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The Office of Hawaiian Affairs hailed yesterday's landmark decision by the Hawai'i Supreme Court that prevents the sale of ceded lands until "unrelinquished claims" of Native Hawaiians have been resolved.

"We are extremely pleased with the decision. This is a major victory for Native Hawaiians. If the Courts and Legislatures at the State and Federal levels treat Hawaiian issues with fairness and justice, they will find that all of Hawai'i will benefit in the long term," said Board of Trustees Chairperson Haunani Apoliona. "In this instance, OHA believes that the Hawai'i Supreme Court correctly ruled the state should keep the ceded land trust intact until Native Hawaiian claims to these lands are settled."

In rendering its opinion, the high court relied primarily on the Apology Resolution, which was passed by both houses of Congress and then signed into law by then-President Bill Clinton in 1993, the year that marked the 100th anniversary of the overthrow of the Hawaiian Kingdom.

The resolution apologized to Native Hawaiians for the United States' military participation in the illegal overthrow.

"We believe ... that the Apology Resolution – which is at the heart of the plaintiffs' claim – and the related state legislation, give rise to the State's fiduciary duty to preserve the corpus of the public land trust, specifically, the ceded lands, until such time as the unrelinquished claims of the native Hawaiians have been resolved," according to the unanimous opinion written by Chief Justice Ronald Moon.

In 1994, OHA and four individual plaintiffs – Pia Thomas Aluli, Jonathan Kamakawiwo'ole Osorio, Charles Ka'ai'ai and Keoki Kamaka Ki'ili – sued to prevent the State of Hawai'i from selling ceded lands.

At that time, the State was ready to sell about 500 acres in Lāhaina in a project called Leiali'i and another 1,000 acres in Kona in a project referred to as La'i'ōpua.

The lawsuit alleged that in light of the Apology Resolution, the State as trustee of the ceded land trust should not sell ceded lands pending resolution of Native Hawaiian claims to ceded lands.

In 2002, Circuit Judge Sabrina McKenna entered judgment in favor of the State and held that the State was authorized under the Admission Act to sell ceded lands.

The Hawai‘i Supreme Court reversed the lower court decision, and held that the Apology Resolution and similar State legislation required the State to not sell ceded lands pending resolution of Native Hawaiians claim to those lands through the political process.

The Supreme Court ordered that the case be remanded to the Circuit Court with instructions to issue an order granting the plaintiffs’ request for an injunction against the defendants from selling or otherwise transferring to third parties the Leiali‘i parcel and any other ceded lands from the public land trust until the claims of the Native Hawaiians to the ceded lands have been resolved.

“In light of the decision, plans to form a Native Hawaiian governing entity must move forward expeditiously, with discipline and focus. Only our native government can resolve the issues of land claims. If Native Hawaiians want resolution and reconciliation to occur, we must sign up – KAU INOA now – and be prepared to participate in the process,” Apoliona said.

This decision does not directly impact the pending \$200 million settlement with the State of Hawaii over past due ceded land revenue covering 1978 through 2008. The settlement must be approved by the 2008 state Legislature.

Trustee Apoliona added: “Even though this is a significant decision, it does not change the manner in which the State manages and uses the public lands because except for the efforts to sell lands in Lāhaina and Kona in the early 1990s, the State has never before or since had a practice of selling public lands. The decision simply maintains the status quo pending resolution of the overthrow claims by a reorganized Native Hawaiian Governing Entity, which is all OHA wanted to achieve from this case.”