IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

CIVIL ACTION NO. HBC 013 OF 2020

BETWEEN	:	**NITYA NAND** **Plaintiff**
AND	:	**RAM RAJ & PUHPA WATI** **Defendants**
AND	:	**THE DIRECTOR OF LANDS** **Nominal Defendant**
Counsel	:	**Mr D Nair & Ms Dean for the Plaintiff** **Ms Maharaj for First Defendants** **Mr V Ram for Nominal Defendant**
Hearing	:	**14 & 15 October 2024**
Judgment	:	**15 January 2025**

JUDGMENT

[1] The Plaintiff claims that his neighbours, the Defendants, have trespassed onto his property. He seeks damages as well as orders that the Defendants remove an encroachment situated on the Plaintiff's property.

[2] The land in question is Lots 3 and 4 of Certificate of Title No. X1/05-06 (Pt of), DP No. 11077, located at Narere, Suva. The Plaintiff holds a State Lease over Lot 4 while the Defendants hold a State Lease over the adjoining land, Lot 3.

Relevant facts

[3] Each of the three parties called one witness. The Plaintiff gave evidence as did the first-named defendant. The Nominal Defendant called one of its officers, Ms Ema Nava, a Lands Officer. The facts below incorporate the evidence provided by the three witnesses.

[4] The subject land was once a squatter settlement. The first-named defendant, Mr Ram Raj, moved onto the settlement about 44 years ago and built his first house.

[5] Mr Raj says that in about 2000, the Lands Department took steps to survey the squatter settlement in order to subdivide it and issue leases to the occupiers. He says that a surveyor placed pegs into the ground to mark the boundary for each of the occupiers' properties. Mr Raj then built the house that he currently resides. He built a concrete and wire fence on his boundary where the pegs were laid. He says that the survey and leases did not materialize but the pegs are still in place.

[6] Mr Raj also states that at some point, before the Plaintiff moved onto the settlement next to his dwelling, he laid pipes under the ground to take his sewage to the nearby creek - these pipes are situated under what is now Lot 4, being the Plaintiff's property. Subsequent grading of the land by the Lands Department has caused the pipes to be unearthed and broken.

[7] In 2002, the Plaintiff and his family moved onto the settlement next to the Defendants' dwelling. The Plaintiff built his own dwelling. He accepts that when he moved onto the settlement the Defendants had already built their present dwelling but does not accept that the Defendant's fence was then built.

[8] In about 2017, the Lands Department surveyed the squatter settlement in order to subdivide it and issue leases to the occupiers. The Plaintiff accepts that the Defendants fence was already built by this time. Pegs were placed into the ground by surveyors to mark the boundaries for each property. The surveyors were required to mark the boundaries based on the usage of the land by the occupiers and the location of their dwellings and other structures – it was necessary for the surveyors to communicate with the occupiers to obtain this information. Ms Ema Nava explained this process in her evidence as follows:

> ***Judge:*** ***...When the survey was done, was the surveyor expected to prepare the survey having regard to the existing structures that were already in place? Dwellings, fences, that sort of thing?***
>
> *Ms Ema:* *Yes. They'll consider before the final approval of... and if in the regularization process, if they see that the boundary lines are crossing the common boundary, some of the structures are crossing the... we will inform the occupants to...*
>
> ***Judge:*** ***So who would inform the occupants? The surveyor?***

Ms Ema:	*Yes.*
Judge:	***And when you say structures, you mean dwellings or sheds? Would that include fences?***
Ms Ema:	*Yes. If they are not necessarily the structures, the dwellings, but if it's for fencing or... But in some situations where the houses are so close together, we'll inform them.*
Judge:	***Okay. And I take it the surveyor would... Part of their job is to speak to the people living there.***
Ms Ema:	*Yes.*
Judge:	***And find out where things are at, which is their property and so on.***
Ms Ema:	*Yes*
Judge:	***All right. And if no one is there to talk to, then they have to make their own mind up as to how it works.***
Ms Ema:	*Yes*
Judge:	***Clearly the pegs, if there's a house there, the pegs would take that into account. Is there a minimum distance that the pegs must be away from a dwelling? A metre, two meters, three meters? Do you know?***
Ms Ema:	*Yes My Lord that will come under the building line.*
Judge:	***Do you know what that measurement is offhand? Again, I understand you're not the Suva City Council. That would be their job, wouldn't it?***
Ms Ema:	*Yes, in this case it's Nausori Town Council.*
Judge:	***So they would be responsible for that. Most of these dwellings that were there would have been built before the subdivision. Were they required to be compliant with Suva City Council laws for construction?***
Ms Ema:	*Yes, but in the case of informal settlements, they carry out, maybe it's difficult to show the issues of a boundary, but they carry out, they visit the site and speak to the community.*

