

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CIVIL JURISDICTION**

**Civil Action No HBC 90 of 2025**

**BETWEEN : HOME FINANCE COMPANY PTE LIMITED**  
**Plaintiff**

**AND : BEN NAYACAKALOU, MERE DIKELI NAYACAKALOU &**  
**OTHERS**  
**Defendants**

**Counsel : Ms Verma & Ms Prasad for the Plaintiff**  
**No appearance for Defendants**

**Hearing : 27 June 2025**

**Judgment : 27 June 2025**

**EXTEMPORE JUDGMENT**

**(on application for vacant possession)**

[1] The Plaintiff has filed an Originating Summons with a supporting affidavit seeking vacant possession under O.88 of the High Court Rules 1988 against the Defendants, Ben Nayacakalou and Mere Dikeli Nayacakalou *‘together with their family, dependents, agents, servants, and/or invitees who are not known to the plaintiff presently occupying the property’*. The **property** being *‘all that piece or parcel, including a dwelling house comprised and described in Native Lease No. 21516, described as Lot 2 as shown Lot 27 on SO 1805, known as Tuirara Subdivision, situated*

*at Lot 27, Poorva Road, Makoi, Nasinu in the Tikina and Province of Naitasiri having an area of 477 square metres, together with all the improvements thereon'.<sup>1</sup>*

- [2] The application for vacant possession arises out of a mortgage loan made by the Plaintiff to the two named defendants. The two named defendants have fallen into arrears and the bank wishes to exercise its rights to effect a mortgagee sale. Hence, the present application for vacant possession.
- [3] The proceedings have been served by email on the first named defendant who is overseas as well as the second named defendant in person – service occurring on 7 April 2025. With respect to the latter, at the time of service the second named defendant was residing at the property.
- [4] Neither named defendant has filed any papers indicating opposition to the Originating Summons. Indeed, by the time the hearing notice was served on the second named defendant, on 25 June 2025, she was no longer residing at the property - although it appears that family members may still be residing at that property.
- [5] There is no appearance at today's hearing by or for Defendants. Ms Verma has taken me through the requirements under O 88, in particular in respect to rule 3, and the content of the affidavit in support. I am satisfied that the Plaintiff complies with the requirements and is, therefore, entitled to the orders sought.
- [6] Accordingly, I make the following orders:
- i. The Defendants are to deliver to the Plaintiff **by or before 31 July 2025** vacant possession of all that piece or parcel, including a dwelling house comprised and described in Native Lease No. 21516, described as Lot 2 as shown Lot 27

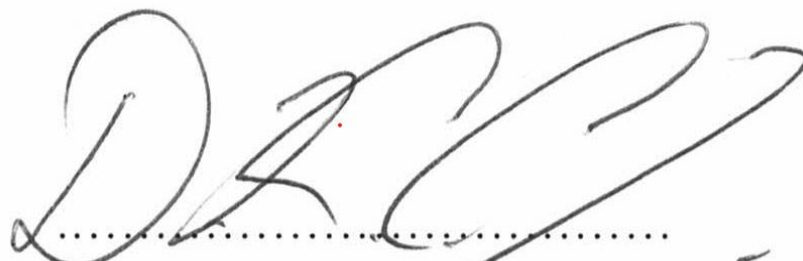
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<sup>1</sup> Refer A of Plaintiff's Originating Summons filed on 27 February 2025.

on SO 1805, known as Tuirara Subdivision, situated at Lot 27, Poorva Road, Makoi, Nasinu in the Tikina and Province of Naitasiri having an area of 477 square metres, together with all the improvements thereon (**property**), charged by the Defendants to the Plaintiff by Mortgage No. 761720, registered on 24 July 2012, to secure the monies therein mentioned.

- ii. The Defendants, their families, servants, agents and employees are restrained from in any way damaging, removing or interfering with the improvements to the **property** in any way so as to diminish its value.
- iii. There will be no order as to costs.



  
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**D. K. L. Tuiqereqere**  
**JUDGE**

**Solicitors:**

Mitchell Keil for the Plaintiff