

In the High Court of Fiji
At Suva
Civil Jurisdiction

Civil Action No. HBC 386 of 2020

Marco Polo Holdings Pte Limited
Plaintiff

v.

Sandeep Anand Reddy
Defendant

Counsel: Mr A. Patel for the plaintiff
Ms K. Saumaki for the defendant
Date of hearing: 13th October,2022
Date of Judgment: 24th May,2023

Judgment

1. By summons filed on 13th January,2022, the plaintiff seeks an order to sell the defendant's interest iTaukei Lease No. 35476 Vunivaudamu (part of) being Lot 1 on Plan SO 8763 in Nausori, an area of 1027m² to recover its judgment debt and costs.
2. The supporting affidavit states that the plaintiff obtained default judgment and registered the judgment on the defendant's lease with the Registrar of Titles.

3. *Chronology of events*
- a. On 8th February, 2021, default judgment was entered against the plaintiff.
 - b. On 15th November, 2021, the plaintiff registered the judgment on the defendant's lease.
 - c. On 3rd March, 2022, the defendant filed summons to set aside the default judgment.
 - d. On 10th March, 2022, the Master made Order that the plaintiff's summons for sale of property is on hold.
- On 23rd August, 2022, the Master dismissed the summons to set aside the default

4. The issue is whether the registration of the judgment has expired.

5. Section 105(2) of the Land Transfer Act states :

Every judgment, decree or order shall cease to bind, charge or affect any estate or interest in land in respect of which it is registered unless a transfer upon a sale under such judgment, decree or order shall be presented to the Registrar for registration within six months or such extended period as the court by order made on application to it upon summons shall determine, from the day on which the copy of such judgment, order or decree was served. (emphasis added)

6. In *Wai Hing Lee v Lun Sui Fong*, [2012 FJCA 53; ABU0029.2011 (28 September, 2012) Basanayake J , as referred to in the written submissions filed on behalf of the defendant said:

In terms of section 105(2) of the Land Transfer Act judgment shall cease to bind any estate, unless a transfer upon a sale of such land be presented to the Registrar for registration within six months. In terms of this section the validity period of registration of judgment is six months. The winning party should execute the judgment during the validity period of the registration. The validity period is subject to extensions by court. ..

The registration is for a limited time period (6 months) but the judgment creditor can, upon good reasons, seek to extend the registration if he has been unable to sell the land during that period: s 105(2). A judgment creditor who fails to extend the registration may not be able to register the judgment a second time. There is no provision in the Act for a second registration. (emphasis added)

7. **In *Ambaram Nasey Properties Ltd Khan*, [2021] FJHC 193 Tuiveleka J said:**

Section 105 has been interpreted to mean that any application for extension of registration has to be made before the expiry of the preceding 6 month period. (emphasis added)

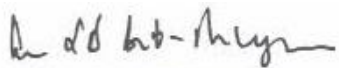
8. ***Ambaram Nasey Properties Ltd Khan*, was referred to by Seneviratne J in *Prasad v Hussain*, [2021] FJHC 236;**

The other question is whether judgment creditor is entitled in law to register the judgment more than once. Section 104 and 105 of the Land Transfer Act 1971 provides for only one registration and the period of six months prescribed by section 105(2) can only be extended by court only on an application in that regard made by the judgment creditor. The power conferred upon the court by the statute cannot be exercised by the judgment debtor. Registering of a judgment amounts to an extension of the time prescribed by section 105(2) which a judgment creditor is not entitled in law to do. Therefore, the court will only take into consideration the first registration of the judgment. At the time this application is made by the plaintiffs the period of six months prescribed by section 105(2) has long been lapsed and the plaintiffs' application for extension of time to register the judgment is liable to be dismissed.

9. In my view, the law is clear.
10. The registration of a judgment lapses in six months. An application for extension has to be made before the expiry of that period, which has not been done in the present case.
11. The plaintiff registered the default judgment on the lease on 15 November 2021. In terms of section 105(2), the registration lapsed on 15th May,2022.
12. The plaintiff's summons fails.

13. **ORDERS**

- a. The plaintiff's summons is declined.
- b. I make no order as to costs.


A.L.B. Brito-Mutunayagam
JUDGE
24th May, 2023

