Upon an undertaking of defendants counsel there will be no interference to the land in question or buildings thereon and therefore a restraining order is not necessary.
3. Costs to be borne by each party.


BARRY CONNELL
CHIEF JUSTICE
14/04/05

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JUDGMENT

The ownership of portion 316 Anibare known as 'Atte' or 'Ate' was at stake in this matter. The plaintiffs were the gazetted owners since 1962. The defendant objected and wished to prevent any building on that land by the Plaintiffs.

There had been previous litigation by the defendant against the Plaintiffs over the will of Atuen Atom and his distribution of lands under the will. The defendant Dake had lost that case. As a result the valid will determined the distribution of his interest. This had been gazetted in 1997.

Portion 316 Anibare 'Atte' was but one of the lands. The Plaintiff demonstrated through tracing the history of the land back to 1961/2 by gazettes 1997, 1990, 1985, 1962 that portion 316 was under the ownership of Ameria Atom and her children.

In gazette No. 20 of 1962 in GN 111/1962 there was a determination of ownership made by the Nauru Lands Committee which placed the whole of Atte within the ownership of Ameria Atom and her children. There was some argument about the placing in the gazette of the former and proposed owners being one and the same. The explanation may well lie in the third paragraph of Gazette No. 27 of 1961 GN 131/61 to which reference is made in No. 20 of 1962. It is stated there that any other remaining lands owned or shared by Deingoa (deceased) are to be shared equally between Tiau D, David D, Motieri D

and Ameria D for the duration of her life time only. It would appear therefore to be a remaining land of Deingoa (deceased).

The land was determined in 1962 without objection to the present time. At various times this land distribution may have been objected to but it has not occurred.

I am satisfied that the land was properly dealt with by the Nauru Lands Committee in 1962, and there is no evidence of irregularity sufficient to void any decision of that Committee.

There was no tangible evidence to the contrary. In passing, I note that Atte 315 is in a different situation, see GN 111/1962, where Eidinigeiro inherits from Magareta (deceased) a 5/48 share, with Atuen having 1/8. But Atte 316 and 317 are completely different where the inheritance is through Deingoa (deceased).


BARRY CONNELL
CHIEF JUSTICE