

IN THE HIGH COURT OF FIJI
AT LAUTOKA
APPELLATE JURISDICTION

CRIMINAL APPEAL NO. HAA 68 OF 2019

BETWEEN : **CARPENTERS FIJI LIMITED** trading as Max-
Val-U Supermarket

APPELLANT

AND : **FIJIAN COMPETITION AND CONSUMER**
COMMISSION

RESPONDENT

Counsel : Mr. E. Narayan for the Appellant.
Ms. C. Choy and Ms. S. Chandra for the
Respondent.

Date of Hearing : 07 May, 2020

Date of Judgment : 22 May, 2020

JUDGMENT

BACKGROUND INFORMATION

1. The appellant company was charged by the respondent with the following offence:

STATEMENT OF OFFENCE

FALSE AND MISLEADING REPRESENTATION: Contrary to Section 77 (1) (g), Section 132 and Section 129 (1A) (3) of Fijian Competition and Consumer Commission Act 2010.

PARTICULARS OF OFFENCE

Carpenters Fiji Pte Limited trading as Max Val-u Supermart being a trader of Naviti Street, Lautoka in the Western Division did on the 25th day of November 2017, made a representation concerning a price advantage of certain goods that did not exist, namely 3 packets x 375 grams FMF Breakfast Crackers represented and displayed at \$1.30 per packet whereas the scanned price at point of sale is \$1.37.

2. The brief facts are:

On 29th November, 2017, the complainant one Mohammed Shamsheer Khan lodged a complaint with the Fijian Competition and Consumer Commission that on 25th November, 2017 the appellant company had sold to him two FMF Breakfast Crackers at \$1.37 per packet despite displaying the same item at \$1.30 per packet. Upon receipt of this complaint the Fijian Competition and Consumer Commission conducted an investigation whereby the supermarket Manager was caution interviewed and thereafter the appellant company was charged.

3. The appellant by its counsel had pleaded not guilty in the Magistrate's Court and the matter proceeded to trial. The prosecution called two witnesses whereas the appellant called one witness in its defence.

4. On 16th August, 2019 the learned Magistrate found the appellant guilty and was convicted accordingly. On 18th October, 2019 after hearing mitigation and sentence submissions the Magistrate's Court imposed a fine of \$25,000.00.

5. The appellant being aggrieved by the conviction and sentence filed a timely appeal as follows:

APPEAL AGAINST CONVICTION

- (a) *That the Learned Magistrate erred in law and in fact in holding that the Respondent has proved the charge in accordance with Section 77(1) (g) of the [Fijian Competition and Consumer Commission Act 2010] that the Appellant was “making a representation concerning that a price advantage of goods or services exist if it does not” when it did not”;*
- (i) *That the Respondent had failed to complete its investigation before laying charges on the Appellant in terms of obtaining statements of the FMF Merchandising Officer and obtaining the video footage of the Appellant.*
- (ii) *That the [complainant’s evidence] was inconsistent and unreliable when compared against the written statement.*
- (b) *That the learned Magistrate erred in law and in fact by holding on the available evidence that the Appellant is guilty for the Count under Section 77 1(g) of the [Fijian Competition and Consumer Commission Act 2010] when there was no such evidence adduced by the Respondent.*
- (i) *That the Appellant did not attempt to show that the Representation was made by a FMF Sales Merchandiser when in fact this information was provided by the Complainant “Mr. Mohammed Shamsher Khan” in his Statement dated 29th November 2017 given to the Respondent;*

- (ii) *That the [complainant's evidence] was inconsistent and unreliable when compared against the written statement provided;*
- (iii) *That the conduct of pasting the new price display sticker on top of the old price display sticker by the Merchandising Officer be regarded as a Reasonable Mistake as per Section 114 (1) (a) of the Fijian Competition and Consumer Commission Act 2010;*
- (iv) *That the Appellant made no false and misleading representation on the price advantage of goods exists if it does not since the complainant knew and was advised the price of FMF Breakfast Cracker is \$1.37 and not \$1.30 before he purchased the item.*
- (v) *That the Respondent has failed to prove its case beyond reasonable doubt and accordingly the Appellant should have been acquitted.*

APPEAL AGAINST SENTENCE

- (c) *That the learned Magistrate erred in law and in fact in imposing a harsh and excessive sentence against the appellant without giving a reason why the fine imposed is out of line with the fines imposed in similar cases.*
- (d) *That the Learned Magistrate erred in law and in fact in imposing a harsh and excessive sentence that is totally inconsistent in*

comparison with the like cases which has been decided by the Magistrates Court in Fiji.