[9] The pegs marking the boundary line between Lot 3 (the Defendants' property) and Lot 4 (the Plaintiff's property) were placed on the Defendants' side of their fence, about a metre from their dwelling, so that the Defendants' fence was well within the Plaintiff's side of the boundary line. Residential leases were then executed with the Plaintiff and Defendants upon payment of fees of $663.99 – the fees were for

registration, drawing, plan fee and survey fees. The area of the Defendants' property is 193 square metres while the Plaintiff's property is 208 square metres.

[10] After the leases were issued, it appears that problems began between the Plaintiff and the Defendants. The Plaintiff complained to the Director of Lands that the Defendants' fence encroached onto the Plaintiff's land. An Encroachment Notice was sent by the Director to the Defendants on 5 June 2019 advising the Defendants to remove their fence within 30 days. A second notice was sent to the Defendants on 5 August 2019 reminding the Defendants of the encroachment and giving them a further 14 days to remove the fence. The Defendants did not remove their fence. The Plaintiff claims that the encroachment caused him to lose an opportunity to construct a large dwelling on his property. The Plaintiff says he instructed architects to prepare drawings and applied for a grant of $30,000. Neither the construction nor the grant could be advanced because of the Defendants' refusal to remove the fence.

[11] Other complaints by the Plaintiff, include a complaint to the Nasinu Town Council regarding the alleged smell and sewage coming from the Defendants' property onto his property and allegedly affecting his family's health and the enjoyment of their property. From the evidence, it appears that the sewage smell came from the broken sewage pipe laid by the Defendants some decades earlier. The Plaintiff also made a complaint to the Town Council regarding a cage with chickens kept on the Defendants' property. The cage was removed by the Defendants following an inspection by the local authorities. It appears that the sewage problem was fixed in about December 2023 when the Defendants connected their sewage to the main Suva sewage line.

[12] A site visit was conducted by the Court on 15 October 2024 with counsel and the parties in attendance. The Court was able to observe the dwellings and the other main structures on the two properties including the 2017 pegs and the Defendant's fence. The pegs allegedly placed in 2000 could not be seen.[1]

Pleadings

[13] The Plaintiff pleads that the Defendant has trespassed onto his property by building a structure on his land and by failing to prevent the disposal of waste, sewer effluent

[1] The first-named defendant stated at the site that the pegs were under the ground by the concrete fence. The Plaintiff stated that he had never seen these pegs.

and poultry waste onto his land. He seeks damages for these interferences including his inability to construct a proper dwelling on his property. He pleads breaches of s 56(a), (b), (d) and (e) of the Public Health Act Cap 111. The Plaintiff seeks an order that the Defendants remove the unlawful encroachment (the fence) on his property and seeks damages for the interference, discomfort and damage caused by the Defendants' trespass.

[14] The Defendants contend that the encroachment was already in place before the 2017 survey and was in accordance with the earlier 2000 survey. The Defendants seek an order under s 109 of the Property Law Act '*that the part of the land encroached upon be vested in the Defendants subject to any terms and conditions the Court deems just and equitable*'.[2]

Decision

[15] The Plaintiff seeks damages for interference by the Defendants with his rights to the use of and enjoyment of his property in the following ways:

i. The unlawful encroachment (fence) on his property.

ii. The unlawful encroachment (fence) prevented the Plaintiff from being able to construct his own dwelling.

iii. The unlawful disposal of effluent and other waste onto the Plaintiff's property.

iv. The unlawful rearing of poultry (chicken) and disposal of its waste onto the Plaintiff's property.

Unlawful encroachment (fence)

[16] The Plaintiff claims that the Defendants have trespassed by constructing an unlawful fence on his property. The Defendants argue that the fence was constructed well before the survey in 2017 and, thus, is not unlawful. The Defendants seek orders under s109 of the Property Law Act 1971 that the Director of Lands resurvey the boundary in line with usage of the land immediately before the survey.

[2] Para 5 of Defendants' Statement of Defence.

