

IN THE FIJI COURT OF APPEAL AT SUVA
ON APPEAL FROM THE HIGH COURT OF FIJI

CIVIL APPEAL NO. ABU0065 OF 1997S
(High Court Civil Action No. HBC.0355 of 1988L)

BETWEEN: UPPERDECK INVESTMENT LIMITED

Appellant

AND: SULOCHANA ANJALI CHAND

Respondent

Coram: The Hon. Sir Moti Tikaram, President
The Rt. Hon. Sir Maurice Casey, Justice of Appeal
Hon. Mr. Justice J.D. Dillon, Justice of Appeal

Hearing: 27 May 1998

Counsel: Mr. S.K. Ram for the Appellant
Dr. M.S. Sahu Khan for the Respondent

Date of Judgment: 29 May 1998

ORDER OF THE COURT

This appeal is against the ruling of the High Court (Sadal J.) delivered on 10 October 1997 whereby the Appellant's action for rent and damages was struck out for want of prosecution.

Dr. Sahu Khan in his submissions referred not only to the lengthy delays associated with these proceedings but also to the circumstances of the Respondent who has lived in New Zealand since 1989 and who would be seriously prejudiced if she was required to return to Fiji in the event of this appeal being granted.

Recognizing the merits of that concern the Appellant has agreed to pay up to \$700 towards the Respondent's return air fares from New Zealand. The Respondent has now accepted that offer and agrees to the case being fully heard.

Accordingly we order by consent -

- 1) The appeal is allowed on condition that the Appellant pays the sum of \$700 into Court within 14 days to be disbursed by the Registrar to the Respondent's solicitors once certified by the President of this Court that the fares have been incurred for the Respondent to attend the trial;
- 2) This case is remitted to the High Court. The Appellant is required to immediately take all necessary steps for an early hearing; and
- 3) The costs of this appeal shall be costs in the cause.

Moti Fikaram

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Sir Moti Fikaram
President

Maurice Casey

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Sir Maurice Casey
Justice of Appeal

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Justice J.D. Dillon
Justice of Appeal

Solicitors:

Messrs. Mishra Prakash & Associates, Ba, for the Appellant
Messrs. Sahu Khan & Sahu Khan, Ba, for the Respondent