6. Both counsel filed written submissions and also made oral submissions during the hearing.

APPEAL AGAINST CONVICTION

GROUND ONE

(a) That the learned Magistrate erred in law and in fact in holding that the Respondent has proved the charge in accordance with Section 77(1) (g) of the [Fijian Competition and Consumer Commission Act 2010] that the Appellant was “making a representation concerning that a price advantage of goods or services exist if it does not” when it did not”;

(i) That the Respondent had failed to complete its investigation before laying charges on the Appellant in terms of obtaining statements of the FMF Merchandising Officer and obtaining the video footage of the Appellant.

(ii) That the [complainant’s evidence] was inconsistent and unreliable when compared against the written statement.

7. Due to the convoluted manner in which the grounds of appeal are drafted I shall be dealing with each issue raised in the grounds of appeal under specific headings. Counsel when filing grounds of appeal ought to ensure that the construction of the grounds of appeal are correct not only in particulars but is able to convey the message intended. It is not for the appellate court to correct grounds of appeal filed.

8. When questioned by the court that the written submissions did not cover all the grounds of appeal the appellant's counsel stated that the grounds were self-explanatory and therefore are to be taken as part of the submission. This is not a satisfactory response from counsel, this court had to rise above the submissions made to ensure that justice is done to the appeal filed. Counsel is not only expected to undertake a well-researched and properly constructed written submissions but also when making oral submissions to make specific references to the copy record in support of the grounds of appeal filed.

DETERMINATION

Ground one (a) (i) – Failure to investigate before laying charges

9. Counsel for the appellant argued that the respondent had failed to complete its investigation before laying the charges on the appellant by not obtaining the statement of the FMF Merchandising Officer and the video footage from the appellant.
10. This ground of appeal is misconceived and the issue raised irrelevant to this court (sitting as an appellate court). If the investigation was not complete then that is a matter for the investigating authority. The prosecution had the burden of proof to prove the charge beyond reasonable doubt. If the investigation is shoddy and the prosecution is unable to adduce evidence in respect of all the elements of the offence, the charge fails in court.
11. It is the prerogative of the investigating authority to decide which statements are to be obtained and which ones not. If they do not conduct

a proper investigation, then they do so at their peril. It is not for anyone to tell the investigating authority what to do or not to do with its investigation. The case theory of the respondent was not reliant on the statement of the FMF Merchandising Officer at all. It was the defence theory at one stage of the trial and then later there was a diversion from this.

12. As for the non-availability of the video footage it is important to note that the video footage was in the possession of the appellant and therefore it is improper to blame the respondent. At page 18 of the copy record the supermarket Manager during the caution interview was asked:

“What proof do you have that the sticker was displayed at the right place on 25 November, 2017?”

Ans. We have the CCTV camera but it has been a month now and the previous days CCTV video cannot be obtained.”

13. In the adversarial system of adjudication, it is not the duty of the court to inquire or be inquisitorial about the investigation that had been conducted but to decide on the evidence presented. The learned Magistrate had correctly ruled on relevant and admissible evidence adduced. The delay by the respondent in conducting an investigation leading to the unavailability of the CCTV footage does not affect the prosecution case at all and therefore there was no reason for the respondent to obtain the CCTV footage.
14. The appellant’s counsel in his oral submissions also intimated that the respondent had not carried out a fair and balanced investigations. I disagree, the interviewing officer was cross examined at page 35 of the copy record in the following manner:

Q: So apart from that what did Mr. Krishna told you about the allegation throughout the interview do you agree that Mr. Krishna maintain that the price was changed throughout the interview apart from his response?

A: He did mention that the price according to him on that day was \$1.37 but there was no supporting evidence from his side.

15. The above answer suggests that the supermarket Manager was accorded an opportunity to offer any supporting evidence that the price tag of \$1.37 for the product in question was available but nothing eventuated. It is incorrect therefore to blame the respondent.

Ground One (a) (ii) - Inconsistency of complainant's evidence

16. The main thrust of the appellant's argument under this sub heading is that the complainant in his evidence had told the court that he had pulled out the sticker from the shelf on his own but in the written statement to the respondent the complainant had mentioned that the sticker was pulled out by the FMF Sales Representative who had also informed him that the item was on special.
17. Appellant's counsel submits in his written submissions that the complainant has given two versions with respect to this crucial piece of evidence. Counsel further argues that the complainant in his evidence had said the price display was never given to the respondent.
18. Based on the above, the counsel states the charge was not proven beyond reasonable doubt since there was a contradiction in respect of a crucial piece of evidence and therefore the element of misrepresentation was not proven.

