

IN THE MAGISTRATE'S COURT AT LABASA

APPELLATE JURISDICTION

Civil Appeal No. 28 of 2019

SCT Claim No. 765 of 2019

BETWEEN : **NILESHWAR PRASAD**

APPELLANT

AND : **RUCI BALEINAVAVE**

RESPONDENT

Appearance : **Appellant** in person
Respondent in person

Judgment : **21 February 2020**

JUDGMENT

1. The Appellant is appealing the order of the Small Claims Tribunal (*Tribunal*) made on 12 November 2019. The notice of appeal was filed on 19 November 2019, and was within the 14 days required under *section 33(3)* of the *Small Claims Tribunal Act* (Act).
2. On 18 December 2019, both the parties confirmed to the court that they have received the copy record. Directions were issued for filing of submission.
3. The Appellant filed his submission on 24 December 2019. There was no submission filed by the Respondent. The appeal was heard on 15 January 2020.

Grounds of appeal

4. The grounds of appeal are;-
- (a) *That the Respondent spoke in itaukei language which was not fully translated.*
 - (b) *That I have documents where it shows that the money was taken.*
 - (c) *The documents breakdown is attached.*

Law

5. Section 33(1) of the Act state that the order of the Tribunal can only be appealed on the following two grounds ;-

- "a. the proceeding were conducted by the referee in a manner which was unfair to the appellant and prejudicially affect the result of the proceeding; or*
- b. the tribunal exceeded its jurisdiction."*

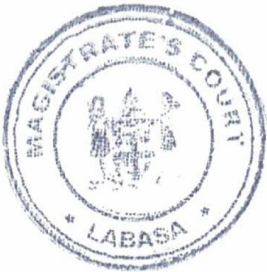
Analysis and determination

6. The second and third ground of appeal are not grounds of appeal and not a valid grounds of appeal. As such, the second and the third grounds of appeal are dismissed.
7. The first ground of appeal raised issue of fairness and come under *section 33(1)(a)* of the Act, and makes it a valid ground of appeal. In perusing the submission of the appellant, there is nothing in the submission to address and support this ground of appeal. The appellant did not provide or specify in his written submission the itaukei language that was not fully translated. The copy record does not support the allegation raised by the appellant.

As such, there is no information before this court to support the first ground of appeal. Accordingly, I find this ground has no merit.

8. The only material and relevant submission submitted by the appellant is when he stated that it was the first time for him to attend the Small Claims Tribunal and he did not provide enough evidence. Unfortunately, that is not a valid ground of appeal under *section 33* of the Act.
9. In assessing the grounds of appeal submitted by the appellant, they are all without merits.
10. In this judgment, I upheld the order of Tribunal and I dismiss the appeal with cost of \$500.00 to be paid by the Appellant to the Respondent within 31 days.

28 days to appeal.



A handwritten signature in blue ink, appearing to read "C. M. Tuberi". The signature is stylized and written over a horizontal line.

C. M. Tuberi
RESIDENT MAGISTRATE