

**IN THE SUPREME COURT  
REPUBLIC OF NAURU**

Land Appeal No.18/2010

BEGG ADIRE

Appellant

V

NAURU LANDS COMMITTEE

1<sup>st</sup> Respondent

DANIEL AEMOGAE & ORS

2<sup>nd</sup> Respondent

---

JUDGE:

Eames, CJ

WHERE HELD:

Nauru

DATE OF HEARING:

14<sup>th</sup> March 2011

DATE OF JUDGEMENT:

17<sup>th</sup> March 2011

CASE MAY BE CITED AS:

Begg Adire v NLC and Others

MEDIUM NEUTRAL CITATION:

[2011] NSC 2

Land Appeal – Nauru lands Committee Ordinance 1956-1963, s.7 – Determination by Nauru Lands Committee – determination that second respondents were landowners of land named “Auradia” – Appellant claims that one portion of the identified land was land owned by his father and also called “Auradia” - Appellant and his father not attending field day advertised and conducted by Nauru Lands Committee – Discrete parcels of land known as “Auradia” – not shown that determination affected land known as “Auradia” that was owned by appellant’s father – No failure shown in manner NLC advertised field day – No irregularity shown – appeal dismissed.

APPERANCES;

Counsel

For the Plaintiff

Mr Pres Nimes Ekwona (Pleader)

For the First Respondent

Mr David Lambourne

For the Second Respondents

Mr David Aingimea (Pleader)

## CHIEF JUSTICE

1. This is an appeal against a Determination made of the Nauru. Lands. Committee, published in Government Gazette No.94-14/07/2010, declaring the respondents to be the owners of land named "Auradia", having inherited their interest in a descent line commencing with Salome Bededoun(deceased) and Josepha Eona(deceased)
2. The Determination followed a field day held on-site on 5<sup>th</sup> December 2008. Neither the appellant, Begg Adire, nor his father, Bagadouwe Adire, were named an owner. The land subject to the determination by the Committee was identified in a plan published in the Gazette of 14<sup>th</sup> July 2010. On that plan, land to the east of "'Auradia" was shown by the description 'U/D', that is , Undetermined Land
3. In conducting the field day the Committee was responding to a request by Elizabeth Gobure, acting on behalf of the second respondents. The respondents contended, and the Committee agreed, that the subject land had been known as "Auradia", and was registered under that name in the 1928 Land Register Book (page 240) as being one of more than a dozen blocks owned by Salome and Josepha.
4. The appellant does not dispute that the second Respondents are descendants of Salome and Josepha. Nor was there any disagreement between the parties as to the existence of discrete parcels of land called "Auradia". Indeed, in the same 1928 Land Register Book (page 204), one of seven parcels of land recorded as owned by the appellant's grandfather, Adire, was also named "Auradia". Adire's ownership of land known as "Auradia" was confirmed by the Committee on the 12<sup>th</sup> of January 1956.
5. The appellant contends that the land identified by the Committee in its determination of 5 December 2008 included a portion of land that was, in fact, the land known as "Auradia" owned by his grandfather, and now owned by his father. He contends that their interest should have been recorded.
6. The respondents do not deny that Adire was the owner of land called 'Auradia'. The threshold issue is whether the land known as "Auradia" when owned by the

appellant's grandfather fell within the boundaries of the land which the Committee determined was owned by the second respondents. The appellant contends that within the boundaries of land dealt with by the committee there were numerous allotments of land known, by the various owners, as 'Auradia', with one of those portions being the land which had been owned by his grandfather

7. To demonstrate an irregularity in the conduct of the Committee, in this case, the appellant must first establish that the land called "Auradia" which had been owned by the Appellant's grandfather was indeed included within the boundaries of the land which was the subject of determination by the Committee. I am not persuaded that that was the case.
8. The minutes of the field day conducted on Friday 5 December 2008 record that Elizabeth Gobure announced that she was claiming the land through Salome and Josepha. She said that the land was named "Auradia" and when asked if she could identify the landmarks, and boundaries, she then proceeded to do so. The Minutes record that she said; "Adjoining landowners on the Oceanside are Dageago and Bagadouwe; Pegogora is the name of those lands. My last point comes back to where we started. My boundary continues on to the ocean- side land belonging to Depoudu and others named Pegogora and Auradia. That is all I have to say."
9. As I have noted, the plan discloses that to the east there is undetermined land. The statements made at the field day demonstrate that Elizabeth acknowledged that there was some land outside the boundaries of the respondent's land which Bagadouwe Adire owned, and that there was some land outside the boundaries of the respondent's land which was also called "Auradia", although the brief record of her statement does not record her putting both propositions together and saying, in effect, 'Bagadouwe owns a different block, outside our boundaries, but also called "Auradia"'.
10. However, there is no evidence, apart from mere unsworn assertion from the appellant that Adire's "Auradia", fell within the boundaries of the land subject to the determination in question. Given that the onus is on him to establish his case, that is enough to determine the outcome of this appeal. But, in any event, the

appellant has failed to make good his complaint that the Committee failed to notify him and his father of the proposed field day.

11. Even assuming that I was satisfied that his grandfather's land was included within the boundaries determined by the committee, his complaints about the propriety of the Committee's determination face the difficulty that he and his father failed to attend the field day so as to put a case for ownership. The appellant contends that he had not been given notice of the proposed field day. Less confidently, he contended that his father also had not been alerted to the proposed field day. He contends that it was the obligation of the Committee to ensure that all persons with an interest in "Auradia" were present at the field day, and were heard by the Committee.
12. There is no dispute that the Committee advertised the field day and that the representatives of 15 families attended. I am satisfied that it was widely advertised. Why then would the appellant and his father have been unaware of it?
13. Although the appeal is in the name of Begg Adire he has not yet inherited the land, his father being still alive. The appellant's father, Bagadouwe Adire - the son of Adire - was chairman of the Nauru Lands Committee at the time of the field day (the proceedings should have been brought in his name, not his son's). The appellant's father did not attend the field day, but I do not know why he did not attend. I pointed out the absence of evidence on that point, to Mr Ekwona, who represented the appellant, but he did not call any evidence in response.
14. Thus, that proposition was asserted from the bar table but no evidence, at all, was produced from the Appellant or his father to confirm that they were indeed ignorant of the proposed field day.
15. The onus falls on the Appellant to establish grounds that would justify the Court setting aside the decision of the Committee. Insofar as the alleged fault was the failure of the Committee to notify all relevant persons that the field day was to be conducted, I am satisfied that the Committee took all reasonable steps to alert interested parties. The field day was advertised on radio and television and it is difficult to believe that neither the appellant nor his father were aware of the

matter; they have not given any evidence before me that they were, indeed, unaware.

16. I see no basis at all for interfering in the determination of the Committee. In my opinion, the appeal should be dismissed.

Dated the 17<sup>th</sup> day of March 2011

Geoffrey M. Eames AM QC

Chief Justice