19. In his evidence in chief the complainant told the court (page 29 of the copy record):

“I went to the [shelf] and brought the \$1.30 the price tag and gave it to the cashier and told her this is the price at the counter there ... and they were charging me \$1.37...”

20. In cross examination the complainant was referred to line 7 of his written statement which was read as;

“I had then approached a FMF product sales representative at the product [shelf] Fijian girl of Indian descent who agreed that the product is on sale at \$1.30 per packet whereby she also issued me with the sticker.”

21. In his response the complainant said:

“That was the different sticker she showed ..., the big one which was on a paper that was the company sticker ... and this is the tag that was written there under where the biscuits were kept”.

22. Furthermore, when it was suggested by defence counsel in cross examination that the price displayed was \$1.37 but the complainant had taken the old price of \$1.30 which was tendered as evidence in court. The complainant replied that there was no \$1.37 price tag but only \$1.30 price tag.

23. At paragraph 8 of the judgment the learned Magistrate had taken note of the inconsistency between the evidence of the complainant and the written statement the complainant had given to the respondent in the following manner:

“Witness was cross-examined drawing his attention to the statement he made to the commission and suggested that one representative of FMF issued with the sticker he marked as prosecution exhibit no.2. However, witness informed that there was another price displayed next to it but prosecution exhibit no. 2 was removed from the shelf”.

24. I have also perused the copy record the inconsistency referred to by the appellant’s counsel is not significant to adversely affect the reliability of the complainant’s evidence the inconsistency also does not go to the root of the matter and shake the basic version of the complainant’s evidence. The complainant has given his explanation for the inconsistency at page 30 of the copy record as follows:

Q: Whatever you said in the statement is not as what you have given as evidence today?

A: It is true, what is written here this one means that the sticker was the same sticker that I gave it to the counsel.

25. The complainant maintained his version that the only sticker or price tag on the shelf was that of \$1.30 which he had removed and given to the respondent. Furthermore, the complainant confirmed in court the yellow price tag (pages 31 and 32 of the copy record) prosecution exhibit no. 2 was the same one he had given to the respondent.

26. Despite the inconsistency the learned Magistrate believed the complainant on the basis that the complainant was not discredited and that the variation was slight which did not disturb the prosecution case.

27. In *Ajendra Kumar Singh vs. R (1980) 26 FLR 1* the Court of Appeal said at page 9:

"...It is also set out in [Director of Public Prosecutions- v- Ping Lin [1975] 3 All ER 175] as has frequently been said that an appellate Court should not disturb a judge's findings unless it is satisfied that a completely wrong assessment of the evidence has been made, or the correct principles have not been applied".

28. After perusing the evidence of the complainant in the copy record I am satisfied that the learned Magistrate had correctly assessed the evidence of the complainant in respect of the inconsistency and there is no compelling reason why this court should interfere with the fact finder's decision in this regard.
29. Moreover, in his caution interview the supermarket Manager had accepted that the purchasing officer might have forgotten to remove the old sticker dated 23rd November, 2017 being prosecution exhibit no.2 (page 17 of the copy record).
30. Based on the above, all the above grounds of appeal do not have any merits and are dismissed.

GROUND TWO

- (b) *That the Learned Magistrate erred in law and in fact by holding on the available evidence that the Appellant is guilty for the Count under Section 77 1(g) of the [Fijian Competition and Consumer Commission Act 2010] when there was no such evidence adduced by the Respondent.;*
 - (i) *That the appellant did not attempt to show that the Representation was made by a FMF Sales Merchandiser when in fact this information was provided by the Complainant "Mr. Mohammed Shamsheer Khan" in his statement dated 29th November 2017 given to the Respondent;*

- (ii) *That the [complainant's evidence] was inconsistent and unreliable when compared against the [written] statement provided;*
- (iii) *That the conduct of pasting the new price display sticker on top of the old price display sticker by the Merchandising Officer be regarded as a Reasonable Mistake as per Section 114 (1) (a) of the Fijian Competition and Consumer Commission Act 2010;*
- (iv) *That the Appellant made no false and misleading representation on the price advantage of goods exists if it does not since the complainant knew and was advised the price of FMF Breakfast Cracker is \$1.37 and not \$1.30 before he purchased the item.*
- (v) *That the Respondent has failed to prove its case beyond reasonable doubt and accordingly the Appellant should have been acquitted.*