[17] Section 109 reads:

> *(1)* ***Where any building on any land, whether erected before or after the commencement of this Act, encroaches on any part of any adjoining land*** *(that part being referred to in this section referred to as the encroaching owner) or by any of his predecessors in title,* ***either the encroaching owner or the owner of the piece of land encroached upon any apply to the court, whether in any action or proceeding then pending or in progress and relating to the piece of land encroached upon or by an originating summons, to make an order in accordance with the provisions of this section in respect of that piece of land;***
>
> *(2)* ***If it is proved to the satisfaction of the court that the encroachment was not intentional and did not arise from gross negligence****, or where the building was not erected by the encroaching owner,* ***if in the opinion of the court it is just and equitable in the circumstances that relief should be granted to the encroaching owner or any other person, the court,*** *without ordering the encroaching owner or any other person to give up possession of the piece of land encroached upon or to pay damages, and without granting an injunction,* ***may in its discretion make an order****:*
>
> > *(a)* ***Vesting in the encroaching owner*** *or any other person* ***any estate or interest in the piece of land encroached upon****; or*
> >
> > *(b) Creating in favour of the encroaching owner or any other person, any easement over the piece of land encroached upon; or*
> >
> > *(c)* ***Giving the encroaching owner or any other person the right to retain possession of the piece of land encroached upon****.*
>
> *(3) Where the court makes any order under the provisions of this section, the court may, in the order, declare any estate or interest so vested to be free from any mortgage or other encumbrance affecting the piece of land encroached upon, or vary, to such extend as it considers necessary in the circumstances, any mortgage, leave or contract affecting or relating to that piece of land;*
>
> *(4)* ***Any order under the provisions of this section, may be made upon and subject to such terms and conditions as the court thinks fit, whether as to the payment by the encroaching owner or any other person of any sum or sums of money, or the execution by the encroaching owner or any other person of any mortgage, lease, easement, contract or other instrument, or otherwise;***
>
> *(5)* ***Every person having any estate or interest in the piece of land encroached upon or in the adjoining land of the encroaching owner****, or claiming to be a party to or to be entitled to any benefit under any mortgage, lease, contract or easement affecting or relating to any such land,* ***shall be entitled to apply for an order under the provisions of this section, or to be heard in relation to any application for or proposal to make any such order****. For the purposes of this subsection the court may, if in its opinion notice of the application or proposal should be given to any such person, direct that such notice as it thinks fit shall be given to that person by the encroaching owner or any other person.*[3]

[18] The provision applies where any building on any land encroaches on any part of an adjoining land. The Defendants are the '*encroaching owner*' as the term is used under

[3] My emphasis.

s 109. Under s 109(2), the court may, where the encroachment is not intentional and does not arise from gross negligence, vest in the encroaching owner an interest in the land encroached upon.

[19] The Defendants' dwelling does not encroach onto the Plaintiff's land. The Defendants have, however, concreted their driveway past the 2017 pegs by about half a metre onto the Plaintiff's property. The Defendants' fence is about 1-2 metres on the Plaintiff's side of the boundary line. The fence and the concrete driveway (and a scaffolding type structure) encroach onto the adjoining property.

[20] Does the fence and/or the concreting and/or the scaffolding type structure constitute '*any building*' as the term is used under s 109? If the term 'building' means a structure with a roof or walls then the answer is no. The term is not defined in the Property Law Act or the Interpretation Act 1967. It is not obvious from the use of the word under s 109 whether it is the former or latter. I directed the parties to file written submissions on whether they accepted that '*any building on [the Defendants'] land encroaches on any part of an adjoining [Plaintiff's] land*' as required under s 109(1). Both parties filed written submissions accepting this requirement had been satisfied.[4] The Plaintiff noted that in *Patel v Narayan* [2008] FJHC 46 (20 March 2008) the High Court interpreted the meaning of building to include '*footpaths, sewage tanks and fences etc*'.[5] The particular passage by High Court reads:[6]

> *It is not in dispute that a part of defendant's building encroaches onto plaintiff's property. There is a concrete footpath beside the building. This footpath would not be there had it not been for the building. The footpath is used as access to bottom floor of the building. The word building in Section 109(1) is not confined to building in the strict sense but extends to* ***"everything necessary to the integrity and basic usability of the structure itself"****: Anchorage Holdings Ltd. v. Stevenson & Another - (2006) NZHC 552.*

[21] The evidence of the first-named defendant at trial was that the Defendants' dwelling was constructed before the Plaintiff moved onto the neighbouring land and that he had built the fence before the 2017 survey. The Plaintiff does not dispute the same. He says, however, that the Defendants have extended their dwelling past the boundary line. From the site visit, it can be seen that the Defendants have (since 2017) constructed a

