Hausia v Vaka'uta and Minister of Lands

Privy Council
App 5/1978

30 April 1978

Land - grant of allotment - principles on which it will be set aside by the courts

Hausia brought proceedings in the Land Court claiming that a grant by the Minister of a town allotment to Vaka'uta was unlawful. The Land Court upheld the claim on the ground that the Minister had not allowed Hausia an adequate opportunity to state his claim to the allotment. The Minister reconsidered the matter and allowed Hausia an opportunity to state his case, but the Minister affirmed his earlier decision.

Hausia appealed to the Privy Council.

HELD:
Dismissing the appeal

(1) The courts would only overturn a grant if the person challenging the grant establishes that the Minister has acted contrary to statute, or in breach of the rules of natural justice, or in breach of a clear promise by the Minister and the tofia holder;

(2) The burden of proof was upon the person challenging a grant to produce sufficient evidence to prove that the grant fell within the above principles, and the appellant had not done so.

Cases referred to
Havea v Tu'i'afitu App 5/1977 (see reported elsewhere in this volume at p.55).

Privy Council

Judgment

The question in this appeal is a short one and has been previously decided by the Privy Council in Havea -v- Hon. Tu'i'afitu and others (Appeal No.5/1977). Appellant brought an action claiming that a grant by the Honourable the Minister of Lands of a certain town allotment to Lopeti Vaka'uta was unlawful. The Minister had lawful power to make the grant but the claim is that his decision was wrong and that the grant should have been made to appellant and that appellant was not given a proper hearing on the application before the Minister.

The learned Judge made the following finding:-

> "The Plaintiff now complains and has given uncontradicted evidence under oath to the effect that although on the 26 May 1977 he had a meeting with the Minister he did not have an opportunity to put his case but was merely, so he says, told that he had been told in 1972 that as he had received the personalty the first defendant would be given the realty and that the Minister had not changed his decision. When asked why he did not put his case to the Minister he said he felt that it would serve no useful purpose as the decision had already been taken. While he no doubt should hve acted more positively it is most important that in quasi-judicial hearings such as these conducted by the Minister on such occasions a party, particularly if not professionally represented, should be given every opportunity to state his case".

The matter was re-heard in accordance with that direction and the Minister affirmed his previous decision.

In Havea's case (supra) the Privy Council said:-

> "The Court will upset a grant only if the person challenging its validity establishes that the Minister has acted contrary to statute, or in breach of the rules of natural justice, or in breach of a clear promise by the Minister and the tofi'a holder. It was therefore for appellant to prove his case. During the argument counsel for appellant claimed that second respondent had failed to prove his right to the grant but the burden of proof rested on appellant to call sufficient evidence to show that the grant ought to be set aside upon an application of the principles we have set out above".

Appellant has not shown that he comes within those principles so that appeal must fail. It is dismissed without costs.