Ground two (b) (i) – Appellant did not attempt to show that the representation was made by the FMF Sales Representative

31. It is difficult to understand the logic behind this ground of appeal. From the copy record it is clear to me that the yellow price tag belonged to the appellant company being prosecution exhibit no. 2 which mentioned the price of \$1.30 for one packet of FMF breakfast crackers. Apart from this, the FMF sales representative had shown the complainant a different sticker which was on a different paper. This position is explained by the complainant during his cross examination at page 30 of the copy record in the following words:

“That was the different sticker she showed ..., the big one which was on a paper that was the company sticker ... and this is the tag that was written there under where the biscuits were kept”.

32. The issue of the price tag of \$1.30 in respect of FMF breakfast crackers was clarified in re-examination as follows:

Q: You were asked about a sticker that was given to you by the FMF rep is that the same sticker we tendered into court the yellow one exhibit two?

A: That was on the [shelf] right but while packing she took out the big sticker which was in the white packet.

Q: So that is not the same sticker we tendered into court?

A: That was on the [shelf] on the counter it was placed \$1.30.

Q: That is the same sticker you took out yourself?

A: I took it and I brought it to the cashier to show them and nobody came I took the sticker and I brought it...

Q: Was there any \$1.37?

A: No only the \$1.30.

Ground two (b) (ii) - Inconsistency between evidence and written statement of the complainant

33. This ground of appeal has been dealt from paragraphs 16 to 28 of this judgment and therefore there is no need to repeat the same.

Ground two (b) (iii) – Defence of Mistake under section 114 (1) (a) of the Fijian Competition and Consumer Commission Act 2010.

34. Counsel argued that the pasting of the new price display sticker on top of the old price be regarded as a reasonable mistake.
35. The appellant by its witness had informed the court that the price had changed and it was the mistake of the Merchandizing Officer for not taking out the old price tag but placing the new price tag over the old one.
36. During the caution interview the supermarket Manager had also stated this in his answer at page 17 of the copy record as:

“Actually, the price change came but my purchasing officer might have forgotten to remove the old sticker dated 23 November, 2017 while changing the stickers...”

37. Counsel relies on section 114 (1) (a) of the Fijian Competition and Consumer Commission Act 2010 asking this court to consider the defence of mistake. The above section is reproduced herewith in its entirety:

Action in respect of goods of unmerchantable quality

“(1) Where –

- (a) a corporation, in trade or commerce, supplies goods manufactured by the corporation to another person who acquires the goods for re-supply;*
- (b) a person (whether or not the person who acquired the goods from the corporation) supplies the goods (otherwise than by way of sale by auction) to a consumer;*
- (c) the goods are not of merchantable quality; and*

(d) *the consumer or a person who acquires the goods from, or derives title to the goods through or under, the consumer suffers loss or damage by reason that the goods are not of merchantable quality, the corporation is liable to compensate the consumer or that other person for the loss of damage and the consumer or that other person may recover the amount of compensation by action against the corporation in a court of competent jurisdiction.*

(2) *Subsection (1) does not apply –*

(a) *if the goods are not of merchantable quality by reason of-*
(i) *an act of default or any person (not being the corporation, a servant or agent of the corporation) ; or*
(ii) *a cause independent of human control, occurring after the goods have left the control of the corporation;*

(b) *as regards defects specifically drawn to the customer's attention before the making of the contract for the supply of the goods to the consumer; or*

(c) *if the consumer examines the goods before that contract is made, as regards defect that the examinations ought to reveal.*

(3) *Goods of any kind are of merchantable quality within the meaning of this section if they are as fit the purpose or purposes for which goods of that kind are commonly bought as it is reasonable to expect having regard to-*

(a) *any description applied to the goods by the corporation;*

(b) *the price received by the corporation for the goods (if relevant); and*

(c) *all the other relevant circumstances.*

38. The learned Magistrate had taken into consideration the defence of mistake raised by the appellant as per the evidence of Zoya Reman at paragraphs 18 and 19 of the judgment as follows:

Paragraph 18

Even during her cross-examination, she said the same that she checked the price tag and it was \$1.37. However, she could not come up with a good reason as to why the old price tag was not removed. The only explanation she gave was that complainant being a regular customer knew the old price to be \$1.30.

