

In the High Court of Fiji

At Suva

Civil Jurisdiction

Civil Action No. HBC 165 of 2019

Teng Hui Construction Company Pte Ltd

Plaintiff

v

Jagdishwar Prasad

Bindra Mati

Defendants

Counsel: Ms L. Prasad for the plaintiff
Mr F. Haniff for the defendants

Date of hearing : 17th June, 2020

Date of sentence : 24th June, 2020

SENTENCE

1. On 17th June, 2020, I convicted the plaintiff company and its Directors Jiayun Chen and Zhifeng Chen of contempt of Court in disobeying the Order of Court of 6th November, 2019, in failing to give up possession of the land and premises in Lot 1 on DP No. 2357 comprised in CT No. 11510 to the defendants and return the original keys and the five sets of duplicate keys of the 20 units in the premises, to the defendants. I invited submission on sentence.

2. On 19th June, 2020, the parties appeared before me. Mr Haniff, counsel for the defendants filed written submissions. Ms Prasad, counsel for the plaintiff moved for time to file written submissions, as her firm got onboard the day before. I made order that the plaintiff file written submissions by close of day.
3. The written submissions filed on behalf of the plaintiff company submit that its contumacious conduct in disobeying the Order of 6th November, 2019, is attributed to the negligence of the plaintiff's former solicitors, Law Solutions and ought to be taken into consideration during the sentencing of the plaintiff's Director. The former solicitors never informed plaintiff of the nature and seriousness of the contempt proceedings and did not file affidavit in opposition, adduce evidence nor cross examine witnesses of the defendants. They acted to the detriment of the plaintiff company by informing Court that the plaintiff had no case.
4. The alleged reasons are not acceptable. As Lord Romer stated in *Hadkinson v Hadkinson*, [1952] 2 All ER 567 at pg 571 "*Disregard of an order of the court is a matter of sufficient gravity, whatever the order may be*".
5. Lord Romer at pg 569 cited Lord Cottenham LC in *Chuck v Cremer*, (1 Coop.temp, Cott 342) as follows:

A party, who knows of an order, whether null or valid, regular or irregular, cannot be permitted to disobey it... It would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an order is null or valid—whether it was regular or irregular. That they should come to the court and not take upon themselves to determine such a question. That a course of a party knowing of an order, which was null or irregular, and who might be affected by it, was plain. He should apply to the court that it might be discharged. As long as it existed it must not be disobeyed.

6. The plaintiff submits that on receiving sound legal advice by Sherani & Co., it has understood the seriousness of the proceedings and is in the process of removing all its belongings from the property and handing over the keys to the defendants on 22 June, 2020.
7. The plaintiff and the company and its Directors Jiayun Chen and Zhifeng Chen continue to breach my Order of 6th November, 2019, and have not purged the contempt.
8. **Orders**

In the result, I make the following Orders:

- a. I impose a fine of \$ 10,000.00 on the plaintiff company and its Directors Jiayun Chen and Zhifeng Chen jointly and severally to be paid within 14 days of this Judgment.
- b. In default of payment of the said fine within the stated period, the Directors Jiayun Chen and Zhifeng Chen are sentenced to prison for three (03) months.



A.L.B. Brito-Mutunayagam

A.L.B. Brito-Mutunayagam
JUDGE
24th June, 2020