

IN THE SUPREME COURT OF SAMOA

HELD AT MULINUU

BETWEEN: **SALA FILI LAUANO and**
others, matai of Leauva'a for
and on behalf of **ALII MA**
FAIPULE OF LEAUVA'A

Applicants

AND: **MAULOLO TAVITA**
AMOSA and others, matai of
Afega for and on behalf of **ALII**
MA FAIPULE OF AFEGA

Respondents

Court: Honourable Chief Justice Perese

Counsel: Sala J. Stowers for the Applicants
T. Toailoa and Mauga P. Chang for the Respondents
Letoafaiga D.J. Fong and V. T. Leilua for Attorney General

Date: 19 February 2025

S E N T E N C E

[1] In the judgment on liability delivered on 23 December 2024, I was satisfied the evidence established beyond a reasonable doubt that the Respondents led by Maulolo Tavita Amosa, Ututaaloga Charlie Ulia, Fata Roketi and Fata Vaafai Tolutasi, whom all had the chance to be heard, had committed contempt of this court's orders dated 11 October 2024.

[2] The parties have now had the chance to file their respective submissions concerning penalty. Having carefully considered the various matters before me, I decide as follows.

The penalty

[3] I note that since the 23 December 24 decision, the Respondents have ceased their dangerous, intimidating and ugly behaviour towards people living on disputed land who identify as belonging to the village of Leauvaa. The Respondents have generally sought to characterise their actions as arising from their inability to control themselves, frustrated at how long it is taking for their matter to be finally resolved in court. Even if that is so, it does not excuse actions of intimidation and bullying. Let me be clear - there are literally dozens of other appeals which have not been able to be heard in the Land and Titles Court of Appeal and Review because of the gap in the law; it would appear that it is good enough for those parties and villages to those appeals to show restraint and I acknowledge and congratulate the leading Matai of those parties for showing leadership.

[4] The breaches in this case warrant more than an admonishment or telling off. Although there was no name calling and insulting of Judges, I consider it extremely serious that the court's orders, which were intended to maintain peace, were deliberately breached. That is the way of anarchy. People's properties were damaged by bulldozers and sometimes these events were accompanied by the threat of firearms. I have seen a letter of apology written to the Registrar of the Court. It is good to see a positive undertaking from the Respondents that there will not be a repeat of the lawless behaviour that led to the contempt issue. Thank you for acknowledging the error of your ways. However, that undertaking will be referred to in the event that there is a future failure to comply with the court's orders.

Penalty – Respondents.

[5] I impose on the Respondents a fine in the sum of ST2,000, payable to the Registrar within 14 days of today. As I say, I regard the anarchic behaviour as troubling and I need to send a strong message to denounce your behaviour.

Costs

[6] I award costs of ST1,000 against the Respondents on account of the contempt of court issue. This sum is to be paid to the Applicants. In addition, I award costs in the sum of ST500 against the Respondents in relation to the ill-conceived application for recusal; I understand from Maulolo's affidavit that the Respondents take responsibility for instructing their lawyers to raise recusal as part of their litigation strategy of leaving no stone unturned. Let it be so, but there is a costs consequence for that decision. On the other hand, I award costs in the sum of ST500 against the Applicants in relation to the application for joinder, which I dismissed. Costs therefore are as follows: The

Applicant is to pay the Respondents the sum of ST500; the Respondent is to pay the Applicant the sum of ST1500.

[7] Although costs are awarded by the Court as discussed, it is for the parties to enforce them. Further settlement discussions may lead to parties deciding to forgive costs in a pathway to settling the dispute.

[8] Finally, Maulolo asks in his affidavit – where is the justice for his village if the Appeal is found in Afega’s favour? Respectfully, that is not a new question – it is the kind of question that is asked in almost every appeal. In this case the ownership of the intermediate lands and lots 29 and 30 is under challenge. Justice will be served once the ownership questions concerning these lands have been finally resolved in a court of law as provided for in the laws of our Nation.



S. Perese
CHIEF JUSTICE