

In the High Court of Fiji at Suva
Civil Jurisdiction

Civil Action No.: HBC 05 of 2020

Sanjay Prasad aka Sanjay Shailendra Prasad

Plaintiff

v

Goodman Fielder International (Fiji) PTE Limited

Defendant

Counsel: Mr A. Valenitabua for the plaintiff
Mr Ronal Singh for the defendant

Date of hearing: 22nd July,2020

Date of Judgment: 5th October,2022

Judgment

1. The plaintiff in his originating summons seeks a declaration that the letter of offer, (LO) of 6th October 2011, from the defendant to the plaintiff prior to the execution of the Memorandum of Lease, (MOL) is a condition precedent and forms part of the MOL.
2. The supporting affidavit states that the plaintiff accepted the defendant's offer to lease CT No. 24723 situated in Navua. The parties entered into a MOL, which took effect from 1st February, 2017.

The determination

3. The plaintiff contends that the LO of 6th October, 2011, contains the matters the plaintiff has to attend to before the defendant enters into the MOL and commences its operations. These requirements are a “*condition precedent to the formation of the contract (and) again reflected*” in schedule 1, item 9 and schedule 3 of the MOL, (as stated in the written submissions filed on behalf of the plaintiff).
4. The defendant contends that the MOL supersedes the LO. The LO was neither a pre-condition nor formed part of the MOL. The agreement was for a term of 3 years. On 22 May, 2019, the defendant gave the plaintiff notice to terminate the lease with effect from 30 November, 2019.
5. I note that the parties, subsequent to the LO, entered into a MOU incorporating the terms of the lease. The MOU does not provide that it is not binding, until the matters relied on by the plaintiff are done.
6. Clause 16 of the MOL titled “*Entire agreement*” provides that:

This Lease constitutes the entire agreement as between the parties and supersedes and extinguishes all prior agreements, leases, arrangements and understandings between the parties relating to the matters contemplated by this Lease whether written or oral. (emphasis added)
7. In my judgment, the MOL superseded the LO. The LO was not a condition precedent nor part of the MOL.
8. I note that the defendant had the right to terminate the lease by giving six months notice in terms of clause 10.5, as it did.
9. The plaintiff’s summons fails.

10. *Orders*

- a. The summons of the plaintiff is declined.
- b. The plaintiff shall pay the defendant costs summarily assessed in a sum of \$1500.



A.L.B. Brito-Mutunayagam
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JUDGE
5th October, 2022