

IN THE COURT OF APPEAL
APPELLATE JURISDICTION

CIVIL APPEAL NO. ABU 19 of 2012
High Court HBC 139 of 1996

BETWEEN : LAUTOKA CITY COUNCIL

Appellant

AND : AMBARAM NARSEY PROPERTIES LIMITED

First Respondent

MOHAMMED YAKUB KHAN, MOHAMMED NASIR
KHAN, MOHAMMED SABIR KHAN, MOHAMMED
IQBAL KHAN, MOHAMMED MUKTAR KHAN AND
MOHAMMED AZAD KHAN

Second Respondents

In the Matter of an Application to have the Judgment
of the Court of Appeal dated 5 March, 2014 clarified

BETWEEN : MOHAMMED YAKUB KHAN, MOHAMMED NASIR
KHAN, MOHAMMED SABIR KHAN, MOHAMMED
IQBAL KHAN, MOHAMMED MUKTAR KHAN,
MOHAMMED AZAD KHAN

Applicants – Second Respondents

AND : AMBARAM NARSEY PROPERTIES LIMITED

Respondent – First Respondent

LAUTOKA CITY COUNCIL

Respondent - Appellant

Coram : **Calanchini P
Basnayake JA
Almeida Guneratne JA**

Counsel : **Ms. S. Ali for the Appellants
Mr. D. Sharma for the 1st Respondent
Lautoka City Council (Original Appellant) Excused**

Date of Hearing : **25 May 2015**

Date of Ruling : **28 May 2015**

RULING

Calanchini P

[1] I agree with the order proposed by Guneratne JA.

Basnayake JA

[2] I too agree with the orders proposed by Guneratne JA.

Almeida Guneratne JA

[3] This is an application by the 2nd Respondents to the original appeal before this Court filed on 29 July, 2014 to have the Judgment of this Court dated 5 March, 2014 clarified. (hereinafter referred to as the Applicants).

[4] That part of this Court's judgment on which 'clarification' is sought reads thus:

“On the resulting sum, the first respondent shall be entitled to recover the sums awarded by the trial judge together with the rates of interest given by him up to the date of this judgment.”

(vide : Order 2 of the Judgment)

- [5] The “resulting sum” or the sums awarded by the trial judge included the three components *viz*:
1. Sum awarded for the loss caused to the Ambaram Narsey building.
 2. Loss of rental flowing as a consequence of 1.
 3. Cost of expert reports and photocopy.
- [6] The sum awarded for cost of expert reports and photocopying being varied by our judgment of 5 March, 2014 and an appeal to the Supreme Court against that having been dismissed there remained only components 1 and 2 referred to above in the sums awarded by the trial judge.
- [7] The interest given by the trial judge is referable to both those components as would be clear from the word together used in the said order.
- [8] It is only the interest awarded by the trial judge on those components that was intended to run up to the date of our judgment dated 5 March, 2014.
- [9] Had there been any doubt on that, we hope that it stands resolved now.
- [10] In regard to this Court’s power to clarify its own judgments we found a useful authority in **Shell Fiji Limited v. Chand** [2012] FJSC 16 which was referred to by learned counsel for the Applicants.

Orders of Court

1. The judgment of this Court dated 5 March, 2014 shall stand clarified as stated in paragraph [8] above.

2. We make no order as to costs.



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Hon. Justice William Calanchini
PRESIDENT, COURT OF APPEAL



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Hon. Justice Eric Bansnayake
JUSTICE OF APPEAL



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Hon. Justice Almeida Guneratne
JUSTICE OF APPEAL