

IN THE COURT OF APPEAL, FIJI

[On Appeal from the High Court]

CIVIL APPEAL NO. ABU0062 OF 2022

[Suva Civil Action No: HBC 271 of 2020]

BETWEEN : **VIJAI WATI** as Administratrix of the Estate of Gopal also
known as Gopal Pillai 34 Matanitobua Street, Suva, Fiji,
Domestic Duties.

Appellant

AND : **SOPHIA KHAN** of 84 Ragg Avenue, Suva, Businesswomen

Respondent

Coram : **Prematilaka, RJA**
Qetaki, RJA
Winter, JA

Counsel : **Mr S. Nandan and Ms. Prasad for the Appellant**
Mr J. Savou for the Respondent

Date of Hearing : **03 July 2025**

Date of Judgment : **25 July 2025**

JUDGMENT

Prematilaka, RJA

[1] I agree with reasons, conclusions and orders of Winter, JA.

Oetaki, RJA

[2] I agree.

Winter, JA

Background

[3] When Gopal Pillay died, he had no will. He left behind him considerable land, investments, and business interests. The Respondent, Ms. Khan his then defacto wife, is but one of three beneficiaries of his estate. The Appellant, Ms. Wati the lawful wife of the deceased, is another. Ms. Wati administers the Estate. The third beneficiary, Hansel Pillay is a child of the deceased.

[4] The beneficiaries, including Ms. Khan, agreed to a comprehensive and well-planned distribution of the estate assets to each other and several non-beneficiaries and so entered a Deed dated the 19th day of July 2018 titled Terms of Distribution (the Deed)¹.

[5] Relevant to this appeal clause 4.9.2 of the deed gives one of the deceased's Housing Authority Sub-Leases to his cousin Krishna. Krishna is not otherwise a beneficiary of the estate. The clause reads:

"The 1st 2nd and 3rd Beneficiary relinquish and forever renounce all their interest in Housing Authority Sub-Lease No. 333236 for sole and absolute benefit of the Krishan Pillai a cousin brother of the late Gopal."

[6] The deed required the distribution and the dissolution of the estate by mid-February 2019. Two years later the sub lease had not been transferred. So, by an Originating Summons, dated 16th of September 2020, the Respondent sought orders from the

¹ Refer to tab 7, p.26 to 38 of the court record.

court that the Appellant perform her obligations under clause 4.9.2 of the Deed and transfer that Housing Sub-Lease to Krishna Pillai.

[7] The Appellant opposed, only, on the narrow ground that Ms. Khan, having no interest in any transfer of the sublease to Krishna Pillai, lacked standing to bring her Originating Summons.

[8] The High Court agreed Ms. Khan a beneficiary of the estate and signatory of the deed had a right to enforce the deed's provisions requiring transfer of the sublease to Krishna no later than mid-February 2019.

The Appeal

[9] Counsel for the appellant and respondent agreed that this appeal only need consider one ground. Did the respondent have standing to bring the action in the High Court against the appellant.

[10] While both counsel abandoned the remaining grounds, we simply note our rules require that grounds of appeal be relevant to the dispositive issues we must resolve. Regrettably in this appeal the focus on the only relevant issue, standing, got lost in an original appeal submission but misguided effort to persuade us to enquire into, if not resolve the entire estate's administration. As the opposition to the originating summons and consequently the High Court's judgment only related to Ms. Khan's standing, we cannot do so.

Standing-the law.

[11] In law, locus standi, Latin for "*place of standing*", refers to the legal ability to bring a lawsuit or participate in a legal proceeding. It essentially means having the standing to sue, ensuring that only those with a sufficient connection to the matter at hand can initiate legal action.

[12] Although over time the courts have interpreted standing variously as a ‘rights based issue’ such as a ‘right to sue: ‘right to enforce’, or ‘right of action’,² and a private law dispute standardly involves pleading and asserting those rights and duties, standing is now better understood as a *power* to sue and enforce those rights or duties. It is a separate and distinct concept from those rights and duties which do or do not continue to exist both before and after any proceeding³.

[13] One test reaffirmed in *Lok v Ram* is whether a plaintiff has a “sufficient interest in the matter to which the claim relates.” That decision reinforces the principle that standing is grounded in factual and legal interest. In other words, the power of the claimant to come to court rests primarily in their interest in the proceeding. It is only when that interest is too remote that a court might properly reject a person’s standing.

[14] The Court of Appeal’s decision in *Anderson v State*, although a criminal matter upon rights to be heard, provides authoritative guidance on the principles of locus standi and the power to be heard. The Court emphasized that standing arises where a party is directly affected by a judicial decision. In that case the appellant was sufficiently impacted and so affected by the High Court’s declaration to justify her appeal.⁴

[15] For completeness we note Trustees have always been subject to duties at law. Executors and administrators are treated as trustees for this purpose. Those duties include:

- to know the terms of the trust.
- to act in accordance with the terms of the trust.
- to act honestly and in good faith.
- to act for the benefit of the beneficiaries
- and
- to exercise their powers for a proper purpose.

² *Lok v Ram* [2014] FJSC 4, the Supreme Court, page 8, and *Anderson v The State* [2024] FJCA 126, the Court of Appeal page 3

³ Liau, Timothy, *Standing in Private Law: Powers of Enforcement in the Law of Obligations and Trusts*, Oxford Private Law Theory (Oxford, 2023; online edn, Oxford Academic, 20 July 2023), <https://doi.org/10.1093/oso/9780192869661.001.0001>, accessed 2 July 2025

⁴ *Anderson v State* [2024] FJCA 203

Analysis

- [16] We do not accept the appellants submission that in this case the Respondent must show the court that she would directly suffer harm or an adverse effect by the inaction of the Appellant.
- [17] The respondent's '*power*' to come to court is not so narrowly constrained. Ms. Kahn is not only a beneficiary but also a signatory to a comprehensive deed recording arrangements between a lawful wife, defacto spouse and child of the deceased to fairly distribute a significant estate to them and others. Ms. Khan was simply seeking to enforce that agreement between them, an agreement all but ignored by the appellant. Agreements, such as those recorded in this deed must be kept and it is the duty of the administrator to do so.
- [18] We find Ms. Khan has sufficient interest, factually and legally to take her stand and be heard when asking the court to require the appellant administrator to perform her duties. The appellant administrator under clause 4.9.2 of the deed is obliged to transfer Housing Authority Sublease 333236 to Krishna Pillai. We agree with the High Court that the respondent had standing.
- [19] The appeal is dismissed.

Orders of the court:

[1] The appeal is dismissed.

[2] The judgment of the High Court ordering the respondent had standing is affirmed.

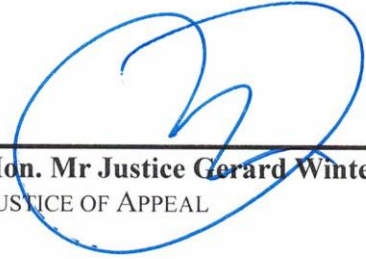
[3] The appellant must pay the respondent costs of \$10,000.00 on an indemnity basis within 42 days hereof.



Hon. Mr Justice Chandana Prematilaka
RESIDENT JUSTICE OF APPEAL



Hon. Mr Justice Alipate Qetaki
RESIDENT JUSTICE OF APPEAL



Hon. Mr Justice Gerard Winter
JUSTICE OF APPEAL