

PAPUA NEW GUINEA)
IN THE NATIONAL COURT)
OF JUSTICE AT WAIGANI)

OS NO 09 OF 2020



BETWEEN:

**ROBIN KAMI on his and on behalf of 26
Clan Member of GAWARU CLAN and other
Clan Members within Umboi Block 1, Bunsil**
- *Plaintiffs*

AND:

ASET MERIAH PNG LIMITED
- *First Defendant*

AND:

**UMBOI TIMBER INVESTMENTS
LIMITED**
- *Second Defendant*

AND:

**PAPUA NEW GUINEA FOREST
AUTHORITY**
- *Third Defendant*

ORDERS

THE COURT ORDERS THAT:

1. This matter is returning on the previous orders of 08th February 2021 whereupon the Court is entitled to consider compliance or lack thereof and make appropriate orders to enable compliance and failing any further noncompliance make orders finally disposing of this claim.
2. Rather than entering judgment for the Plaintiff on account of the Defendants and or the persons against whom those orders were made failing to comply with the orders of 08th February 2021, the Court extends those orders for full compliance by no later than 14th July 2021 by those persons who are now required to take the specific steps identified in those orders.
3. The defective notice of motion filed by the Plaintiff shall be taken as a guide for the kinds of orders the Court could make today on account of the Defendants and other persons failure to take the steps they were to take and their failure to appear in Court today fully ready to assist the Court with submissions.
4. Based on the evidence per the affidavit of Robin Kami sworn on 30th October 2020 and filed on 02nd November 2021, the Court invokes the provisions of s. 57 (1) of the *Constitution* and orders an immediate ban on any further logging under Umboi Timber Rights Purchase Area number 1327 which includes Umboi Block 1 and all other Timber Rights Purchase Areas (TRPAs) throughout the country until the Papua New Guinea (PNG) National Forest Authority (PNGNFA), the Conservation and Environment Protection Authority (CEPA), the Climate Change Development

Authority (CCDA), their respective boards or superiors and the PNG Custom Services provide the following:

(a) By the PNG National Forest Authority and its Board a detailed report of all logging permits or forest clearance authorities or such authorities or instruments issued to allow for logging or clearance of forest areas to date with a detailed account of the total:

- (1) forest areas logged;
- (2) number of trees chopped down;
- (3) number of logs exported;
- (4) number of trees or logs wasted;
- (5) impacts of each of the logging operations on the immediate and surrounding area and communities and their respective biodiversity;
- (6) number of any damage caused to the environment and what if any particular remedial action has been taken, the result of those and if not, why not, when will the appropriate remedial actions be taken and by whom;
- (7) effectiveness of the remedial actions referred to in 4 (a) (6) above and their current status;
- (8) number of alternative programs such as carbon trade, being developed and implemented that are environmentally friendly and allows for the customary landowners and the country to economically make use of their limited forest reserves without destroying it and affecting the biodiversity within the forests and the environment generally;
- (9) amount of sustainable or other tangible development and the value of improvements delivered to the customary landowners in each of the TRPAs against the benefits package that may have been agreed to and provided for in the logging and marketing agreements (LMAs) or such other agreements and arrangements;
- (10) gains in development and other economic benefits the customary landowners and the country stands to gain from continued logging and deforestation as opposed to developing alternative sustainable and environmentally friendly economic programs such as carbon trade that could be developed and pursued and thereby meaningfully contribute to domestic and global efforts toward mitigating climate change related risks.

(b) By the Conservation and Environment Protection Authority (CEPA) a detailed report of all Environmental Permits issued over each and every TRPA and or FCAs or such authorities or instruments issued to allow for logging or forest clearance areas to date with a detailed account of the total number of:

- (1) environmental impact plans approved, and permits granted with their conditions for each logging or deforestation and other activities having a significant impact on the immediate and surround environment, per TRPAs and all logging and deforestation areas and other such activities;
- (2) monitoring, evaluations and compliance reviews carried out by the authority or any other for each permit issued and all logging and deforestation activities to date;

