

**IN THE COURT OF APPEAL OF TONGA
NUKU'ALOFA REGISTRY**

**AC 17 of 2011
[LA 08 & 26 of 2008]**

BETWEEN: PULILEKA MATENI

- Appellant

**AND : 1. PALETASALE PULILEKA
2. TAULUPE TU'UNGAHALA
3. MINISTER OF LANDS**

- Respondents

**Coram : Salmon J
Handley J
Blanchard J**

**Counsel : Mr. S.T.Fifita for the Appellants
Mr. S.Tu'utafaiva and Mr. O. Pouono for the First &
Second Respondents**

Date of hearing : 15 April 2013

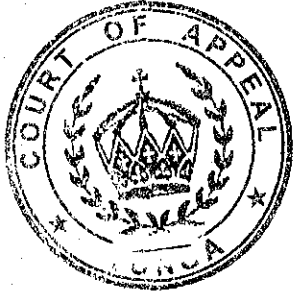
Date of judgment : 17 April 2013

JUDGMENT OF THE COURT

- [1] This is an appeal against a decision of the President of the Land Court dated 3 June 2011 declining to rehear proceedings on the ground that the central assumption on which proceedings had been based, which was the legitimacy of the occupier of the land, was now conceded as being incorrect.
- [2] The President said that new proceedings were necessary to properly address the issues. He ordered that no further orders be granted in two actions LA 9/2008 and LA 26/2008 and that those actions be permanently stayed.
- [3] Before the appeal was heard the parties presented the Court with a consent memorandum dated 26 April 2012 which required the filing by the first and second respondents of fresh proceedings within 14 days.
- [4] The hearing of the appeal was adjourned by consent.
- [5] The appeal was listed for hearing at this session of the Court, no proceedings having been filed in the meantime.
- [6] Counsel for the first and second respondents, Mr. Tu'utafaiva, apologized to the Court for his failure to issue proceedings and withdrew as counsel in favour of Mr. Pouono. Mr. Pouono advised the Court that over the last few days he has worked on the preparation of proceedings which are nearly ready for filing.
- [7] That left the issue of what should be done with the appeal. After discussions with Mr. Fifita, counsel for the appellant, it was acknowledged by him that there was no reason to proceed with the appeal and he agreed that it should be dismissed.
- [8] Accordingly the appeal is dismissed. There is no order for costs.

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Salmon J



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Handley J

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Blanchard J