IN THE HIGH COURT OF FIJI
WESTERN DIVISION
AT LAUTOKA

CIVIL JURISDICTION

CIVIL ACTION NO. HBC 179 of 2012

BETWEEN : **VATUKOULA GOLD MINES LIMITED** and **KOULA MINING COMPANY LIMITED** both limited liability companies having their registered office and place of business at Vatukoula.

PLAINTIFFS

AND : **KALAVETI TUKUTUKULEVU** of VGML Quarters ML02, Church Road Vatukoula

DEFENDANT

Mr Krishnil Patel for the Plaintiffs
Mr. Tevita V.Q. Bukarau for the Defendant

Date of Hearing :- 25th March 2015
Date of Ruling :- 30th June 2015

RULING

(A) INTRODUCTION

(1) Before me is the Defendant's Summons pursuant to Order 19, Rule 9 of the High Court Rules, 1988 seeking the grant of the following Orders;

(a) *The Default Judgment entered by this Honourable Court against the Defendant on the 24th day of January 2014 be set aside.*

(b) *The execution of the said Judgment by the Defendants its servants and/or agents be stayed until final determination of this matter.*

(c) *The pursuit of any and/or all proceedings or processes arising from and/or in connection with the said Judgment be stayed until final determination of this matter.*

(d) *The costs of and incidentals to this application be cost in the cause.*

(2) The application is supported by an affidavit sworn by the Defendant on 18th July 2014.

(3) Upon being served with Summons, the Plaintiffs appeared in Court and strongly resisted the application. Regrettably, the Plaintiffs did not file an affidavit in opposition.

(4) The Plaintiffs and the Defendant were heard on the Summons. They made oral submissions to court. In addition to oral submissions, they filed written submissions for which I am most grateful.

(B) THE LAW

An application to set aside a default judgment is not the invocation of an appellate jurisdiction but of a specific rule enabling the court to set aside its own orders in certain circumstances where the action has never been heard on the merits.

A Defendant against whom judgment in default has been entered may apply for it to be set aside under Order 13, rule 10 or under Order 19, rule 9 of the High Court Rules.

Order 13, rule 10 reads as follows;

Setting aside judgment *(O.13, r.10)*

> ***10.*** *Without prejudice to rule 8(3) and (4), the Court may, on such terms as it thinks just, set aside or vary any judgment entered in pursuance of this Order.*

In situations where the Defendant has failed to file in the first instance, notice of intention to defend, then order 13 procedures is the correct process.

Order 19 is applicable only where, after notice of intention to defend is filed, no statement of defence had followed.

Order 19, rule 9 reads as follows;

Setting aside judgment (O.19, r.9)

> ***9.*** *The Court may, on such terms as it thinks just, set aside or vary any judgment entered in pursuance of this Order.*

❖ THE PRINCIPLES OF SETTING ASIDE DEFAULT JUDGMENTS

A default judgment can be obtained regularly or irregularly and both of these forms of judgments can be set aside.

However, there is a distinction between setting aside a default judgment for irregularity and setting aside a judgment which was in fact regular.

Fry L J in **Alaby –v- Praetorious [1888] 20 QBD 764** at 769 succinctly drew the distinction as follows:-

> *"There is a strong distinction between setting aside a default judgment for irregularity in which case the court has no discretion to refuse to set it aside, and setting it aside where the judgment though regular has been obtained through some slip or error on the part of the Defendant in which case the court has a discretion to impose terms as a condition of granting the Defendant relief."* (emphasis added).

This principle was adopted and applied by the Fiji Court of Appeal in **"Subodh Kumar Mishra v Rent-a-car"** (1985) 31 FLR 52. Thus, where an irregular default judgment is entered (for example time for acknowledging service or for serving a defence had not expired by the time the default judgment was entered) which irregularity cannot be cured the Defendant is entitled as of right to have the judgment set aside.

However, where the default judgment had been entered regularly, the Court has a wide discretion and neither Order 13, rule 10 nor Order 19, rule 9 of the High Court Rules impose any restriction in the manner in which the discretion is to be exercised.

The rationale for the unconditional discretion that allows the court to intervene is explained by Lord Atkin in **"Evans v Bartlam",** 1937 DC 473 as follows;

> *"The Principle obviously is that unless and until the Court has pronounced a judgement upon the merits or by consent, it is to have the power to revoke the expression of its coercive power where that has only been obtained by a failure to follow any of the rules of procedure."*

Lord Atkins pronouncement was endorsed and followed by the Fiji Court of Appeal in **The Fiji Sugar Corporation v Mohammed Ismail** FLR Vol 34, p75.

