

IN THE FIJI COURT OF APPEAL

CIVIL JURISDICTION

CIVIL APPEAL NO. 31 OF 1989

BETWEEN

1. <u>SURESH SUSHIL CHANDRA CHARAN</u>	)	
2. <u>ANURADHA CHARAN</u>	)	Appellants

and

<u>SUVA CITY COUNCIL</u>	Respondent
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Appellant in Person

Ms Tamara Jayalilke for the Respondent

Date of Hearing: 6th June, 1990.

Delivery of Judgment: 19th June, 1990.

J U D G M E N T

The Appellants appeal against the decision of Palmer J. dismissing their application for interest they alleged should have been awarded by Sheehan J. when he gave judgment for the Appellants/Plaintiffs for \$300 and costs in 1987 on a date which does not appear in his judgment but was clearly shortly after the first coup.

The Appellants state that Sheehan J. overlooked awarding interest.

Judgment was not sealed until 9th March, 1988. On 16th of November, 1988, more than 8 months after the appellants had themselves sealed judgment, they took out what they termed a "Notice of Motion for Interest on Damages".

Palmer J. was of the view that he had no jurisdiction to entertain what he considered was an application to vary the judgment of Sheehan J. who was no longer a member of the Court. He considered Order 20 r. 10 of the High Court Rules and concluded there was nothing in Sheehan J's. judgment which would attract the operation of that Order, the so called "slip rule". He referred to the cases cited in the notes to Order 20/11/6 in the White Book.

There it is stated in clear terms as under:

"As has been stated, the Court has no power under any application in the action to alter or vary a judgment after it has been entered, or an order after it has been drawn up, except as is necessary to correct errors in expressing the intention of the Court."

There is a further aspect that Palmer J. may not have found necessary to consider.

After judgment was sealed on the 9th of March, 1988 the defendants in the action paid the judgment debt and costs two days later.

The position then was that the appellants' claims were merged in the judgment which was fully satisfied. They had no further claim against the respondent.

We considered a similar situation in Civil Appeal 43 of 1987 AMBIKA NAND -v- BRIJ MOHAN where we quoted from Halsbury 4th Edition Volume 16 paragraph 1536 where

The appeal is dismissed with costs to the Respondent.

*T. Tuivaga*  
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Sir Timoci Tuivaga  
President, Fiji Court of Appeal

*R. Kermode*  
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Sir Ronald Kermode  
Justice of Appeal

*M. Tikaram*  
.....

Sir Moti Tikaram  
Justice of Appeal