

IN THE FIJI COURT OF APPEAL
AT SUVA

CIVIL JURISDICTION

CIVIL APPEAL NO: ABU0039 OF 1994 *
(High Court Civil Action No. 1173 of 1984)

BETWEEN

SURESH SUSHIL CHANDRA CHARAN
ANNURADHA CHARAN

APPELLANTS

- and -

SUVA CITY COUNCIL

RESPONDENT

Mr S. Charan for the Appellants
2nd Appellant N/A
Mr R. Gopal for the Respondent

Date and Place of Hearing: 26th February 1996 Suva
Date of Delivery of Judgment: 1st March 1996

JUDGMENT OF THE COURT

This is an appeal against a judgment of Pain J. delivered on 26 August 1994. The Appellants applied to the High Court to review a taxation by the Chief Registrar of costs awarded them in the above action. The amount assessed by the Chief Registrar was \$3,470.17. The amount claimed was \$6,012.84.

A question arose at the beginning of the hearing whether the Appellants had obtained leave pursuant to the Court of Appeal Act Cap. 12, S.12(2) to bring an appeal to this Court. Courteously Mr. Gopal for the Respondent said he would consent to leave being given by this Court. The first named Appellant who appeared and has appeared throughout on behalf of both the Appellants duly applied for leave. If such leave is necessary we grant it.

The history of this matter is set out in the full and careful 50 page decision by the learned Judge to which we refer. Suffice it to say that Appellants commenced this action against the Respondent in December 1984. They succeeded on one of three causes of action and were awarded costs on a limited basis on 1st September 1987. After a hearing before the taxing officer on 15 October 1992 the Appellant filed an objection setting out 27 items of contention. After a further hearing and written submissions the Chief Registrar allowed one item in whole and one in part. This increased the award by \$113.67.

Before the learned Judge the first named Appellant pursued these objections in respect of all remaining 26 items. His Lordship dealt in full detail with all the items and set out carefully the legal principles involved. He upheld the Appellants' submissions on two items and awarded interest and an allowance for costs of photocopying. He said however, that these amounts were offset by amounts overpaid by the Respondent. He also commented that the taxation of costs by the taxing officer had been over generous. The Respondent however had not objected to the amounts awarded and had paid the full amount to the Appellants.

3.

We have listen carefully to the submissions made by the first Appellant and have read the mass of written material to which he subjected us. We can see no merit in any of the Appellants submissions, and agree fully with the conclusions of the learned Judge and his reasons. The appeal is dismissed with costs to the Respondent.

We wish to avoid the further argument which would ensue if the costs were ordered to be taxed. We therefore, allow the Respondent the sum of \$150.00 by way of costs. This is a modest sum in view of the time involved.

Appeal dismissed, costs to Respondent \$150.00.

E. Williams

.....
Sir Edward Williams
Judge of Appeal

M. Casey

.....
Sir Maurice Casey
Judge of Appeal

P. Hillier

.....
Mr Justice Peter Hillier
Judge of Appeal