

**IN THE HIGH COURT OF FIJI
(WESTERN DIVISION) AT LAUTOKA
CIVIL JURISDICTION**

CIVIL ACTION NO. HBC 180 OF 2019

BETWEEN : **RANJANI KAVITA REDDY** previously of Yalalevu Ba, Fiji but presently of 6 Rishworth Avenue, Stanmore Bay, Whangaparaoa, Auckland, New Zealand and **NEELIMA PREETI SUDHAKAR** of 7 Aviano Close, Flat Bush, Manukau, Auckland, New Zealand; both Trustees of the Estate of Vinod Datt Sharma.

PLAINTIFFS

AND : **VINESH DATT SHARMA** of Yalalevu, Ba, Fiji and the Trustees of the Estate of Bhagwan Datt Sharma

FIRST DEFENDANT

AND : **VIKESH DATT SHARMA** previously of Yalalevu, Ba, Fiji but now of Manukau, Auckland, New Zealand and the Trustees of the Estate of Bhagwan Datt Sharma and Administrator De Bonis Non of the Estate of Ved Mati

SECOND DEFENDANT

BEFORE : Hon. Mr. Justice Mohamed Mackie

APPEARANCES : Ms. Vikash. for the Plaintiff.
1st Defendant in person
Mr. Z. Mohamed for the 2nd Defendant.

TERMS OF SETTLEMENT DATED: 24th Nov 2021

DATE OF JUDGMENT : 23rd March 2022

JUDGMENT

- A.** This action was commence by way of filing an Origination Summons on 08th August 2019, which was later amended by the Amended Originating Summons dated and filed on 14th October 2020 seeking for reliefs prayed for therein .
- B.** However, before proceeding for substantial hearing, parties, having discussed a settlement, when the matter came up for the first time before me on 23rd March 2022, tendered a written Terms of Settlement dated 24th November 2021 signed by the Solicitors for the Plaintiff, Solicitor for the Second Defendant and the First Defendant in person.

- C. I have carefully pursued the contents of the said Terms of Settlement and satisfied that it has been signed by the Solicitors for the Plaintiff, Second Defendant for and on behalf of their respective clients, while the First Defendant has signed for and on his behalf, on their own free will in order to settle the matter amicably on the said Terms of Settlement dated 24th November 2021.
- D. Followings are the terms, on which the parties have agreed to settle the matter fully and finally and accordingly judgment is to be entered binding all the parties as follows:

TERMS OF SETTLEMENT

1. It is agreed between the parties as follows.
 - a. The late Ms. Ved Mati and Mr. Vinod Sharma are each the owners of a half undivided share in Certificate of Title No 7017.
 - b. Ms. Ved Mati died intestate. Her late husband Mr. Bhagwan Datt Sharma inherited part of her half share in Certificate of Title No 7017. He also took out her Letters of Administration of her Estate but did not manage to fully administer her estate before he died. He died testate and the First and Second Defendants are his Trustees and took out Probate No. 31709 of his Estate.
 - c. The Second Defendant has taken out Letter of Administration De Bonis Non out of the Estate of Ved Mati.
 - d. The beneficiaries of both estates are the children of Ved Mati and Bhagwan Datt Sharma namely:
 - i. Ms. Bimla Datt Sharma
 - ii. Ms. Vineeta Datt Sharma
 - iii. Ms. Veena Sharma
 - iv. Mr. Bimal Datt Sharma
 - v. Mr. Vishwa Datt Sharma
 - vi. Mr. Vivek Datt Sharma
 - vii. Mr. Vinesh Datt Sharma
 - viii. Mr. Vlnay Sharma
 - ix. Vikesh Datt Sharma
2. The beneficiaries of both estates have been served with these proceedings by the Plaintiff pursuant to order made by the Honorable Justice Stuart made on the 13th day of March, 2020.