- (3) breaches if any, of the conditions of any environmental permit or deforestation activity in each case with the steps that have been taken and the current position on the steps taken;
 - (4) logging or deforestation activities that have impacted against the immediate and surround environment, communities, bio- diversities and the steps that have been taken to mitigate or remedy any adverse impact; and
 - (5) prosecutions if any, undertaken and or brought against any breaches of any environmental plans and their related permits with any of their conditions or otherwise any breaches of the *Environment Act 2000* and the *Environment Contaminants Act 1978*, their predecessors and any other relevant and applicable Act of Parliament or any relevant international best industry practices;
- (c) By the Climate Change Development Authority (CCDA) a detailed report of all climate changing or adversely impacting activity in the logging and deforestation activities area and elsewhere carried out in each and every TRPA and or FCAs areas and other activities such as mining and other constructions throughout the country to date with a detailed account of the total number of:
- (1) recorded and investigated human activity including logging and deforestation throughout PNG that is being carried out by corporations, individuals and public authorities that are having an adverse impact on the environment and adversely contributing to climate change;
 - (2) environmental plans approved and permits granted with their conditions for each logging or deforestation, mining construction or other activities having an impact on the immediate and surround environment, per TRPAs and all logging and deforestation areas, mining, construction and others;
 - (3) any monitoring, evaluations and compliance reviews carried out by the authority or any other for each logging and deforestation, mining and other construction activities area to date;
 - (4) breaches if any of the conditions of any environmental permit or deforestation activity, any mining, construction and other activities in each case with the steps taken and the current position on the steps taken;
 - (5) logging or deforestation, mining, construction, and other activities that have impacted against the immediate and surround environment, communities and biodiversity and the steps that have taken to mitigate or remedy any adverse impact;
 - (6) prosecutions if any undertaken and or brought against anyone for any breaches of any environmental plans and their related permits with any of their conditions or otherwise any breaches of the *Environment Act 2000* and the *Environment Contaminants Act 1978*, their predecessors and any other relevant and applicable Act of Parliament or any relevant international best industry practices; and
 - (7) recorded and investigated climate change related activities such as rising sea levels and natural disasters affecting the livelihood and lives of individuals, group of persons or communities in PNG and recommended action with the actions taken and whether the risk presented has been resolved or are being addressed adequately.

- (d) By the PNG Customs Service provide the information required by the orders of 09th February 2021.
5. The respective directors of the PNGNFA, the CEPA, CCDA, the Chairpersons of the respective authorities' boards and the Chief Commissioner of PNG Custom Services are required to personally appear in Court on the return date fixed in term 6 of these orders with or without their lawyers to assist the Court with a review of compliance of the foregoing orders and any questions their compliances or lack thereof might raise.
 6. This matter is specifically adjourned to **02nd September at 1:30 pm** or soon thereafter for a return of these orders.
 7. Any logging company or any person adversely affected by any of the foregoing orders may formally apply for a variation or a set aside of these or a particular term of these orders on 3 clear days' notice and such an application may be filed at the Registry in Waigani.
 8. The file in this matter is transferred to Waigani for the Court to deal specifically with any application that might be filed pursuant to term 7 of these orders.
 9. Guu Vaal Enterprises Limited which does the customs clearance in Lae for the First Defendant, namely Aset Meriah PNG Ltd, is required to preserve and produce by 18th June 2021 copies of all customs clearance paperwork for export of logs completed or submitted for or by the First Defendant, Aset Meriah PNG Ltd.
 10. Pursuant to Order 5 Rule 8(1) of the *National Court Rules* and Section 57 of the *Constitution*, each of the Authorities referred to in term 4 of these orders are ordered to be joined as parties to this proceeding as the Third, Fourth, Fifth and Sixth Defendants respectively.
 11. The Minister for Environment and Conservation Honourable Wera Mori, the Minister for Forestry and the Independent State of Papua New Guinea are also joined as the Seventh, Eighth and Ninth Defendants respectively.
 12. The Plaintiff shall file and serve an amended statement of claim after the various authorities referred to in term 4 of these orders have provided the reports and information required of them and in any case by **23rd July 2021** briefly pleading those authorities' respective statutory powers and functions and the duties and the responsibilities' they owe the customary landowners, the people of PNG and the global population affected by climate change and any breaches of such duties and responsibilities.
 13. The First and Second Defendants are required to forthwith take responsibility over any trees or logs already felled and are remaining in the Umboi TRP Area, log landing area, log pond or elsewhere and have such logs exported with proceeds paid into the National Court Trust Account and remedy any harm or damage done to the environment by their logging operations, including any felling of trees or logs, roads and other construction work prior to the next return date.



14. Upon the next return of the matter, the Plaintiff and the First and Second Defendants are required to provide evidence as to compliance or noncompliance of the foregoing orders for appropriate enforcement orders to issue against any defaulting party.
15. Unless the affidavits already filed does so, the parties shall by **30th July 2021** give discovery to each other of the documents pleaded in their respective pleadings or they will be relying upon at trial.
16. The time of the entry of these orders is abridged to take place forthwith upon the Court signing the Orders.

BY THE COURT



KANDAKASI, DC J

ORDERED: This 07th and 08th Day of June 2021
ENTERED: This Day of June 2021