

IN THE HIGH COURT OF FIJI AT LABASA
APPELLATE JURISDICTION

Civil Appeal No. HBA 01 of 2017

BETWEEN

IMRAN ALI

APPELLANT

AND

ASERI LOVOLEVU

RESPONDENT

Counsel : Mr J. Bulakavuaki for the Appellant
Ms S. Devi for Respondent

Date of Hearing : 22nd June, 2017

Date of Judgment : 27th July, 2017

JUDGMENT


- [1] The respondent made a claim to the Small Claims Tribunal seeking to recover \$5000.00 from the appellant. The respondent's case was that he purchased a vehicle from the appellant for \$7000.00 and paid him \$5400.00 and later the appellant repossessed the vehicle.
- [2] The appellant's position is that he sold the vehicle for \$8000.00. The balance of the purchase price was to be paid within one year and since the respondent failed to pay the balance sum for four years he repossessed the vehicle.
- [3] The Small Claims Tribunal ordered the appellant to pay \$5000.00 to the respondent in monthly instalments of \$210.00 commencing from 28th February, 2014. Against the decision of the Small Claims Tribunal the appellant appealed to the Magistrate's Court but without success. This appeal is from the judgment of the learned Magistrate dismissing the appeal.
- [4] When the appeal came up before me for hearing learned counsel for the appellant submitted that although there are four grounds of appeal he would only rely on the first ground of appeal that is that the learned Magistrate erred in law when he wrongly relied on the referees findings. However, the learned counsel did not say the basis on which the appellant made this allegation. This ground of appeal is very vague.
- [5] Under section 33(1) of the Small Claims Tribunal Act 1991 any party to proceedings before a Tribunal may appeal against an order made by the Tribunal under section 15(6) or section 31(2) on the grounds that:
 - (a) the proceedings were conducted by the Referee in a manner which was unfair to the appellant and prejudicially affected the result of the proceedings; or
 - (b) the Tribunal exceeded its jurisdiction.

- [6] The proceedings held before the Referee, do not show that he conducted the proceedings in a manner which was unfair and/or prejudicial to the appellant. The court carefully considered the proceedings held before the Referee. He has given ample opportunity for both parties to present their respective cases before the Tribunal. Both parties have given evidence before the Tribunal and the Referee after considering the evidence of the parties has made his order. The learned Magistrate who heard the appeal has taken all these factors into consideration before arriving at his finding that the appeal of the appellant is without any merit. It is also important to note that there is nothing on record to say that the Tribunal has exceeded its powers in making its order. In my view the learned Magistrate is correct in arriving at the conclusion that the decision of the Tribunal is within the powers conferred upon it by the legislation.
- [7] For the reasons aforementioned the court makes the following orders.

Orders

1. The appeal of the appellant is dismissed.
2. The appellant is ordered to pay the respondent \$500.00 as costs of this appeal.




Lyone Seneviratne

JUDGE

27th July, 2017.