

SIOSAIA NGAHE (Appellant) v. LUANI (Noble) Respondent).

This was a claim to the estates and title of Luani. The Land Court (Hunter J.) dismissed the claim and the plaintiff appealed. Before the hearing of the appeal the plaintiff died. The case is reported as showing the proper procedure to be adopted in such circumstances.

On the 26th September, 1960 the Privy Council (Hammett C. J.) delivered the following judgment :

In this appeal the Appellant has died since the hearing of the case in the Land Court. The appeal cannot proceed in the name of the deceased person.

Before the Appeal can be heard the personal representative of the deceased should first take out Probate or Letters of Administration of his estate and then apply for his name to be substituted for that of the Appellant or similar action should be taken by any other person entitled to do so.

It appears that there has been some five months which was ample time for this to have been done before the hearing of this Appeal to-day. For this reason we are not willing to grant an adjournment of this hearing.

The Appeal will stand dismissed but liberty is reserved to the personal representatives of the deceased Appellant to apply to the Privy Council for leave to restore the case to the list for hearing and to substitute his name for that of the deceased within 3 months of the date of this decision.

The Respondent is awarded the costs of this hearing (which we assess at £5/5/0) and in the Court below.

Leave to restore this case to the list for hearing will not be granted until these costs have been paid.