

IN THE LAND COURT OF TONGA
NUKU'ALOFA REGISTRY

LA 12 of 2013

Crown Law

Scan & file

#1

[Signature]
25/08/14

BETWEEN : 1. KALOLAINE LATU
2. MINI NIUALIKU
3. SIOSI'ANA WOLFGRAMM

- *Plaintiffs*

AND : 1. ROBERT BLAKE
2. THE CHURCH OF JESUS CHRIST OF THE
LATTER DAY SAINTS "LDS"
3. THE HONOURABLE MINISTER OF LANDS

- *Defendants*

R. Stephenson for the First Defendant
L.M. Niu SC for the Second Defendant
J. Lutui for the Third Defendant.

DECISION

[1] This is an application by the Second Defendant for the costs of the proceedings which resulted in judgment in their favour delivered on 3 July 2014.

[2] The First and Third Defendants did not join the application but appeared on the hearing of the application. Mr Sifa Taumoepeau again appeared as "agent" of the Plaintiffs and filed a written response.

rec'd 15/08/14
[Signature]

- [3] The general rule is that when a party successfully enforces a legal right and in no way misconducts himself, then he is entitled to costs as of right (*Cooper v Whittingham* (1880) 15 Ch.D.501) the fact that the opponent's case has moral as opposed to legal merits is not a ground for refusing an Order (*Re. Birkbeck Building Society* (1913) 108 L.T. 211). My misgivings about the way in which the land in question was acquired by the Second Defendant will be apparent from my judgment and need not be repeated.
- [4] The Second Defendant is entitled to its reasonable costs against the Plaintiffs and I so Order. The costs associated with the preparation and hearing of the Strike Out application filed on 11 July 2013 and the preparation of the "Amended Statement of Claim" dated 25 July 2013 will be disallowed. In my opinion the Strike Out application was plainly inappropriate in all the circumstances while I have already referred to the 25 June document in my judgment. With the exception of the above, the Second Defendant's costs are to be taxed if not agreed.

DATED: 15 August, 2014.




PRESIDENT