The Principles applicable for analysis of the merit of an application to set aside a default judgment are well known and settled. The leading authority is **Evans –v- Bartlam** [1937] 2 All E.R. 646. The following passage from the judgment of Lord Atkin in **"Evans v Bartlam"** is pertinent in the subject of principles on which a court acts where it is sought to set aside a regular Default judgment;

> *"The primary consideration is whether he has merits to which the Court should pay heed; if merits are shown the court will not prima facie desire to let a judgment pass on which there has been no proper adjudication………. The Court might also have regard to the applicant's explanation why he neglected to appear after being served, though as a rule his fault (if any) in*

that respect can be sufficiently punished by the terms as to costs or otherwise which the Court in its discretion is empowered by the rule to impose."

The principles of that case have been widely adopted in Fiji, and by the Fiji Court of Appeal in **Pankanji Bamola & Anor. –v- Moran Ali** Civil Appeal No. 50/90 and **Wearsmart Textiles Limited –v- General Machinery Hire & Anor** Civil Appeal No. ABU0030/97S.

In **"Pankaj Bamola & Anor v Moran Ali"** (supra) the Court of Appeal held;

It is not sufficient to show a merely "arguable" defence that would justify leave to defend under Order 14; it must both have "a real prospect of success" and "carry some degree of conviction." Thus the court must form a provisional view of the probable outcome of the action.

In **Russell v Cox 1983 NZLR 654, McCarthy J** held;

"In approaching an application to set aside a judgment which complies with the rule, the Court is not limited in the considerations to which it may have regard, but three have long been considered of dominant importance. They are;

1. *That the defendant has a substantial ground of defence;*
2. *That the delay is reasonably explained;*
3. *That the plaintiff will not suffer irreparable injury if the judgment is set aside.*

A useful summary of the factors to be taken into consideration is to be found under notes to Or. 13 r9/14 of **THE SUPREME COURT PRACTICE 1995** Vol. I at p.142 and which is, inter alia, as follows:-

"The purpose of the discretionary power is to avoid the injustice which may be caused if judgment follows automatically on default. The primary consideration in exercising the discretion is whether the defendant has merits to which the court should pay heed, not as a rule of law but as a matter of common sense, since there is no point in setting aside a judgement if the defendant has no defence, and because, if the defendant can show merits, the court will not prima facie desire to let a judgment pass on which there has been no proper adjudication. Also as a matter of common sense the court will take into account the explanation of the defendant as to how the default occurred.

Therefore the judicially recognised "Tests" may be conveniently listed as follows;

(a) Whether the Defendant has a substantial ground of defence to the claim.

(b) Whether the Defendant has a satisfactory explanation for the default judgment.

(c) The promptness with which the application is made.

(d) Whether the setting aside would cause prejudice to the Plaintiff.

The same legal tests apply under the Magistrate Court rules.

❖ THE DEFENCE ON THE MERITS

The major consideration on an application to set aside a default judgment is whether there is a defence on the merits. The purpose is to avoid injustice. The Defendant is seeking to deprive the claimant of a regular judgment which the claimant has validly obtained in accordance with the rules; this is not something which the court will do lightly.

In **Shocked v Goldsmith** (1998) 1 All ER 372 at 379ff Legatt LJ said:

> *"These cases relating to default judgment are authority for the proposition that when considering whether to set aside a default judgment, the question of whether there is a defence on the merits is the dominant feature to be weighed against the applicant's explanation both for the default and any delays, as well as against prejudice to the other party."*

The leading case is **Evans v Bartlam** [1937] 2 All 646, [1937] AC 473. In this case, the defendant had suffered judgement to be entered against him in default of appearance. The Court of Appeal ([1936] 1 KB 202) allowed an appeal from the judge's order setting aside the judgement. But the House of Lords reversed the decision of the Court of Appeal and restored the Judge's order.