Paragraph 19

Considering the defence evidence, I find that they have omitted the earlier suggestion of representation been made by a FMF representative. Instead, sticking the new price tag over the old price tag has come in to picture. Be it as it may, I find that this defence of affixing the new price tag over the old does not create any doubt on the prosecution case and it is rather kind of admission that old price tag was still there on the shelf regardless of the fact it is underneath the new price tag.

39. The learned Magistrate had taken into account the defence of mistake put forward by the appellant (although the defence did not apply to the circumstances of the case under section 114) and had given his reasons why he did not accept the same. There is no error made by the learned Magistrate in this regard.

Ground 2 (b) (iv) and (v) - No false and misleading representation made by the appellant since the complainant was aware the price was \$1.37 and not \$1.30 before the purchase

40. The complainant during his evidence had specifically told the court that the price on the shelf was \$1.30 per packet on this basis he took the packets of biscuits to the cashier who in turn charged him \$1.37 per packet. The receipt of payment was tendered in court which clearly showed that the complainant was charged \$1.37 per packet.

41. The complainant was not cross examined that he was either informed and/or aware that the price of the item was \$1.37 and not \$1.30 before purchase. The defence witness did say that the complainant was a regular customer who knew the price was \$1.30 per packet the previous day but this version was not believed by the court as credible.
42. The complainant was adamant that there was no price display of \$1.37 per packet the only price display was that of \$1.30 per packet which he had removed from the shelf and given to the investigators at the Fijian Competition and Consumer Commission.
43. In the caution interview the supermarket Manager had admitted that the purchasing officer had forgotten to remove the old price sticker.
44. After considering the evidence adduced by the prosecution and the defence the learned Magistrate accepted the evidence of prosecution witnesses and held that the prosecution had proven all the elements of the offence beyond reasonable doubt after the defence was unable to create a reasonable doubt in the prosecution case.
45. For the above reasons, all the above grounds of appeal are dismissed due to lack of merits.

APPEAL AGAINST SENTENCE

GROUND THREE

That the learned Magistrate erred in law and in fact in imposing a harsh and excessive sentence against the appellant without giving a reason why the fine imposed is out of line with the fines imposed in similar cases.

GROUND FOUR

That the Learned Magistrate erred in law and in fact in imposing a harsh and excessive sentence that is totally inconsistent in comparison with the like cases which has been decided by the Magistrates Court in Fiji.

LAW

46. In sentencing an offender the sentencing court exercises a judicial discretion. An appellant who challenges this discretion must demonstrate to the appellate court that the sentencing court fell in error whilst exercising its sentence discretion.
47. The Supreme Court of Fiji in *Simeli Bili Naisua vs. The State, Criminal Appeal No. CAV0010 of 2013 (20 November 2013)* stated the grounds for appeal against sentence at paragraph 19 as:-
- “It is clear that the Court of Appeal will approach an appeal against sentence using the principles set out in *House v The King* [1936] HCA 40; (1936) 55 CLR 499 and adopted in *Kim Nam Bae v The State Criminal Appeal No. AAU0015 at [2]*. Appellate Courts will interfere with a sentence if it is demonstrated that the trial judge made one of the following errors:-*
- (i) Acted upon a wrong principle;*
 - (ii) Allowed extraneous or irrelevant matters to guide or affect him;*
 - (iii) Mistook the facts;*
 - (iv) Failed to take into account some relevant consideration.”*
48. Both grounds were argued together. Counsel for the appellant argued that the fine of \$25,000.00 was harsh and excessive and inconsistent with like cases.
49. Counsel relied on the following cases:

- (i) *In Fiji Competition and Consumer Commission vs. Rajendra Prasad Brothers Limited (unreported case no. 1 of 2015)* the court imposed a fine of \$3000 plus \$34.40 as prosecution cost.
- (ii) *In Fijian Competition and Consumer Commission vs New World Limited trading as New World Damodar City (unreported case no 16 of 2015)* the court imposed a fine of \$1,000 plus prosecution cost of \$34.50.
- (iii) *In Fijian Competition and Consumer Commission vs National Computer Limited Company Limited (unreported case no. 15 of 2016)* the court imposed a fine of \$3,000.00 plus prosecution cost of \$34.50.
- (iv) *In Fijian Competition and Consumer Commission vs National Computer Limited Company Limited (unreported case no. 15 of 2016)* the court imposed a fine of \$3,000.00 plus prosecution cost of \$34.50.

