

In the High Court of Fiji
At Suva
Civil Jurisdiction

Civil Action No. HBC 107 of 2020

Housing Authority

Plaintiff

v

Sashi Prasad

Defendant

Counsel: Mr N. Lajendra for the plaintiff

The defendant in person

Date of hearing: 21st June,2022

Date of Judgment: 1st July,2022

Judgment

1. The plaintiff, in its originating summons seeks the following reliefs, viz that :
 - a. *Native Lease No. 22501 being Narere Subdivision Stage 3 Lot 108 as shown Lot 30 on SO 229 in the Tikina and Province of Naitasiri having an area of 482m² be transferred from the Defendant to the Plaintiff.*
 - b. *The Registrar of Titles to discharge any caveat/charge or further encumbrances that may hinder registration of transfer in respect of Native Lease No. 22501 from the Defendant to Plaintiff.*
 - c. *The Chief Registrar/Deputy Registrar is to execute all documents relevant for the transfer of Native Leave No. 22501 from the Defendant to Plaintiff.*
 - d. *Costs of this application.*

2. The General Counsel of the plaintiff, in his supporting affidavit states that in 2006, the defendant acquired the property. He took a loan from the plaintiff for the purchase and to carry out repair and maintenance work on the property. Consequent to complaints made by the defendant in 2014 to the Prime Minister's office regarding structural defects in the property, meetings were held by the parties with the Honourable AG and SG. It was agreed that a sum of \$38,378.17 be refunded by the plaintiff to the defendant in exchange for the transfer of Native Lease No. 22501 by the defendant to the plaintiff. On 28 October, 2015 a Deed of Settlement was accordingly executed by the parties.
3. On 2 December 2015, the Transfer and Application for consent to assign was signed by the parties. A Capital Gains Tax, (CGT) Application was prepared to obtain the CGT Certificate. The plaintiff states that the defendant has failed to execute the application and is now renegeing on his obligation under the Deed of Settlement, despite having being paid the full sum of \$38,378.17. The Transfer of the lease cannot take place without the CGT Certificate.
4. The defendant did not file affidavit in opposition.
5. The Deed of Settlement provides that the defendant will surrender the lease document to the plaintiff.
6. I note that the transfer cannot be effected without the CGT Certificate.
7. Accordingly, I make order that the defendant sign the CGT application within 21 days of this Judgment. Failing which the Deputy Registrar is to execute the CGT application.

8. Orders

- a. Native Lease No. 22501 being Narere Subdivision Stage 3 Lot 108 as shown Lot 30 on SO 229 in the Tikina and Province of Naitasiri having an area of 482m² shall be transferred by the defendant to the plaintiff.
- b. The defendant shall sign the Capital Gains Tax application within 21 days of this Judgment. Failing which the Deputy Registrar is to execute the Capital Gains Tax application in order to execute the transfer of Native Lease No. 22501 from the defendant to the plaintiff.
- c. I make no order as to costs.



A.L.B. Brito-Mutunayagam
JUDGE
1st July, 2022