Lord Wright ([1937] 2 All ER 646 at 656, [1937] AC 473 at 489) expressed the conclusion;

> *"In a case like the present, there is a judgment, which, though by default, is a regular judgment, and the applicant must show grounds why the discretion to set aside should be exercised in his favour. The primary consideration is whether he has merits to which the court should pay heed; if merits are shown, the court will not prima facie desire to let a judgment pass on which there has been no proper adjudication... The court might also have regard to the applicant's explanation why he neglected to appear after being served, though as a rule his fault (if any) in that respect can be sufficiently punished by the terms, as to costs, or otherwise, which the court, in its discretion, is empowered by the rule to impose."*

In **Vann V Awford** (1986) 130 SJ 682, the judge declined to set aside a judgment given against the second defendant in default of appearance, and also a judgement given against him when damages were assessed in his absence. The Defendant had lied when he said on oath that he had no knowledge of the proceedings. On appeal **Dillon LJ** considered that, despite the prejudice to the plaintiffs, as there were ample

arguable defences the award should be set aside and there should be a fresh hearing. He added: "Even for lying and attempting to deceive the court, a judgement for £53,000 plus is an excessive penalty if there are arguable defences on the merits."

This case was followed two weeks later by **The Saudi Eagle [1986] 2 Lloyd's Rep 221**. After reviewing **Evans v Bartlam and Vann v Awford,** Sir Roger Ormrod came to the conclusion that the defendants in the case before the court had failed to show that their defence enjoyed a real prospect of success.

These cases relating to default judgments are authority for the proposition that when considering whether to set aside a default judgment, the question of whether there is a defence on the merits is the dominant feature to be weighed against the applicant's explanation both for the default and for any delay, as well as against prejudice to the other party.

❖ THE YARDSTICK THAT HAS TO BE APPLIED IN DETERMINING THE MERITS OF THE DEFENCE

The Defendant must have a case with a real prospect of success, and it is not enough to show a merely arguable defence. *(***Alpine Bulk Transport Company v Saudi Eagle Shipping Company, 1986 2 Lloyds Report, P 221).**

It must both have "a real prospect of success" and "carry some decree of conviction". Thus the court must form a provisional view of the probable outcome of the action. Unless potentially credible affidavit evidence demonstrates a real likelihood that a Defendant will succeed on fact, no real prospect of success is shown and relief should be refused. **(Wearsmart Textiles Ltd v General Machinery Hire Ltd, (1998) FJCA 26.)**

A person, who holds a regular judgment even a default judgment, has something of value, and in order to avoid injustice he should not be deprived of it without good reason. Something more than merely arguable case is needed to tip the balance of justice to set the judgment aside. **(Moore-Bick J in International Finance Corporation, (2001) CLC 1361).**

The real prospect of success means that the prospects must be better than merely arguable. The word "real" directs the court to the need to see whether there is a realistic as opposed to a fanciful prospect of success. It saves expense, achieves expedition, avoids the courts resources being used up in cases where that serves no purpose and is in the interest of justice.

There is no room for speculative defences and potentially credible affidavit evidence must demonstrate a real likelihood that a defendant will succeed. Otherwise no real prospect of success is shown and relief should be refused (**Allen v Taylor**) [1992] PLQR 255)

The test was considered in detail in **Swain v Hilman** (2001) (1), All E.R. 91 and the court confirmed that;

"The test is the same as the test for summary judgment. The only significant difference is that in a summary judgment application the burden of proof rests on the claimant to show that the defendant has no real prospect of success whereas in an application to set aside a default judgement it is for the defendant to show that his defence has a real prospect of success.

❖ **DELAY**

An application to set aside default judgment must be made "promptly" and without "delay".

In **"Pankaj Bamolc and Another v Moran Ali"** FCA 50/1999, a party seeking to set aside an Order had delayed for nearly 08 months. The Court took the view that no adequate explanation had been provided for that and concluded that the application should be refused because it had not been made promptly and without delay.

Promptness will always be a factor of considerable significance and, if there has been a marked failure to make the application promptly, a court may well be justified in refusing relief, Notwithstanding the possibility that the Defendant may well succeed at the trial.

Whether or not there is a defence on the merits may be, the dominant feature to be considered but that does not mean that it cannot be swamped by other features such as unexplained delay in bringing the application to set aside the judgment.

Although the fact that damages have been assessed and a final judgement entered does not deprive the court of jurisdiction to set aside a default judgment; it is highly relevant to the exercise of discretion. It is an aspect of, but separate from, the question of delay. The ***Saudi Eagle*** **case** *(supra)* is clear authority for the proposition that an application to set aside a default judgement can be made notwithstanding that final judgment has been entered.

