

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

Civil Action No. HBC 137 of 2017

BETWEEN : **KESAIA MARAMA NAVA**

Plaintiff

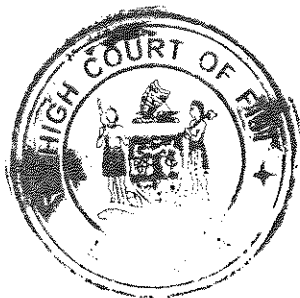
AND : **ROSI PICKERING**

Defendant

R U L I N G

1. Before me is an Originating Summons filed by the plaintiff pursuant to section 169 of the Land Transfer Act (Cap 131) seeking an Order that the defendant deliver vacant possession to the plaintiff of a parcel or piece of land comprised in i-Taukei Lease No. 31456 being Nabulivou (part of) Lot 1 on SO 6702 containing an area of 1089 square meters and situated in the province of Ba.
2. The plaintiff is the registered proprietor of the lease in question. The onus is on the defendant to show cause under section 172 of the Land Transfer Act as to why an Order for vacant possession should not be given.
3. The defendant did so by giving evidence that her now deceased mother was a tenant of the plaintiff on the said land. Whilst the defendant's mother was still alive, she entered into a sale and purchase agreement with the plaintiff to purchase the said land for consideration.
4. The defendant says that her mother did pay a considerable sum of money as part of the consideration pursuant to the said agreement.
5. No evidence has been placed before me to suggest that the said Agreement was ever consented to by the i-Taukei Lands Trust Board as required under section 11 of the i-Taukei Lands Trust Act.
6. Without such consent, the Agreement, and the resulting transaction and part-payment made, are therefore illegal. The defendant cannot therefore derive a valid show-cause argument from such.

7. She would be best advised to pursue a separate action to recover the said money under a different cause of action (not pursuant to the said Agreement) in a fresh action.
8. I grant Order in Terms of the Application. In the circumstances of this case, I feel that the plaintiff should bear her own costs.



A handwritten signature in black ink, appearing to be "Anare Tuilevuka", written over a dotted line.

Anare Tuilevuka
JUDGE

14 December 2017.