

In the High Court of Fiji  
At Labasa  
Civil Jurisdiction

Civil Action No. HBC 39 of 2022

Mohit Monish Prasad

Plaintiff

v.

Sunil Chand

Kiritiman Mala

Defendants

Counsel: Mr A. Bale for the plaintiff  
Mr A. Prakash for the first defendant  
The second defendant absent and unrepresented

Date of hearing: 25<sup>th</sup> August, 2022  
Date of Judgment: 19<sup>th</sup> October, 2022

**Judgment**

1. The plaintiff in his expedited originating summons seeks:
  - a. *AN ORDER that the Defendants execute all documents not limited to the Sale & Purchase Agreement Transfer and TLTB for Consent and take all other steps necessary to transfer all that piece of land on Agreement of Lease LD Ref No. 4/9/14739 known as Covata (Pt of) in the District of Wailevu and Province of Macuata and having an area of 0.1011 Hectares, together with all improvements thereon.*
  - b. *IN THE ALTERNATIVE if the Defendants fail to execute the required documents that the Chief Registrar or the Deputy Registrar execute all documents necessary to give effect to order 1 hereinbefore to transfer all that piece of land contain in Agreement of Lease LD Ref No. 4/9/14739 .... to the Plaintiff.*
  - c. *AN ORDER that the Defendants pays ...costs*

2. The plaintiff, in his supporting affidavit states that the defendants are the registered proprietors of the land on Agreement of Lease LD Ref No. 4/9/14739,(land). In 2016, he (through his father) entered into a Sale and Purchase Agreement, (SPA) with the defendants for the purchase of that land for \$26,000.00. He paid the full purchase price. The sale documents were finalized. He is in possession of the land. The transfer has not been effected. The Solicitor in carriage of this matter advised him that all the documents were destroyed by floods in 2018. A new SPA, Transfer and “*Application for Consent*” were prepared by the office of Messrs Sarju Prasad, Solicitors. The first defendant has signed all the documents, but the second defendant refused to do so. The plaintiff states that he has paid her \$13,000.00, being half the sale price. He has paid iTLTB the total sum of \$1,700.00 as rentals. The defendants have wrongfully and in breach of the SPA refused to transfer the property to him.
3. The first defendant in his affidavit in reply confirms that he executed the initial SPA with the second defendant. She has refused to execute the second SPA, despite her accepting \$12,000.00 as her share of the purchase price. He has executed the relevant Transfer and consent to assign documents.

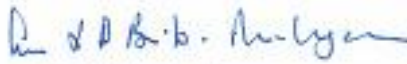
***The determination***

4. The plaintiff entered into a SPA with the first and second defendants for the purchase of the land for \$26,000.00. He paid the consideration in full and all sale documents were finalized. A new SPA, Transfer and application for consent were prepared, as the earlier documents were destroyed by floods. The first defendant has signed all the documents, but the second defendant refuses to do so.
5. The first defendant confirms that the initial and subsequent SPA and other documents were executed. He also confirms that that he has paid the second defendant her share of the purchase price.
6. The second defendant has been served with this summons and the supporting affidavit, but has not defended this matter.

7. I am satisfied on the affidavit evidence that the second defendant has been paid her share of the purchase price.
8. In order for the transfer to be effected, the consent of the Director of Lands has to be obtained.
9. I make order accordingly for the defendants to apply to the iTLTB for consent and proceed to execute all documents

10. **Orders**

- a. The first and second defendants shall obtain the consent of the iTLTB for the transfer of all that piece of land on Agreement of Lease LD Ref No. 4/9/14739 known as Covata (Pt of) in the District of Wailevu in the Province of Macuata having an area of 0.1011 hectares together with all improvements thereon, execute the Sale & Purchase Agreement and transfer the land to the plaintiff.
- b. If the defendants fail to execute the required documents, the Deputy Registrar shall execute all documents necessary to give effect to order a above.
- c. I make no order as to costs.

  
A.L.B. Brito-Mutunayagam  
19<sup>th</sup> October 2022  
Judge

