

GODFREY DAE -v- REBECCA PITIA**High Court of Solomon Islands
(Muria, CJ.)**

Land Appeal Case No. 1 of 1992

Hearing: 8 June 1995

Judgment: 8 June 1995

***C. Tagaraniana for the Appellant
T. Kama for the Respondent***

MURIA CJ: The appellant brings two grounds complaining against the decision of the CLAC (Central Province) which granted the ownership of Tanatagi, Tanini, Tana'aro and Takosa Lands to the present respondent.

The first ground argues that the CLAC erred in law in accepting hearsay evidence of the payment of £76 by the respondent's father from one Duvele for the land in question. It was argued by the appellant that the respondent's witness who was not called was vital to the respondent's case and by not doing so the CLAC was wrong to simply accepted oral evidence of the payment of £76.

There are two short answers to that argument. Firstly, purchase of customary land are usually done in the presence of other people both from the side who sells the land and from the side who purchases the land. Exchange of payments are done and there is no requirement for any written document. Should a party wishes to record such transaction, it is entirely a matter of choice for him. But the absence of a written document of such customary land transaction is not fatal to the question of showing ownership and the boundaries of a customary land. Of course there are people nowadays who, because of easy access to pen and papers and who can read and write, record transactions over customary land.

The CLAC in the present case were perfectly entitled to accept the present respondent's evidence of the £76 payment. It is within their power to do so. The CLAC is empowered to consider matters relating to customary land ownership and that was what it did in this case.

Secondly, the question of whether or not the CLAC should accept the evidence of the payment of £76 was a question of fact. The CLAC accepted it as a fact.

Unless the appellant can point to any error of law here, there is nothing in the first ground of appeal that warrants interference by this Court of the CLAC decision.

Ground two follows basically the same fate. The CLAC considered the effect of Exh. 3 and came to the conclusion that Exh. 3 supported the present respondent's claim over the land.

It is worth noting that the appellant, while the respondent's father was alive, had never raised any complaint against the respondent or her father over the land. However he did so only after the respondent's father died. This is a relevant consideration for the Court to take into account in customary land cases which are mainly argued on the strength of oral evidence passed on from generation to generation or from father to son. In today's changing circumstances, the Courts which are the protectors of the rights of persons over their properties and their liberties must bear in mind factors which do or which do not bear upon the genuineness of a complaint over a customary land.

In the present case, I find no error of law on the part of the CLAC and so for the reasons I have stated, the appeal must be dismissed with costs.

(GJB Muria)
CHIEF JUSTICE