

IN THE HIGH COURT OF SOLOMON ISLANDS

CIVIL JURISDICTION

Civil Case Number 392 of 2021

BETWEEN: SEVONA DEVELOPMENT COMPANY LTD - First Claimant

AND: GREEN TREE(SI) CO.LTD -Second Claimant

AND: CHIEF HARRY TRUEMAN BOE -Third Claimant
(Representing himself and members of his Maqatamalo Clan of Tasolomo Tribe)

AND: CHIEF ELIJAH PITAKERE - Fourth Claimant
(Representing himself and members of his Tasolomo Tribe)

AND: ZIRUNANGONANGO LAND OWNING GROUP COMPANY LTD – First Defendant

AND: SUPREME RESOURCES LIMITED - Second Defendant

AND: EZRA POLOSO - Third Defendant
(Representing all timber rights Trustees of Zirunangonango Customary Land).

Date of Hearing: 28th July 2022.

Date of Ruling: 22nd August 2022.

Ms Tongarutu for the 1st, 2nd and 4th Claimants.

Mr. Kaboke for the 3rd Claimant.

Mr. Marahare for the 1st and 2nd Defendants.

KENIAPISIA; PJ:

RULING ON COST FOR ADJOURNMENT

1. Counsel Kaboke represented all of the claimants at time of filing the joint claim. Later, Counsel Tongarutu filed notice of change of advocate to act for the 1st, 2nd and 4th claimants. Counsel Kaboke continue to represent the 3rd claimant. Counsel Tongarutu filed the said notice on **28/10/2021**, a fact not known to Counsel Marahare, until only a few days ago. Therefore Counsel Marahare did not serve notice and materials on his application for summary judgment on Counsel Tongarutu, in good time prior to today's hearing.

2. Counsel Marahare by prior email notice, informed the Court and other Counsel of the eminent adjournment on his application listed for hearing this afternoon. The reason being Counsel did not serve materials on Counsel Tongarutu and there is a referral to Local Court by Counsel Kaboke's clients. Whilst Counsel Marahare is not against the eminent adjournment, he asked for cost of adjournment.

Counsel Marahare's lack of knowledge about Counsel Tongarutu's representation

3. Counsel Marahare says he did not receive Counsel Tongarutu's notice of change of advocate filed on **28/10/2021**. Counsel Kaboke and Counsel Tongarutu opposed cost and says cost should be in the cause. Counsel led evidence from the bar table. So I want to focus on my file records to decide on costs.
4. Mr Kaboke represented all of the claimants initially. Since **October 2021**, claimants were divided resulting in change of legal representation. Ms Tongarutu says she served Mr Marahare's pigeon hole with her filed notice of change of advocate. Mr Marahare deny receipt. But my file records shows that High Court issued a **Notice of Hearing**, bearing ANT Legal Services, dated **18/01/2022**. The said notice informed Mr Marahare that the matter will come before me on **15/3/2022**. So I will conclude that Mr Marahare knew or ought to know from **January to March 2022**, that Ms Tongarutu represented some of the claimants. Mr Marahare should serve materials on Ms Tongarutu since **January/March 2022**, because today's application was filed on **16/12/2021**.
5. Then the other reason necessitating adjournment is the pending case before the Local Court, referred by Mr Kaboke's clients. So this claim or the application for summary judgment should stay pending the outcome of Local Court hearing. Mr Marahare did not dispute this second reason for adjournment.
6. **So the adjournment was evidently unavoidable on the two above mentioned grounds. And I cannot lay the blame on any one person. These are delays that are normal to litigation process. I will order cost to be in the cause.**


THE COURT


JUSTICE JOHN A KENIAPISIA
PUISNE JUDGE