

(Appellate Jurisdiction)

BETWEEN: MR & MRS MANAR RONG

Appellants

AND: JOSEPH KAMUEL QWEA

Respondents

Date: 19<sup>th</sup> June, 2001, 3 p.m.

Coram: Mr Justice Oliver A. Saksak

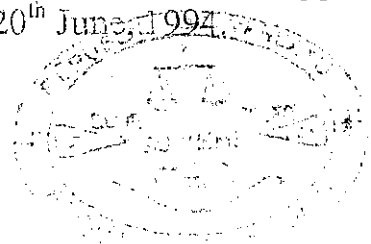
### JUDGEMENT

The appellants were defendants in Civil Case No.53 of 1994 heard in the Magistrate's Court. The respondent obtained Orders in 1994 in the following terms:-

1. That the defendants be restrained from occupying the plaintiff's properties.
2. That the defendants refund the plaintiff's expenses of VT28,000.
3. That the defendants pay costs of VT4,000 within 30 days after receipt of the order.

The judgment of the Magistrate's Court is not dated. It appears that on 22<sup>nd</sup> June 1994 the appellants lodged an appeal against that judgment or orders. There are no proper appeal documents or correspondence. There is however a receipt showing the sum of VT6,000 as appeal fee on Invoice No.14401240 and Receipt No.779438.

The only correspondence that is deemed to amount to a Notice of Appeal is a letter by the appellants to the Magistrate dated 20<sup>th</sup> June, 1994.



The appeal was first listed for hearing on 10<sup>th</sup> January 1995.

The appropriate Notice of Hearing was issued on 5<sup>th</sup> January 1995. It is written in Bislama language. It appears that the parties were at the time residing in Luganville. It further appears that the Court never sat on 10<sup>th</sup> January 1995. There is nothing on record to show that this sitting was convened.

A further Notice of Hearing was issued to the Parties on 21<sup>st</sup> May, 2000. The Parties were notified that the appeal was listed for hearing on 10<sup>th</sup> July 2000 at 9 a.m. The Notices were addressed to both Parties, the appellants in Luganville and the respondent in Gaua Island in the Banks Group. It is noted in the judge's dairy that no parties turned up for the hearing that day.

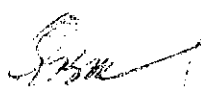
Finally the matter was re-listed for hearing on 19<sup>th</sup> June 2001 at 3.00 p.m. Appropriate Notices of Hearing were issued to the Parties on 9<sup>th</sup> May, 2001. The appellants reside at Luganville and the respondent on Gaua Island. No Parties turn up for the hearing today.

It appears that the appellants reside here in Luganville. But they have never turned up on any of the three occasions when the Court has listed their appeal for hearing. If they have changed their place of residence from Luganville they have not provided their alternative address. If they have returned to Gaua, I am of the view that they have had sufficient notice to come to Court. Gaua Island has an airstrip and there are weekly flights to the island. There can be no reasonable excuse at all why the appellants have not turn up on the date allocated for the hearing of their appeal.

In the circumstances it is fitting that this appeal be dismissed. Accordingly it is dismissed. There will be no order as to costs.

DATED at Luganville this 19<sup>th</sup> day of June, 2001.

BY THE COURT

  
OLIVER A. SAKSAK

Judge