3. The Estate of Bhagwan Datt Sharma had in clause 3(f) if his last will provided that the late Vinod Sharma is entitled to Certificate of Title No 7017 provided he paid \$2,500.00 each to of his other co-beneficiaries namely:
 - i. Ms. Bimla Datt Sharma
 - ii. Ms. Vineeta Datt Sharma
 - iii. Ms. Veena Sharma
 - iv. Mr. Bimal Datt Sharma
 - v. Mr. Vishwa Datt Sharma
 - vi. Mr. Vivek Datt Sharma
 - vii. Mr. Vinesh Datt Sharma
 - viii. Mr. Vinay Sharma
 - ix. Vikesh Datt Sharma

4. a. By way of this Terms of Settlement the Plaintiffs shall pay the sum of \$20,000.00 (\$2,500.00 x 8) by way of a Bank cheque addressed to the (Trust Account of Zoyab Legal upon settlement at Registrar of Titles for \$2,500.00 for each of the beneficiaries of the Estate of Bhawan Datt Sharma and Ved Mati except for the beneficiaries/Trustee/Administrator Mr. Vikesh Sharma who has agreed to forgo his entitlement to the \$2,500.00 and any other amount due to him in consideration of these Terms of Settlement and in settlement of this action.

b. The payment is in full settlement of the above beneficiaries share in the half undivided share of Estate of Ved Mati in Certificate of Title No 7017.

5. a. In consideration of the above transfer being registered free of all encumbrances in their names as Trustees of the Estate of Vinod Sharma, the Plaintiffs renounce and give up the share of the Estate of Vinod Sharma in Certificate of Title No 7038 registered in the name of late Ved Mati and shall hereafter have no further claim against the Estate of Ved Mati and Estate of Bhagwan Datt Sharma including over Estate of Ved Mati's Certificate of Title No 7038.

b. In the consideration of the above, the Defendants renounce and give up any share the Estates of Ved Mati and Bhagwan Datt Sharma have in Certificate of Title No 7017 or anyone claiming under them or under the said Estate and the said Estate shall have no further claim in or over Certificate of Title No 7017.

6. a. That upon the signing of these Terms of Settlement, Certificate of Title No 7017 will be required at settlement for the transfer to the estate of Vinod Sharma to go through.

b. If it is not located or found an application for provisional title will be made by the Second Defendant as the Trustee/Administrator of the Estate of Ved Mati to the Registrar of Titles which is to be made in any event by the 20th of May, 2021.

- c. That the Plaintiff shall pay half the cost of the advertisements for the Plaintiff's Provisional Title within 10 days of the receipts for payment of the same being delivered to the Plaintiff's Solicitors. The balance costs shall be paid by the second Defendant.
7.
 - a. The Second Defendant shall promptly sign all documentation relating to the transfer including transfer, Capital Gain Tax (CGT) statutory declaration and return. He shall promptly comply with all Fijian Taxation and like requirements regarding tax and other clearances required so that the transfer to the Plaintiffs can be registered within 30 days from the time of signing of the Terms of Settlement.
 - b. The second named defendant shall pay CGT if asked for by FRCS, for the sum of \$20,000.00 only which is the consideration amount for transfer. Any balance shall be the responsibility of the Plaintiffs.
 - c. Settlement shall take place within 10 days of the Provisional Title being made available by the Registrar of Titles at the Office of the Registrar of Titles.
 - d. At settlement the Second Defendant as Administrator of the Estate of Ved Mati shall transfer Ved Mati's one-half undivided share in Certificate of Title No 7017 unto the Plaintiffs free of all encumbrances.
 - e. The Second Defendant shall withdraw his caveat so that the transfer can take place.
 - f. Both parties shall use their best endeavours to see that any other beneficiary who has lodged a caveat withdraws the same. The second defendant will ensure that his caveat on the title is withdrawn.
8. The parties be a liberty to apply including asking for extension of time.
9. All matters between the Plaintiffs and both Defendants including accounts are settled by virtue of these Terms of Settlement.
10. The parties agree that this Terms of Settlement be made an order of the court upon approval by the Court.
11. There shall be no order for costs of these proceedings against either Defendant provided of Certificate of Title No 7017 is registered in the name of the Plaintiffs free of all encumbrances within the required time or any extension thereof.

- E. Accordingly, judgment is hereby entered on the aforesaid Terms of Settlement and this shall be treated as the final judgment of this Court.
- F. Parties are directed to abide by this judgment entered on the Terms of settlement.
- G. Proceedings terminated subject to clause 8 above.



A.M. Mohamed Mackie
Judge

At High Court Lautoka this 23rd March 2022.

SOLICITORS:

For the Plaintiff: Mishra Prakash Associates.
First Defendant: In person.
For the Second Defendant: Messrs Zoyab Shafi Mohammed Legal