

IN THE HIGH COURT OF FIJI
AT LAUTOKA
APPELLATE JURISDICTION

CIVIL APPEAL No. HBA 10 OF 2017

BETWEEN : **LAND TRANSPORT AUTHORITY** a statutory body established
by the Land Transport Act 1998.

DEFENDANT/APPELLANT

AND : **CHANDRIKA PRASAD** of Nadi Town, Businessman.

1ST PLAINTIFF/1ST RESPONDENT

AND : **PVV TOURS LIMITED** a limited liability company having its
registered office at Main Street, Nadi Town.

2ND PLAINTIFF/2ND RESPONDENT

Appearances : Mr S. Krishna for the appellant
Ms A.B. Swamy for the respondents

Date of Hearing : 13 March 2018

Date of Judgment: 13 March 2018

J U D G M E N T

[01] This is an appeal against the decision of the Nadi Magistrate's Court. By his decision dated 20 January 2017, the learned Magistrate gave judgment for the plaintiffs (the respondent here) and granted special damages of \$4,400.00, costs to be summarily assessed at \$2,000.00 and further awarded interest of 5% from the date of the writ.

[02] When the matter came up for hearing, counsel advised the court that the parties have settled the matter for \$8,600.00 plus costs of \$750.00 as full and final settlement and asked me to enter judgment accordingly.

[03] In appeal, the appellate court has full jurisdiction over the whole proceedings as if the proceedings had been instituted and prosecuted in the appellate court as a court of first instance. **Order 37, Rule 18** of the Magistrates' Courts Rule (MCR) states:

"18. The appellate court may, from time to time, make any order necessary for determining the real question in controversy in the appeal, and may amend any defect or error in the record of appeal, and may direct the court below to inquire into and certify its finding on any question which the appellate court thinks fit to determine before final judgment in the appeal, and, generally, shall have as full jurisdiction over the whole proceedings as if the proceedings had been instituted and prosecuted in the appellate court as a court of first instance, and may rehear the whole case, or may remit it to the court below to be reheard, or to be otherwise dealt with as the appellate court directs." [Emphasis provided]

[04] Both counsel confirm that the parties had agreed to settle the matter. I would, therefore, acting under rule 18, give judgment by consent for the respondent (the plaintiff) in the sum of \$8,600.00 together with cost of \$750.00.

[05] Of enforcement of judgments, decrees or orders on appeal, Order 37, Rule 20 of the MCR states:

"20 Any judgment, decree or order given or made by the appellate court may be enforced by the appellate court or by the court below, according as the appellate court may consider most expedient and may direct."

[06] I direct, pursuant to Rule 20 of the MCR, that this judgment to be enforced by the court below.

[07] In view of the settlement, I would dismiss the appeal without costs.

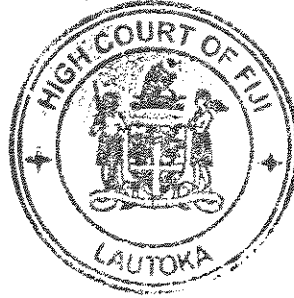
The Result

1. Appeal dismissed with no order as to costs.
2. Judgment by consent for the respondents (plaintiffs) in the sum of \$8,600.00 with costs of \$750.00.
3. The Deputy Registrar is to transmit the record to the court below setting forth the judgment.

M.H. Mohamed Ajmeer
13/3/18

M.H. Mohamed Ajmeer

JUDGE



At Lautoka

13 March 2018

Solicitors:

For the appellant: Land Transport Authority, Legal Department.

For the respondents: M/s Patel & Sharma Lawyers, Barristers & Solicitors.