In **Alpine Bulk Transport Co. Inc v Saudi Eagle Shipping Co. Inc (The Saudi Eagle) [1986] 2 Lloyd's Rep** the defendants, believing that they had no assets, deliberately allowed an interlocutory judgment for damages to be assessed to be entered against them by default, and only after damages had been assessed and final judgment entered, realising that they had given security, applied initially to the judge and then on appeal to the Court of Appeal, unsuccessfully at both hearings, to set aside the judgement and for leave to defend. The application was refused on the merits; but it was not suggested that the judge would not have had jurisdiction to set aside the judgment had it been appropriate to do so. Therefore, it cannot be said that a judgement (by default) for damages to be assessed is spent once damages are assessed; it remains the source of the plaintiff's right to damages. Nor can it be said that in such a case the interlocutory judgment is overtaken or superseded by the final judgment for a liquidated sum; it would be more accurate to say that it is completed and made effective by the assessment.

It cannot be safely assumed in every case that any prejudice to the plaintiff can be met by putting the defendant on terms to pay the costs thrown away by the assessment

hearing. There can be no rigid rule either way; it depends on the facts of the particular case.

❖ PROCEDURE

An application to set aside a default judgment which has not been entered wrongly must be supported by evidence. Commonly, a draft defence is attached to the affidavit in support of the application.

A draft defence is not necessary, what is required is the affidavit of merits. (**The Fiji Sugar Corporation Ltd. v Mohammed Civil Appeal No. 28/87.**)

If the Defendant does not have an affidavit of merits, no setting aside order sought to be granted except for some very sufficient reason. (**Wearsmart Textiles Ltd v General Machinery Hire Ltd, (1998) FJCA 26.**)

In ***Wearsmart Textiles Ltd v General Machinery Hire Ltd*** [1998] FJCA 26; ***Abu0030u.97s (29 May 1998)*** the Fiji Court of Appeal cited the following passage f rom the Supreme Court Practice 1997 (Volume 1) at p.143.

> *"Regular judgment – if the judgment is regular, then it is an inflexible rule that there must be an affidavit of merits, i.e. an affidavit stating facts showing a defence on the merits (Farden v. Richter (1889) 23 Q.B.D. 124. "At any rate where such an application is not thus supported, it ought not to be granted except for some very sufficient reason." per Huddleston, B., ibid. p.129, approving Hopton v. Robertson [1884] W.N. 77, reprinted 23 Q.B.D. p. 126 n.; and see Richardson v. Howell (1883) 8 T.L.R. 445; and Watt v Barnett (1878) 3 Q.B.D. 183, p.363).*
>
> (my emphasis)
>
> *"it is an (almost) inflexible rule that there must be an affidavit of merit i.e. and affidavit stating facts showing a defence on the merits (FARDEN v RICHTER (1989) 23 Q.B.D. 124)" The Supreme Court Practice 1993 Or 13 r.9 p.137).*
>
> *"At any rate where such an application is not thus supported, it ought not to be granted except for some very sufficient reason" HUDDLESTON, B in FARDEN ibid p.129).*

❖ SETTING ASIDE ON CONDITIONS

In the exercise of Court's discretion, the court may attach conditions to an order to set aside judgment. In some cases the defaulting defendant will be ordered to pay the claimant's costs thrown away. In appropriate cases, the court may also require the defendant to pay money into court to await the final disposal of the claim. Such a condition is commonly imposed where,

1. The defendant has satisfied the court that it has a defence with a real prospect of success.
2. The Defendant has an explanation why he neglected to appear after being served.

3. The truth of which is indeed denied by the Plaintiff.

4. The court seeks no reason why the Defendant should be disbelieved in what appears to be a mere conflict on affidavits.

The conditions imposed on setting aside a default judgment are not intended to punish the defendant but to ensure that justice is achieved between the parties (**VIJAY PRASAD v DAYA RAM CIV** APP 61/90 FCA; **SUBODH KUMAR MISHRA s/o Ramendra Mishra v CAR RENTALS (PACIFIC) LTD** CIV APP 35/85 FCA). The said judgments do not lay down any basis upon which the discretion is to be exercised.
In **GARDNER v JAY (1885) 29 Ch.D 52** at p.58 **BOWEN L.J**. said on this aspect that:

> *"... when a tribunal is invested by Act of Parliament or by Rules with a discretion, without any indication in the Act or Rules of the grounds upon which the discretion is to be exercised, it is a mistake to lay down any rules with a view to indicating the particular grooves in which the discretion should run, for if the Actor the Rules did not fetter the discretion of the Judge why should the Court do so?"*

(C) THE FACTUAL BACKGROUND AND ANALYSIS

(1) It is necessary to approach the case through its pleadings, bearing all those legal principles in my mind. I shall set out the main assertions of the Statement of Claim.

