

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

Civil Action No. HBE 28 of 2012

BETWEEN : **MATALAQERE INVESTMENT LIMITED**

PETITIONER

AND : **YONG CHANG KIM** of Lot 29 Aurora Avenue, Makoi, 8 Miles, Nakasi,
Managing Director.

RESPONDENT

Solicitor for Petitioner : M/S Saumatua Bale & Faktaufon Lawyers
Solicitor for Respondent: Vuataki

RULING

1. Before me is a petition to wind up the company. After having perused all documents filed, I dismiss the petition with costs of \$800-00 (eight hundred dollars) to the company. My reasons follow:

- (i) the debt alleged was based on a verbal agreement between the petitioner, Yong Chang Kim, and one Rupeni Koroi. This fact is acknowledged in the submissions of the petitioner as follows:

"This is a simple and straightforward contract with one Rupeni Koroi. The terms of the contract were the supply of 200 tonnes of sugar in exchange for, consideration in the sum of \$96,325. No written agreement was entered into, it was a verbal contract".

- (ii) hence, clearly, the company was not privy to the above verbal arrangement.

As the petitioner's solicitors themselves admit (see below):

Rupeni Koroi directed the Petitioner to pay the consideration as follows:

- a) \$30,00 to the Company on 13.05.11
- b) \$20,000 to Rupeni Koroi on 17.07.11; and
- c) \$46,325 to Rupeni Koroi on 08.08.11

The 200 tonnes of sugar was never supplied by Rupeni Koroi. This winding up petition is only in respect of the \$30,00 claim paid to the Company on 13.05.11 upon Rupeni Koroi's instructions. As the sugar was not delivered, the Petitioner just wants his money back from the Company.

- (iii) the affidavit in opposition filed by one Manoa Vero Ravouvou, a director of the company, explains why Koroi had directed the petitioner to pay the company the \$30,000, which was paid accordingly on 13.05.2011.

...we have had no dealing with Yong Chang Kim. We had sold Lot 10 Vomo Street with a three bedroom house for \$150,00 to one Rupeni Koroi who is now residing in the house. Rupeni Koroi had paid his deposit by a cheque of \$30,00 which the company has disbursed. We had no knowledge of the Petitioner.

.....the company does not have any dealings with the Petitioner nor does the company owe any money to him. Any dealings between him and Rupeni Koroi should be between them.

....I therefore ask that the company be not wound up and the Petitioner take writ action against Rupeni Koroi

- (iv) the petitioner did in fact institute a writ action against Rupeni Koroi for which a judgement in his (petitioner's) favour in the sum of \$66,325-00 plus \$3,500 costs was entered by my brother Judge Lal S. Abeygunaratne on 20 November 2014 and reported in paclii in Kim Yong Chang v Koroi [2014] FJHV 845; HBC201.2012 (20 November 2014)

ORDERS:

- (i) Petition dismissed.
(ii) Costs to the Respondent Company which I summarily assess at \$1,000-00 (one thousand dollars only).



.....
Anare Tuilevuka

JUDGE

06 August 2015.