

IN THE WESTERN CUSTOMARY)
LAND APPEAL COURT)

CLAC No: 4 of 2006

Appellant Jurisdiction

IN THE MATTER OF: Lolobo Customary Land Appeal.

BETWEEN: Lembu Pala 1st Appellant

AND: James RB Panda 2nd Appellant

AND: Chief Steward Evo Respondent



JUDGMENT

This is an appeal against the decision of the Gizo/Kolombangara Local Court over Lolobo and Kolombangara Land situated on Kolombangara Island, Western Province. The decision of the Gizo/Kolombangara Local Court was dated 11th November 2005.

THE BRIEF BACKGROUND

The Gizo/Kolombangara Local Court convened and hears Lolobo and Kolombangara Land case on 9th and 10th November 2005 to considered the ownership of the said Land.

The Gizo/Kolombangara Local Court awarded ownership of Lolobo and Kolombangara land to Chief Steward Evo.

Grounds of Appeal

With the determination Mr. Lembu Pala herein after called 1st Appellant and Mr. James RB Padah and Mr. Kova Isaac herein after called the 2nd Appellants filed an appeal and summarized as follows:

1st Appellants Grounds of Appeal:

1. That the Gizo/Kolombangara Local court was erred in law in accepting to hear a case recording the appellant as plaintiff when he never filed such case.

2. That the Gizo/Kolombangara Local court erred in law in hearing and making a determination on Lolobo and Kolombangara lands never properly and fully referred to the chiefs.
3. That the Gizo/Kolombangara local court erred in law in relying on the records of the Kololeana Council of chiefs when the said chiefs hearing as an ordinary hearing arranged by the Respondent and his agents without the attendance of chiefs.
4. That the Gizo/Kolombangara Local Court erred in law in proceeding with the hearing and the resultant judgment when no personal service of summons was ever attempted or done on the Appellant as a result the appellant had no knowledge of the said court proceedings; and
- 5 That the Gizo/Kolombangara Local Court erred in law in hearing determining ownership of Lolobo and Kolombangara lands when the said lands are registered under the provisions of Lands and Titles Act and are therefore not customary lands.

2nd Appellants Grounds of Appeal:

1. Kolombangara land and Lolombo land are two separate tribal lands, in custom regulated by their separated by their respective chiefs not controlled by one chief.
2. Chief Steward Evopio appointment of Bangara pepeso as claimed on the Gizo/Kolombangara Local Court judgment was only for Kolombangara land and tribes Lolobo land was not included on the appointment.
3. In Kolombangara custom there is no provision in custom principal, for one man to have the control authority or power over two separate tribes, because as such will go against the custom principal on the ownership of the customary land.
4. Composition of Kololeana chiefs' councils on the decision of 5th March 2000 raised a speculative question on the ground most of all members of the chiefs panel were sons and grandsons of ITA. On custom definition it will be impossible for all sons and grandsons of Ita be all chief at one time.
5. Lolobo land is legally registered land, in my law prospective point of view. The local courts do not have jurisdiction power to make determination or alteration on the land that had been legally registered.

ISSUES

While these appeals relates to ownership of Lolobo and Kolobangara lands, all grounds of appeal filed by the 1st Appellant raise issues relates to law. As such, the issues to be dealt with by this court are:

1. Whether this court has jurisdiction to deal with issues raised by the way of this appeal?

The 1st appellant submitted that some of his grounds of appeal were on point of custom. When asked by the court which points relate to point of custom, He could not answer.

The 2nd appellant also submitted that ground 3 of the 1st appellants ground of appeal relates to point of custom.

The Court.

1st Appellants appeal point no. 3 raise question about the formation of chiefs who heard the case before it came before Gizo/Kolombangara Local Court. This is a point of law.

Point of Law and procedure

From the wordings of the appeal points lodged to the court by the 1st Appellant and or with the absence of submission to support Appeal ground no. 1, 2, 3, 4, 5, in all respect relates to law. On that or as the matters relates to law and procedure this court lack jurisdiction.

Appeal grounds no. 1. 2. 3. 4. and 5 is struck out and dismissed.

LOCAS STANDI

The record of proceeding of the Gizo/Kolombangara Local Court shows that the 2nd appellants were not party to that case. Both the 1st and 2nd Appellants did not attend the Local Court hearing held on 9th and 10th of November 2005.

Before this court consider the appeal from the 2nd Appellants it is important to determine the issue of standing and whether they had made representation before the Gizo/Kolombangara Local Court. This is so because if the appellants have standing or made representation which the Local Court did not consider or erred in deciding them the appellants has case before this Court.

This CLAC is an appellant court and whoever is aggrieved by the determination of the Local Court establish his standing or right to appeal to this Court. And for the purpose of appeal to this court, such appellant must make representation to the Local Court at the time of the hearing of the said case, result of that representation that such was not considered or decision not in his favour thus you would then appeal to the court, if you aren't then you can not appeal to this court. You have no case to bring before this court.

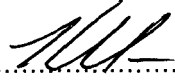
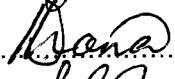

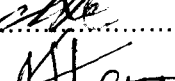

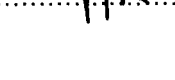
In this case there is no evidence to show that the 2nd appellant being party to this case. Thus therefore revealed that, the appellant have no standing in the appeal court

Upon considering the evidence before us, we made the following orders:

Order

1. 1st Appellants Appeal dismissed
2. 1st and 2nd appellants have no Locas Standi
3. 2nd Appellants Appeal dismissed
4. Parties meet their own cost.

Dated 10th day of December 2007.

Signed:	Wilson Katovai	-	Acting President	
	David Laena	-	Member	
	Willington Lioso	-	Member	
	Allan Hall	-	"	
	Jeremiah Kema	-	"	
	Davis D Vurusu	-	Clerk/Member	

Right of Appeal Explained.