

IN THE HIGH COURT OF FIJI

AT SUVA

APPELLATE JURISDICTION

CRIMINAL APPEAL CASE NO. HAA 010 OF 2013S

BETWEEN

FOOD FOR LESS (FIJI) LTD

APPELLANT

vs

AND

FIJI COMMERCE COMMISSION

RESPONDENT

Counsels : Company Financial Controller for Appellant

Mr. S. Nandan for Respondent

Hearing : 26th March, 2013

Judgment : 21st June, 2013

JUDGMENT

1. On 23rd May, 2012, the appellant company via its Officer Mr. S. C. Verma, appeared in the Suva Magistrate Court, on the following charge:

Statement of Offence

FAIL TO MARK PRICES ON CERTAIN FIXED PRICE

CONTROLLED ITEMS Contrary to paragraph 7 (a and b) of
the Counter Inflation (Price Control) (Foodstuffs) (No. 7)

Order 2009 and Section 44 (1), 49 (1), 54 (3), 132 (1) (2) and Section 129 (1A) of the Commerce Commission Decree No. 49, 2010.

Particulars of the Offence

FOOD FOR LESS (FIJI) LIMITED did on the 20th day of September, 2010, being a trader at **Rodwell Road, Suva** in the Central Division, Failed to mark prices on certain fixed price controlled items for the information of the public, namely approximately 200 x 375g packets FMF Breakfast Crackers.

2. The appellant company appeared to waive its right to counsel. The charge was put to it's officer. He appeared to understand it. He pleaded guilty to the same. It appeared they did not dispute the particulars of offence.
3. On 13th June, 2012, the appellant company made its plea in mitigation. The appellant's six previous convictions was put to its officer, and he appeared to have admitted them. Sentencing was then adjourned to the 6th July, 2012. On 6th July, 2012, the court found the appellant guilty as charged, and convicted it accordingly. A fine of \$3,000 with \$33.75 prosecution cost, was imposed on the appellant. It was given until 6th August, 2012 to pay the above. As of today, they have not paid the above.
4. On 2nd August, 2012, the appellant appealed to the High Court against the above sentence. It was not appealing the conviction. It complained that the \$3,000 fine was harsh and excessive. According to the respondent, the maximum fine for the offence was \$3,000. The appellant admitted they had 6 previous convictions, and this case was their 7th conviction. They are prepared to pay \$1,500 as the fine. I note that on their last conviction for the same offence, they were fined \$2,000. As a matter of logic, the fine cannot go down to \$1,500, because, their last fine was \$2,000. In other words, \$2,000 as a fine was not enough, to make them take notice, and comply with the law. In my view, given the background to this case, the justice of this case demanded a fine of \$2,200, with the prosecution cost of \$33.75. I order so accordingly.

5. The appellant is given until the 19th July, 2013, to pay the above. This case is adjourned to the 19th July, 2013, to review the payment of the fine.

Salesi Temo
Judge

Solicitor for Applicant : **In Person**
Solicitor for Respondent : **Fiji Commerce Commission, Suva.**