[4] Albeit for different reasons.
[5] Para 1.4 of Further Submissions by the Plaintiff dated 19 December 2024.
[6] Page 2 of the Judgment.

scaffolding type structure with a light roof at the end of, and attached to, their dwelling facing the Plaintiff's property. They have concreted the driveway past the pegs onto the Plaintiff's property. The Defendants argue that the fence, concrete driveway and overhanging roof of their building encroaches onto the Plaintiff's land.[7]

[22] I accept that part of the Defendants' building has encroached onto the Plaintiff's adjoining land. Both parties accept this conclusion. I interpret the term 'building' to mean a structure that has some element of permanent attachment to the land. The fence, concrete driveway and scaffolding each come within this meaning of building.

[23] The next question is whether the Defendants satisfy the test under s 109(2). I am assisted here by the following passage of Inoke J in *Hardip Narayan & Sons Ltd v Kellapan* [2009] FJHC 137 (2 July 2009) at [34]:

> *Subsection 2 of section 109 has two limbs in my opinion. The first is where the encroaching building was erected by the encroaching owner, i.e. the current owner of the land and building. The second is where the encroaching building was erected by a predecessor in title. It is important to distinguish the two because what the Court has to decide is different for each case. For the first limb, the Court need only be satisfied that the encroachment was not intentional and did not arise from gross negligence. For the second limb, the Court must be satisfied that it is just and equitable that relief should be granted. Consideration of whether there was intention and gross negligence may come into the determination of whether it is just and equitable to grant relief but not necessarily so in all cases. In this respect I differ from Justice Singh in **Patel** v **Narayan** **[2008] FJHC 46; HBC 570.2007.***

[24] The Defendants did construct the encroachment and, therefore, the test that applies here is whether the encroachment was not intentional and did not arise from gross negligence. I am satisfied that the encroachment was neither intentional nor the result of gross negligence. The fence was built before the 2017 survey and was not an encroachment when constructed. While it appears the scaffolding type structure and concrete driveway were constructed after the leases were issued (the precise timing is unclear) they were constructed on the Defendants' side of their fence, being land that the Defendants had been using for many years prior to the 2017 survey.

[7] Para 31 of Closing Submissions of the Defendant dated 18 December 2024.

[25] While it is not necessary to consider whether it is just and equitable to grant relief for the Defendants', inevitably such considerations arise when deciding whether to give the Defendants part of the Plaintiff's legal property. Again, I am satisfied that it is just to do so. It is difficult to follow the surveyor's decision regarding the boundary line between Lots 3 and 4. The surveyor faced a difficult task to mark the boundaries for each of the properties on the squatter settlement. The dwellings and other structures were constructed in a haphazard manner by the occupiers over four or more decades. The State Lease Diagram at Item 5 of the Plaintiff's Bundle illustrates this difficulty. A large building on Lot 1 encroaches onto Lots 2, 5 and 6. On Lot 3 (the Defendant's property), a small building situated mainly on Lot 8 encroaches onto the Defendant's property. The surveyor will have needed to work through these difficulties with the occupiers to find an outcome that was palatable to each occupier

[26] That said, with respect to the boundary between Lots 3 and 4 the surveyor did not face a difficult decision. Indeed, the decision should have been simple, marking a boundary at the midpoint between their respective dwellings. Yet, the surveyor marked the boundary line on the Defendant's side of his fence and only about a metre from the edge of the Defendants' dwelling. The decision to mark the boundary so close to the Defendant's dwelling was plainly unreasonable. I arrive at this conclusion not only on a perusal of the State Lease Diagram but also having viewed the properties and the structures thereon.

[27] Accordingly, I have no hesitation in exercising the Court's power under s 109 of the Property Law Act to direct the Director of Land to re-survey the boundary between lots 3 and 4 to use a midpoint between the two dwellings. There will be consequences arising from the redrawing of the boundary line, which may result in the Plaintiff's premium being reduced (meaning a refund to the Plaintiff), and the Defendants' premium being increased (requiring a further payment by the Defendants. It may also impact on the amount of the rental that is payable by each party. That will be a matter for the Director of Lands to carry out. If the Defendants' fence falls on the Plaintiff's side of the new boundary line then the Defendants will be required to remove the fence at their own cost.