(2) The Plaintiffs in their Statement of Claim plead inter alia that;

(a) The plaintiffs are the registered proprietors of all the land described in the Certificate of Title Nol. 23518 being Lot 1 on deposited Plan No. 5870 situated in the District of Tavua of an undivided eight tenth share and an undivided two tenth share of the land respectively.

(b) The defendant is a former employee of the first named plaintiff and currently occupies a company quarters number ML02 (the premises) situated on the plaintiffs' land which was let to the defendant while he remained in the first named plaintiffs employment under a housing agreement made between the first named plaintiff and the defendant on 12th November, 2009 which was in part in writing and in part oral. Under the agreement the first named plaintiff provided electricity, water and other utilities at a charge to the premises occupied by the defendant and his family.

(c) *By a letter dated 4th July, 2012 the employment of the defendant was terminated and the tenancy was duly determined. The defendant was required to vacate the premises within seven days thereof and hand the keys to a representative of the first named plaintiff. The defendant was also required to clear outstanding house rent, service and electricity charges owing to the first named plaintiff.*

(d) *The defendant failed and/or refused to vacate the premises.*

(e) *On 31st July 2012 the first named plaintiff caused a further notice to vacate to be served on the defendant and required him to vacate the premises within seven days thereof and to clear outstanding rent and charges.*

(f) *The defendant again failed, refused and/or neglected to vacate and wrongfully remains in possession of the said premises.*

(3) The Plaintiffs obtained a "Default Judgement" against the Defendant on 24th January 2014, due to the Defendants failure to serve a "Statement of Defence" on the Plaintiffs. The Default judgment was sealed on 20th June 2014.

(4) The prescribed time for the serving of "Statement of Defence" is stipulated under Order 18, rule 2(1) as fourteen days after the filing of "Notice of intention to defend" and Acknowledgement of Service.

Returning to the present case, a prior Default Judgment was set aside by Hon. Justice A.Tuilevuka on 25th September 2013.

Therefore, there was sufficient time to file and serve a Statement of Defence.

(5) In the Statement of Claim, the Plaintiffs sought;

(1) *An order for possession of the premises being quarters number ML02 on land described in the Certificate of Title No. 23518 being Lot 1 on Deposited Plan No. 5870 situated in the District of Tavua.*

(2) *Mesne profit from 12th July, 2012 at a rate to be assessed.*

(3) *Damages*

(4) *Costs on an indemnity basis.*

On 24th January 2014, there was no appearance for or by the Defendant. The Plaintiffs were represented by a Counsel. The minute sheet carries the following minute;

"Today Defendant not present. No Statement of Defence filed though sufficient time was given for the same. I enter default judgment in favour of the Plaintiff."

The sealed Default judgment reads as follows;

ORDER

BEFORE THE MASTER OF THE HIGH COURT
MR. ....
IN COURT ON FRIDAY THE 24TH DAY OF JANUARY, 2014

AND UPON HEARING MR. ADISH KUMAR NARAYAN appearing on instruction of AK Lawyers of Counsel for the Plaintiff and there being no appearance by the Defendant

IT IS HEREBY ORDERED THAT:

[1] Default Judgment be entered in favour of the Plaintiff as Defendant is not present and Statement of Defence not filed.

SEALED this 20th day of June 2014.

BY THE COURT

(sign)

DEPUTY REGISTRAR

The Defendant does not raise any "irregularity" in the entry of the Default Judgment. He claims that his defence comes within the "meritorious" requirement for judgment to be set aside. But nevertheless, this court is of the view that the court is bound to look into the "regularity" of the Default Judgment.

Is the Default Judgment entered in accordance with the High Court Rules?

The answer to this question is obviously "No".

What does the Default Judgment represent?

It appears that the Plaintiffs have obtained a final judgment for claim for possession, claim for mense profit and claim for Damages.

Rule 2 to 5 of Order 19 deal sequentially with a claim for liquidated damages, a claim for unliquidated damages, a claim for detention of goods and a claim for possession of land.