50. Section 129 of the Fijian Competition and Consumer Commission Act 2010 states:

129. - (1) Subject to subsections (2) and (3), a person who -

- (a) contravenes;*
- (b) aids, abets, counsels or procures a person to contravene;*
- (c) induces, or attempts to induce, a person whether by threats or promises or otherwise, to contravene;*
- (d) is in [any way] 744, directly or indirectly, knowingly concerned in, or party to the contravention by a person of; or*
- (e) conspires with others to contravene, a provision of Part 6, other than section 67, is guilty of an offence punishable on conviction by a fine not exceeding [\$1 million]*

- (1A) *Subject to subsections (2) and (3), a person who commits an offence under this Act for which no other penalty is provided is liable upon conviction to a fine not exceeding \$10,000 for a first offence and \$100,000 for a second or subsequent offence, or imprisonment for a term not exceeding 10 years or both.*
- (2) *Where a person is convicted of any offence against this [Act] and the court by which he is convicted is of opinion that the offence was committed to defraud, that person shall be liable, in addition to or instead of any other penalty, to imprisonment for a term not exceeding [10] years.*
- (3) *The maximum penalty for an offence under a provision of this Act committed by a body corporate is a fine that is five times the fine provided for in the provision or, as the case may be, a fine that is five times the fine provided for in subsection (1).*
- (4) *If a person is convicted of an offence under this Act and the court considers that the Commission of the offence caused another person to suffer pecuniary loss, the court may order the convicted person to pay to the other person a specific amount of compensation for the loss.*
- (5) *The court may make such an order whether or not it imposes a penalty for the offence.*
- (6) *The amount ordered to be paid maybe recovered in a court of competent jurisdiction as a debt due by the convicted person to the other person.*
- (7) *Unless otherwise expressly provided, any goods or articles in connection with which any offence against this Act is committed may, on conviction of any person guilty of the offence, be forfeited to the State by order of the court, and such forfeiture may, in the case of articles, extend to the whole of any similar articles found on the defendant's premises or in his or her possession at the time the offence was committed.*

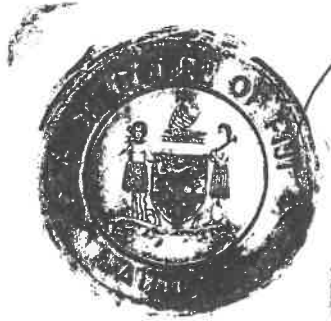
51. The learned Magistrate had sentenced the appellant in accordance with section 129 (3) of the Fijian Competition and Consumer Commission Act. The court was informed that the appellant had 21 previous convictions of the same or similar nature.

52. The learned Magistrate chose a fine at the lower end of the scale being \$5,000.00 which was multiplied by 5 as required by section 129 (3) of the Fijian Competition and Consumer Commission Act. The maximum fine that can be imposed is \$100,000.00. In my judgment the fine of \$25,000.00 is justified considering the circumstances of the offending and the obvious culpability of the appellant as per section 129 of the Fiji Competition and Consumer Commission Act.
53. The appellant's counsel had referred to four decisions as part of his comparison exercise in respect of the sentence imposed by the Magistrate's Court for similar offences but forgot to mention the following cases involving the appellant:
- a) *FCCC vs. Carpenters Fiji Limited t/a MH Super Fresh, CF 30/2018 (27 September, 2019); and*
 - b) *Fiji Commerce Commission vs. Carpenters Fiji Limited t/a MH Hypermarket, PP case no. 04 of 2017 (12 September, 2017); and*
 - c) *Carpenters Fiji Pty Limited t/a MH Superfresh Supermarket vs. Fijian Competition and Consumer Commission, criminal appeal case no. 30 of 2019 (17 March, 2020).*
54. In the above cases, the appellant was fined the sum of \$20,000.00 each. The appeal against sentence is dismissed due to lack of merits.

ORDERS

- 1) The appeal against conviction and sentence are dismissed due to lack of merits.

- 2) The sentence of the Magistrate's court dated 18th October, 2019 is affirmed.
- 3) 30 days to appeal to the Court of Appeal.




Sunil Sharma
Judge

At Lautoka

22 May, 2020

Solicitors

Messrs. Patel Sharma lawyers, Suva for the Appellant.

Legal Counsel, Fijian Competition and Consumer Commission for the Respondent.