[28] Before considering the other alleged interferences by the Defendants, it is necessary to address the Plaintiff's contention that the encroachment (fence) interfered with his ability to build a proper residential dwelling. In evidence, he stated that he arranged for architects to prepare plans and had sought a grant of $30,000. There are several

problems for the Plaintiff with this contention. Firstly, as I have found, the Director of Lands decision to mark the boundary line so close to the Defendant's dwelling was unreasonable and, in fact, was responsible for creating this encroachment. Secondly, I am unable to understand why the fence prevented the Plaintiff from building a proper residential dwelling. The area of land in dispute is small. There is more than enough land not in dispute, on the Plaintiff's property, for a large dwelling to have been constructed.

Rearing chickens

[29] With respect to the Plaintiff's allegations regarding the chickens, I find there is no merit to this claim. He complained to the local town council, council officers followed up his complaint by inspecting the Defendants' home, and the Defendants then removed the chickens. That should have been the end of the matter. It did not warrant litigation or any claim for damages.

Sewage discharge

[30] The same cannot be said of the Plaintiff's allegations regarding the discharge of sewage onto his property. The first-named defendant acknowledged that he laid pipes under the ground to take the effluent from his dwelling to the local creek. The pipes were later broken when the land was graded by the Director of Lands and sewage will have leaked from the broken pipes. The pipes were laid before the Plaintiff moved onto the land but the Defendants should have removed the pipes or fixed the problem as soon as it occurred – the Defendants did not have council permission to lay the pipes in the first instance. The effluent discharge caused a pungent smell and some health concerns for the Plaintiff. He made this clear to the Defendants who did not take steps until December 2023 to rectify the same. The Plaintiff was entitled to expect the Defendants to resolve the matter in a timely manner and they did not do so. I am satisfied that the Defendants interfered with the Plaintiff's use and enjoyment of his land and for which the Plaintiff should be compensated. In all the circumstances, I am satisfied that the amount of $5,000 is adequate compensation for this interference.

Consent of Director of Lands to file present proceedings

[31] The Defendants argue that the claim should be struck out because the Plaintiff has failed to obtain the consent of the Director of Lands to bring this proceeding as required under s 13 of the State Lands Act 1945. The provision reads:

> *(1) Whenever in any lease under this Act there has been inserted the following clause –*
>
> *"This lease is a protected lease under the provisions of the State Lands Act"*
>
> *(hereinafter called a protected lease)* ***it shall not be lawful*** *for the lessee thereof to alienate or deal with the land comprised in the lease of any part thereof, whether by sale, transfer or sublease or in any other manner whatsoever, nor to mortgage, charge or pledge the same, without the written consent of the Director of Lands first had and obtained,* ***nor, except at the suit or with the written consent of the Director of Lands, shall any such lease be dealt with by any court of law or under the process of any court of law****, nor, without such consent as aforesaid, shall the Registrar of Titles register any caveat affecting such lease.'*
>
> ***Any sale, transfer, sublease, assignment, mortgage or other alienation dealing effected without such consent shall be null and void.***
>
> *(2) On the death of the lessee of any protected lease his executors or administrators may, subject to the consent of the Director of Lands as above provided, assign such lease.*
>
> *(3) Any lessee aggrieved by the refusal of the Director of Lands to give any consent required by this section may appeal to the Minister within fourteen days after being notified of such refusal. Every such appeal shall be in writing and shall be lodged with the Director of Lands.*
>
> *(4) Any consent required by this section may be given in writing by any officer or officers, either solely or jointly, authorised in that behalf by the Director of Lands by notice published in the Gazette. The provisions of subsection (3) shall apply to the refusal of any such officer or officers to give any such consent. (Inserted by 21 of 1959, s. 2)*
>
> *(5) For the purposes of this section "lease" includes a sublease and "lessee" includes a sublessee.*[8]

[32] The leases held by the Plaintiff and Defendants are protected leases. The Plaintiff is required under s 13 to obtain the consent of the Director of Lands - there is no dispute

[8] My emphasis.

that the Plaintiff has not done so. In *Rasul v Singh* 10 Fiji Law Reports 16, at 17, Hammett Acting CJ provided the following comments on the predecessor to s 13:[9]

