

COX -v- FIELDER INDUSTRIES (SI) LIMITED

High Court of Solomon Islands

(Ward C.J.)

Civil Case No. 102 of 1989

Hearing: 29 June 1990

Judgment: 2 July 1990

J. Corrin for the Plaintiff

D. Campbell for the Defendant

WARD CJ: The plaintiff in this case obtained judgment in default of production of a report and damages were assessed by the learned Registrar. He gave judgment on that matter on 3rd May, 1990 and, on 16th May, counsel for the plaintiff received a copy of his judgment. An appeal was lodged on 1st June 1990 and Miss Corrin now comes to the court to seek an extension of time to lodge that appeal.

By O.57 r.1A(3) the time for appealing this matter is seven days even though it is a final order as the distinction between an appeal from an interlocutory and a final order found in the English rules is not reproduced in our rules. Miss Corrin urges the Court to allow her the extension because she feels the seven day period is too short in a complex case where, as here, her client has gone abroad and contact has to be by facsimile or telephone.

She also points out that the defendant's solicitor' does not wish to take the point and indeed, it is she who brings this application.

I appreciate it is a short period in which to appeal and is made more difficult where the client is abroad but I do not feel that shows sufficient reason here for the failure to appeal in time. This was a relatively complex assessment of damages but it followed the statement of claim. None of the matters were novel or raised new matters for consideration. It is true the written judgment did not reach counsel until some days later but it is the duty of counsel to make a note of relevant matters as, I have no doubt, Miss Corrin did. This was a case where the assessment had been argued by counsel at some length. As soon as the judgment was delivered, she must have known if any points merited an appeal.

Detailed instructions are not needed to make the decision of whether to appeal. Once that decision is made by the client, a notice of appeal could be filed to preserve the position. Having done that, further grounds could be added with leave and it is unlikely, in such a case, there would be any objection to that course.

The rules set a timetable in such matters so the parties obtain some finality.

I do not feel Miss Corrin has shown sufficient cause to have an extension of time and the application is refused. No counsel appeared for the defendants and so I make no order for costs of this application.

(F.G.R. Ward)
CHIEF JUSTICE