



Broadley Rees Hogan media lawyer Peter Bolam's successful defence in Carol Anne Kidu v Hollie Fifer & 2 Ors

By Peter Bolam, Special Counsel

Broadley Rees Hogan's media lawyer, Peter Bolam, has successfully defended filmmakers Hollie Fifer and Rebecca Barry (Media Stockade) in a NSW court action by former PNG Opposition Leader, Dame Carol Kidu.

Peter Bolam instructed counsel Richard Potter and Mark Maconachie on the action which initially saw Ms Fifer's film, *The Opposition*, subject to heavy redaction prior to its release at the Toronto Film Festival.

On Friday 8 July, the Supreme Court dismissed Dame Carol Kidu's claim for a permanent injunction preventing Ms Hollie Fifer and two other defendants from exhibiting footage taken by Ms Fifer of Dame Carol Kidu.



For more information, see the Court's Media Release (below), or view the Sydney Morning Herald article [here](#).

Court Media Release:

Judgment Summary
Supreme Court
New South Wales

8 July 2016

Judgment delivered in Carol Anne Kidu v Hollie Fifer & 2 Ors

Rein J

Today the Supreme Court dismissed Dame Carol Kidu's claim for a permanent injunction preventing Ms Hollie Fifer and two other defendants from exhibiting, as part of a

documentary called The Opposition, footage taken by Ms Fifer of the Plaintiff.

Dame Carol's claim to an injunction was based on two grounds:

1. That there was a contract between the first defendant Ms Fifer and herself that the only use that Ms Fifer could make of the footage of the Plaintiff was for a student assignment documentary for the Australian Film Television and Radio School concerning the Plaintiff's last six months in politics in Papua New Guinea as head of the PNG Opposition.
2. That Ms Fifer was aware that the Plaintiff had consented to her being filmed for a student assignment documentary of that description and that she acted unconscionably towards the Plaintiff by using the footage for a documentary intended for widespread publication and having a different theme.

The Court rejected the contract claim holding that the parties did not, in early March 2012 at the time before the first footage was taken, intend to create a legally binding agreement. The Court rejected Dame Carol's claim that she was not informed on and from the 7th of March 2012 of Ms Fifer's plans to make a documentary for public release and that she did not know that the focus of the documentary had shifted to include and then focus on the eviction of residents of a suburb of Port Moresby known as Paga Hill in Dame Carol's electorate,

The Court held that Dame Carol had not established that Ms Fifer had acted unconscionably towards her or that Dame Carol was under a disadvantage of any kind viz a viz Ms Fifer or that Ms Fifer took advantage of Dame Carol in any way.

This summary has been prepared for general information only. It is not intended to be a substitute for the judgment of the Court or to be used in any later consideration of the Court's judgment.

Should you wish to discuss any matters arising out of this article, please contact the author:

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