> *There is nothing in the express wording of section 15(1) which makes it necessary to obtain the consent of the Director of Lands before an action concerning a Protected Lease is initiated. All section 15(1) provides, in this connection, is that no court of law may deal with any such lease without the consent of the Director of Lands. It appears to me that the consent of the Director can therefore be obtained up to any time before the land is actually 'dealt with' by the Court, which in my view is certainly not the case at any time before an order has been made by the Court or a Judgment of the Court has been delivered. I can also see no reason why a Judgment of the Court dealing with the land could not properly be made 'subject to the consent of the Director of Lands, with liberty to apply for further orders should that consent not be granted'. For these reasons I did not consider there was any merit in the first preliminary objection...*

[33] Amaratunga J went further in *Begg v Khan* [2018] FJHC 47 (31 January 2018), stating:

> *13. The proviso the subsection 13(1) of State Lands Act states as follows*
>
> > *'Any <u>sale</u>, <u>transfer</u>, <u>sublease</u>, <u>assignment</u>, <u>mortgage</u> or <u>other alienation</u> or <u>dealing effected</u> without such consent **shall be null and void.'** (emphasis added)*
>
> *14. Litigation is not included in the above proviso to Sub Section 13(1) of State Lands Act, though 'process of court of law' also needed consent of the DOL in Section 13(1), this express omission is clearly distinguishable the proceedings in court from other 'dealings' stated in above quoted proviso to subsection 13(1) of State Lands Act.*
>
> *15. What was dealt in High Court decision of **<u>Waigele Sawmills Ltd v Colonial Mutual Life Assurance Ltd</u>** [2002] FJHC 297; HBC0042.1999 (20 May 2002) was a dealing that is expressly made null and void ab initio as stated in proviso to Subsection 13(1) of State Lands Act. This is not so when it is a litigation, or*

[9] Being s 15(1) of the Crown Lands Act.

process of court as the said proviso is silent on that. So the High Court decision can be distinguished from the issue raised in court below.

16. The ratio of the two cases submitted in the court below as well as in this appeal do not support the strike out of the action in the court below. In such a situation the RM was correct in his refusal to strike out the action. There is no error of law in dismissing the strike out. I affirm the decision of RM delivered on 7th March, 2017. The appeal is dismissed..

[34] It is not necessary that the consent of the Director of Lands is obtained before the proceeding commenced. Moreover, I respectfully agree with the learned Judge in *Begg v Khan* that a lack of consent does not invalidate the proceedings. It would be unusual to say the least if the Director of Lands' refusal to provide consent could prevent the Court from making orders in a proceeding. Here the Director is a nominal party and, therefore, not only aware of the proceedings but has taken an active role in the proceedings filing a Statement of Defence. It is significant that the Director does not plead that consent is withheld.

Orders

[35] My orders are as follows.

i. The Director of Lands is directed to redraw the boundary line between Lot 3 and Lot 4, at a midpoint between the main dwellings of the Plaintiff and the Defendants. The Director is to reissue leases to the Plaintiff and Defendants based on the redrawn boundary line. The Director is to bear the costs of redrawing the boundary line and issuing new leases. New leases are to be issued to the Plaintiff and the Defendants within 90 days.

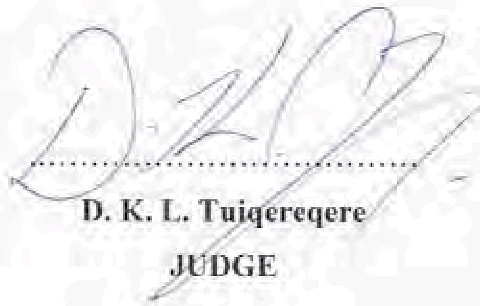
ii. Once the new leases are issued, in the event that the Defendants' fence is not on their property, then the Defendants are ordered to remove their fence within 30 days of the date of receiving the new lease after which, if the fence has not been removed by the Defendants, the Plaintiff may do so himself.

iii. The Plaintiff's claim succeeds in respect to the Defendants' previous improper discharge of effluent and waste from Lot 3 onto Lot 4 through the

pipes laid leading to the adjacent creek. The discharge has now been fixed by the Defendants. The Plaintiff is entitled to compensation for the previous interference in the amount of $5,000 payable by the Defendants within 3 months.

iv. The Plaintiff is entitled to costs for this proceeding summarily assessed in the amount of $2,500, payable by the Defendants within 3 months.

v. Leave is reserved for any party to apply for further orders.



D. K. L. Tuiqereqere
JUDGE

Solicitors:

Nilesh Sharma Lawyers for the Plaintiff

Capital Legal for the Defendants

Office of the Attorney-General for the Nominal Defendant