



**IN THE SUPREME COURT OF NAURU
AT YAREN
CIVIL JURISDICTION**

Civil Suit No. 04 of 2025

BETWEEN : Lei Jacinta Agir & Godwin Debao

Plaintiff

AND : Francis Maien Deireragea

Defendant

BEFORE: Keteca J

DATE OF RULING: 05th November 2025

CITATION: Agir & Debao v Francis Deireragea

KEYWORDS: Interim Injunction

APPEARANCES:

COUNSEL for the

Plaintiff:

J Olsson

Defendant:

V. Clodumar

RULING

BACKGROUND

1. The Plaintiffs filed a Summons under Order 25, rule 1 of the Civil Procedure Rules 1972 seeking an Interim Injunction against the Respondent. They seek the following orders:
 - i. That the Respondent, his agents be restrained 'from demolishing their water tank, plumbing and the connecting access way on Portion 84, known as 'Atomo' in Yaren District.

- ii. The Respondent, his servants and agents be restrained 'from clearing away the access road that leads from the main road to their water tank.
 - iii. That the Nauru Lands Committee review the ownership of the subject land.
2. The Plaintiffs rely on the affidavits of Lei Jacinta Agir (filed on 04th April 25) and Lisa Debao (tenant of the 2nd Plaintiff).

THE APPLICATION

Affidavit of Lei Jacinta

3. The 1st Plaintiff deposes as follows:
- She is a landowner of land portion 84, known as Atamo, Yaren District, through her father's grandmother- Emareow. Her grandmother acquired this interest through her father, Chief Jim of Yaren.
 - She is making this affidavit on behalf of her son- Godwin Debao.
 - She is the eldest daughter of the late Einiga Debao and she and her siblings claim that they are the rightful owners of Land Portion 84, known as 'Atamo', Yaren District.
 - The water tank in dispute belongs to her son, Godwin Debao. He works in Brisbane. A tenant currently lives in the subject property.
 - In August 24, she was informed that a Dale Deireragea (the Defendant's son) was going to demolish the 'water tank' in question.
 - If the 'water tank' is demolished, the house which is tenanted by a Lisa Debao, will not have a water source.
 - She undertakes to pay damages to the Defendants should her substantive claim not be successful.

Affidavit of Lisa Debao

4. Lisa Debao deposes as follows:
- She is the tenant in the 2nd Plaintiff's dwelling house in Yaren District. The 2nd Plaintiff, Godwin Debao has been living in Australia for many years.
 - She was informed by a Dale Deireragea in August 2024 that the water tank attached to the 2nd Plaintiff's house will be removed. If this is done, she will not have any source of water.

RESPONSE BY THE DEFENDANT

Affidavit of Francis Deireragea

5. The Defendant, in an affidavit filed on 29th April 25, deposes as follows:
- As one of the descendants of Samson along with the descendants of Mwareo, of Nibok District, he is a landowner – in - common of land Portions 84 & 85, 'Atomo' in Yaren District.

- The ownership of Land Portion 84 ‘has been determined in *Deireragea v Kun* [2017] NRSC 35, Civil Suit 53/2016 (14 June 2017)
- For Land Portion 85, ‘the Applicant’s mother, prior to her demise, filed an application for leave to appeal the decision of the Lands Committee made in 1956 in land appeal No. 03 of 2022. That matter is yet to be determined.
- The Applicant is using this Action (Civil Suit No. 04 of 2025) to challenge the ownership of land portion 84 which has been determined by the predecessor of the Nauru Lands Committee, the Lands Committee, in Gazette No. 14 of 07th April 1956. The decision in *Deireragea v Kun* [2017] NRSC 35, Civil Suit 53/2016 (14 June 2017) brings in the principle of res judicata.
- The Applicant cannot challenge the decision of the Lands Committee by virtue of Section 8 of the Nauru Lands Committee Act 1956 and Section 5 of the Limitation Act 2017.
- He had talked to and objected to the 2nd Plaintiff on the placing of this water tank on land portion 84 in February 2023. He had requested the 2nd Plaintiff then to remove the water tank from land portion 84.

THE HEARING

6. At the hearing, Ms Olsson only covered the undertaking for damages. She did not traverse or make any submissions on the law relating to injunctive relief.
7. Mr Clodumar submitted that this was an abuse of process as there was no appeals afoot relating to the ownership of land portion 84. He added that res judicata applied here as *Deireragea v Kun* [2017] NRSC 35, Civil Suit 53/2016 (14 June 2017) has already determined the ownership of land portion 84.

CONSIDERATION

8. In *Castlemaine Tooheys Ltd v South Australia* [1986] HCA 58; (1986) ALR 553, at 557, ACJ Mason said:

*‘The principles governing the grant or refusal of interlocutory injunctions in private law litigation have been applied in public law cases, including constitutional cases, notwithstanding that different factors arise for consideration. In order to secure such an injunction the plaintiff must show (1) that there is a **serious question to be tried** or that the plaintiff has made out a prima facie case, in the sense that if the evidence remains as it is, there is a probability that at trial of the action the plaintiff will be entitled to relief; (2) that he will suffer irreparable injury for which **damages will not be adequate compensation** unless an injunction is granted; and that the balance of convenience favors the grant of an injunction.’*

9. In this case, the Applicant has not shown that there is a serious question of law to be tried in this case. The evidence shows that the 'water tank', which is the subject of the dispute here, is on land portion 84. The ownership of this particular land, where the water tank is based, has already been determined in *Deireragea v Kun* [2017] NRSC 35, Civil Suit 53/2016 (14 June 2017). That land does not belong to the Plaintiffs. There aren't any appeals from this decision.
10. I agree with Mr Clodumar that the principle of *res judicata* will be applicable here.

CONCLUSION

11. The application for an interim injunction by the Applicants/ Plaintiffs is dismissed.
12. Costs will be in the cause.
13. The matter is referred to the Registrar on Thursday 20th November, 2025.

DATED this 05th of November 2025


Kiniviliame T. Keteca
Judge

