



**IN THE WESTERN CUSTOMARY]  
LAND APPEAL COURT]**

**Land Appellate jurisdiction:**

**IN THE MATTER OF: OWNERSHIP OF SIRUKA CUSTOMARY LAND.**

**BEFORE:** Jeremiah Kema - President  
Allan Hall - Member  
Erick K Ghemu - Member  
Willington Lioso - Member  
Tane Ta'ake - Member  
Davis D. Vurusu - Clerk/Member

**BETWEEN:** ROSE PIKO  
- (Appellant)

**AND :** PENROSE PENEGA PONISI  
- (Responden)

*Date of hearing: 18<sup>th</sup> November 2015.  
Decision verbally delivered on 20<sup>th</sup> November 2014.  
Written Judgment delivered: 25<sup>th</sup> November 2015.*

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**JUDGMENT**

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This is an appeal against the decision made by the Lauru Local Court on the claim of ownership of Siruka Customary Land which situated in North/East Choiseul, Choiseul Province. The Lauru Local Courts decision was dated 7<sup>th</sup> March 2014 and we quote;

*"The current panel of Lauru Local Court after considering both oral and written evidences from both parties has convinced and as such decree;*

1. *That the land in dispute called SIRUKA is originally owned by the PUPURUKANA tribe represented by Penrose Penega Ponisi.*
2. *No development should be carried out without the prior consent and approval of the original land owner.*
3. *No order as to cost.” End of quote.*

From that decision the Appellant filed fifteen grounds of appeal to the Western Customary Land Appeal Court having jurisdiction on the land in dispute.

The duty of this court is to hear the appeal before it and determine whether the Local Court has erred in applying Customary law thus erred in the decision they made.

In considering these grounds of appeals, we examined parties submissions both orally and written, documents presented by parties in court and the record of minutes of Lauru Local Court.

In our judgment we will deal with each grounds of appeal one after the other.

**1. Appeal ground number 1 (a) & (b).**

These grounds of appeal raised issues that are before the Ririo House of Chiefs.

It is clear from the record of minute that the Lauru Local Court has conducted a physical survey within Siruka Customary Land and considers evidences before them before arriving at their decision.

There is not enough evidence to support these grounds of appeal. These appeal ground has no merit therefore must be dismissed.

Appeal ground 1 (c) raised issue on point of law in which this court lacks jurisdiction to entertain. This appeal ground must also be dismissed.

**2. Appeal ground number 2, 3 & 6.**

Appeal grounds 2, 3 & 6 raises similar issues and we will deal with them together.

In these appeal grounds, Appellant questioned the Local Courts record of minute. The Appellant in explaining these grounds of appeal submits that their tribe did not give four Kesa to Chief Kondo because of their ancestor death.

Appellant submit that, her tribe gave four Kesa to Chief Kondo of Vataroe tribe to assist him compensate the death of other tribes men who died during his war. Chief Kondo cannot repay them that four Kesa therefore gave the appellants tribe Siruka land as Sioro land.

According to Lauru custom, Sioro Land was given as compensation of person's death and not by way of settling money owed as appellant submitted before this court.

The Local Court have considered this issues in their judgment and we find no error it them. Appeal grounds 2, 3 & 6 have no merit therefore be dismissed.

**3. Appeal ground number 4.**

In this appeal ground the appellant concerns about the Local Court not considering other customary land owners witnessing the Appellants party by way of letter confirming sharing boundary with Siruka customary land.

The Local Court considered evidences before them and carry out site visit on Siruka customary land before making their decision. We find no error in their finding. Appeal ground 4 must be dismissed.

**4. Appeal ground number 5.**

There is no evidence to support this appeal ground. This appeal ground must be dismissed.

**5. Appeal ground number 7.**

**The Local Court has visited the land and eye witnessed to properties shown to them by both parties.**

**There is no evidence to support this appeal ground. This appeal ground must be dismissed.**

**6. Appeal ground number 8.**

**Appellant failed to explain this appeal ground. This appeal ground fail to meet its purpose therefore must be dismissed.**

**7. Appeal ground number 9.**

**Balance of Probabilities is a test used in civil cases to weigh evidences of both parties. This appeal ground has no merit therefore must be dismissed.**

**8. Appeal ground number 10 & 12.**

**These grounds raise similar issues. We will deal with them together.**

**The Record of minute of the Local Court confirmed that they have visited the land in dispute and witnessed to themselves properties claimed by both parties on the land. They based their decision on what they heard in court and what they saw during the site visit. We find no error in this point. This appeal must be dismissed.**

**9. Appeal ground number 11.**

**This ground raise issues on point of law. This court lacks jurisdiction to entertain. Appeal ground 11 must be dismissed.**

**10. Appeal ground number 13, 14, & 15.**

**Appellant failed to make submissions or explain these appeal grounds. Appeal grounds 13, 14, & 15 must be dismissed.**

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DECISION  
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Upon considering what we have discussed earlier in this judgment we make our decision as stated below:-

1. The Appellants Appeal ground 1 to 15 is dismissed.
2. The Luru Local Courts Decision dated 7<sup>th</sup> March 2014 is upheld.
3. Parties to meet their own cost.

Dated this 20<sup>th</sup> day of November 2015.

Signed:

Jeremaiah Kema	-	President..... <i>[Signature]</i>
Allan Hall	-	Member..... <i>[Signature]</i>
Willington Lioso	-	Member..... <i>[Signature]</i>
Tane Ta'ake	-	Member..... <i>[Signature]</i>
Davis D. Vurusu	-	Clerk/Member..... <i>[Signature]</i>

Right of appeal is explained.