The relief (1) sought in the Statement of Claim is a claim falling within Order 19, Rule 5 of the High Court Rules. Put another way, where an **order for possession of land** is sought and the Defendant does not defend the claim, a judgment can be obtained only under Order 19, Rule 05 of the High Court Rules.

To be more precise, **where an order for possession of land is sought** and the Defendant does not defend the claim, **a judgment can be obtained only at a hearing before a judge**, Regrettably, in the instant case, **the Plaintiffs have entered a judgment in default of a defence without a hearing before a Judge.** If judgment was to be entered, it could be done only upon calling evidence from the Plaintiffs. NO evidence is taken from the Plaintiffs in respect of their claim for possessions of land. There could be no judgment in Default without the hearing of evidence. In the absence of hearing evidence, the court has no jurisdiction to enter Default Judgment. Therefore, the entry on the record of judgment in Default does not have a proper foundation. Can it be said that there was "evidence" before the court upon which the judgment for possession of land was based??? I say no more on this!!!

For the sake of completeness, Order 19, Rule 05 is reproduced below.

> *5-(1) Where the plaintiff's claim against a defendant is for possession of land only, then, if that defendant fails to serve a defence on the plaintiff, the plaintiff may after the expiration of the period fixed by or under these Rules for service of the defence, and on producing a certificate by his barrister and solicitor, or (if he sues in person) an affidavit, stating that he is not claiming any relief in the action of the nature specified in Order 88 rule 1, enter judgement for possession of the land as against that defendant and for costs, and proceed with the action against the other defendants, if any.*
>
> *(2) Where there is more than one defendant, judgement entered under this rule shall not be enforced against any defendant unless and until judgment for possession of the land has been entered against all the defendants.*

The relief (3) sought in the Statement of Claim is a claim falling within Order 19, Rule 3 of the High Court Rules.

The Plaintiff could only obtain an interlocutory judgment for unliquidated damages and not a final judgment.

This is clear under **Order 19, Rule 3** of the High Court Rules which reads;

> *3. Where the plaintiff's claim against a defendant is for unliquidated damages only, then, if that defendant fails to serve a defence on the plaintiff, the plaintiff may, after the expiration of the period fixed by or under these Rules for service of the defence, enter interlocutory judgment against that defendant for damages to be assessed and costs, and proceed with the action against the other defendants, if any.*

If the Plaintiff wished to obtain a final judgment then the proper cause was to have its claim assessed by the court.

If there are irregularities in the Default judgment but they are *de minimis* or merely clerical errors, the court will not set the judgment aside. Rather, it will correct the errors. The court will not make the Plaintiff start again.

But in this case, the Default Judgment has been entered irregularly and not in compliance with the High Court Rules. The rules are there to be obeyed.

Therefore, it is clear beyond question that the irregularities were more than *de minimis* and were not clerical errors. It will be ridiculous for me to penalise the Defendant for the irregularities which are more than *de minimis* and not just clerical errors. I cannot simply uphold the Default Judgment. My function is to decide whether or not to grant the Defendant's application to set aside the Default Judgment.

> The Court of Appeal in **White v Western** [1968] 2 Q.B. 647 held:
>
> *"That where there is an irregularity in the entry of default judgment the party against whom judgment is obtained is entitled to have the judgment set aside and the court should impose no terms whatever on him, not even contingent term such as that the costs should be costs in the cause."*

Therefore, there is no need for me to express any view on the strength of the Defence, since this matter can go no further.

(D) Conclusion

Having found that the judgment was irregularly obtained and in view of the authorities to which I have referred, there is no alternate but to set aside the Default Judgment entered on 24th January 2014.

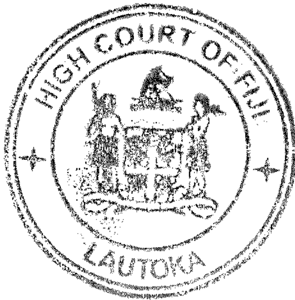
(E) Final Orders

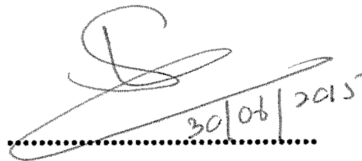
(1) The default judgment entered against the Defendant on 24th January 2014 is set aside.

(2) The defendant is at liberty to defend this claim unconditionally.

(3) The defendant is ordered to file and serve its Statement of Defence within 14 days from the date hereof.

(4) The costs of this application be in the cause.





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Jude Nanayakkara
Acting Master of the High Court

At Lautoka
30th June 2015