

Scan, file & upload
DPP/ALEA/MOTUA #1
[Signature]
13/11/17

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

LA 14 of 2016

BETWEEN: TEVITA LANGIFISI HAMILTON

Plaintiff

AND DONALD LAU'I

First Defendant

AND : HON. MINISTER OF LANDS

Second Defendant

BEFORE PRESIDENT PAULSEN AND ASSESSOR

**To: Mr. L Niu SC for the plaintiff
 No appearance for the first defendant
 ✓ Mr. 'A Kefu SC for the second defendant**

Hearing: 10 November 2017

Date of Ruling: 10 November 2017

RULING

- [1] This matter was dealt with today by way of formal proof.
- [2] The defendants have not filed any statements of defence. There was no appearance by or on behalf of the first defendant. For the second defendant Mr. Kefu advises me that the Minister does not oppose the granting of the orders sought.

rec'd 13/11/17
[Signature]

- [3] The plaintiff's father was Anania Langifisi Hamilton. He was the registered holder of a town allotment at Ma'ufanga by deed of grant 322/37. The first defendant is the plaintiff's nephew. Anania died on 1 March 2008. Soon after Anania's death the plaintiff went to the Ministry and claimed his allotment but was told that he could not do so. The advice was incorrect. It then appears that on 11 April 2008 a letter dated 18 May 2001 was delivered to the Ministry that purported to be signed by both Anania and the plaintiff requesting a surrender of Anania's allotment in favour of the first defendant. The application was processed notwithstanding that Anania had died and the plaintiff had claimed his town allotment as heir (albeit he had been sent away). The plaintiff says, and I accept, that he did not sign the letter of surrender. Cabinet gave its consent to the surrender. On 18 May 2009 the Ministry wrote to Anania (again notwithstanding that he had died) advising that Cabinet consent to the surrender had been given by Cabinet decision No 322 on 29 April 2009 and that the stated reason for the surrender was so that the first defendant could apply for it. The evidence is that the first defendant has not in fact yet filed any application for the allotment.
- [4] I find that the plaintiff was Anania's lawful heir and that upon Anania's death the plaintiff claimed his town allotment as heir and is entitled to be registered as such. Cabinet's consent to the surrender of the allotment was therefore unlawful and invalid and should be set aside.

Result

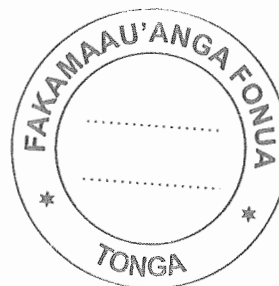
- [5] The plaintiff is entitled to the relief he seeks. Accordingly there will be orders as follows:

[5.1] The purported surrender by Anania Langifisi Hamilton of his land in deed of grant 322/37 (approved by Cabinet Decision of 29 April 2009) is invalid and is set aside.

[5.2] The Minister is to forthwith register the plaintiff as the holder of the town allotment 322/37 formerly held and registered by Anania Langifisi Hamilton

[5.3] The plaintiff is entitled to his costs to be fixed by the Registrar.

NUKU'ALOFA: 10 November 2017



A handwritten signature in black ink, appearing to be "O.G. Paulsen".

**O.G. Paulsen
PRESIDENT**