

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

**CIVIL ACTION NO. HBC 176 OF 2020**

**BETWEEN** : **CLUB FEENIX NADI** a duly Registered Business Subsidiary of **ABOVE AND BEYOND INVESTMENTS PTE LTD** a Duly Registered Company in the Republic of the Fiji Islands, having its Registered Place of Business at Lot 1 Vunavau Street, Nadi.

**PLAINTIFF**

**AND** : **ANIL RAJESH MANI GOUNDAR** of Nadi, Businessman.

**DEFENDANT**

**BEFORE** : Hon. Mr. Justice Mohamed Mackie

**APPEARANCES** : Ms. Degei A. for the Plaintiff.  
Ms. Swamy A. For the Defendant.

**DATES OF TRIAL** : 11<sup>th</sup> and 12<sup>th</sup> September 2023.

**WRITTEN SUBMISSIONS:** Filed by the Plaintiff on 17<sup>th</sup> November 2023.  
Filed by the Defendant on 24<sup>th</sup> November 2023.

**DATE OF JUDGMENT** : 30<sup>th</sup> May 2024.

**JUDGMENT**

**BRIEF HISTORY:**

1. At all material times, the Plaintiff was running a duly registered business of a Night Club under the name and style of "CLUB FEENIX NADI" being a subsidiary of the "ABOVE AND BEYOND INVESTMENTS PTE LTD, a duly Registered Company in Fiji Islands.
2. The Defendant is the Registered Lessee (owner) of all that Lot 1 Vunavou Street, Nadi Town and the buildings therein, being the part of the land and improvements described on Native Lease No-17789 Vunavou subdivision located in Nadi Town.
3. The Plaintiff, from the 1<sup>st</sup> date of January 2017, became the Tenant/ Lessee of the Defendant by virtue of Lease Agreement in consideration of Lease Rental in a sum of \$12,000.00 per month payable on the 30<sup>th</sup> of each and every month. The Total Lease period covered was for 5 years, with liberty to renew for further 5 years.
4. As a result of the Fiji Islands went into Lock-Down in or around March 2020 due to COVID - 19 and all the Night Clubs & Bars had to cease the operation until further Notice, the Plaintiff's Director, namely, **Krital Kriteshma, ( Krital)** endeavored to make alternative

arrangements with the Defendant on the issue of Rentals gained by the Defendant from the Plaintiff's Lease of the Defendant's property, however to no avail.

5. After 7 days of non-payment, the bailiff of the Defendant on or around 7<sup>th</sup> April 2020 demanded from the Director of the plaintiff that the keys to the premises to be returned to the Defendant as the Defendant, being the landlord of the premises, had right to do so as per the Agreement.
6. The Director of the Plaintiff, namely, KRIT L ,alleged that the Defendant on or about 7<sup>th</sup> April 2020, after she returned the key of the premises in suit, caused to be placed on the property a **Padlock**, refraining her from entering and removing her personal belongings and Business Chattels from the Defendant's property.

#### **Ex-Parte Notice of Motion for Injunctive Reliefs:**

7. Accordingly, the Plaintiff, on 7<sup>th</sup> August 2020, through its then Solicitors, filed an Ex-parte Notice of Motion, supported by an Affidavit sworn on 6<sup>th</sup> August 2020 by its said Director KRITAL KRITESHMA, along with annexures marked as "KK-1" to "KK-4", seeking, *inter alia*, the following reliefs, which was made inter-partes by the Court;
  1. ***AN INJUNCTION*** *restraining the defendant, his servants and / or agents whosoever, from removing the Plaintiff's personal belongings and Business Chattels, from the said premises.*
  2. ***AN INJUNCTION*** *restraining the defendant, his servants and / or agents whosoever, from selling, discarding and/or distributing the Plaintiff's personal belongings and Business Chattels, which are kept within the said premises.*
  3. ***AN ORDER*** *allowing the Defendant his servants and /or agents whosoever, to remove his properties from the said premises. (This relief is vague)*
8. Accordingly, after hearing both the parties on 11<sup>th</sup> August 2020, orders were made, *inter alia*, restraining the Defendant from disposing of the chattels in the list annexed as "KK-4" to the Plaintiff's Affidavit in support and allowing the Plaintiff or any authorized person to have access to the chattels for the purpose of listing them and establishing their condition, including taking of photographs.
9. However, after filing of the Affidavits in response and reply , when the matter had come up for hearing on 4<sup>th</sup> November 2020 , the injunction matter was resolved by permitting the Plaintiff, its agents whosoever to remove the personal belongings and Business Chattels from the said premises within 7 days.

#### **Writ of Summons & the Statement of Claim:**

10. By this time, the Plaintiff on **7<sup>th</sup> October 2020**, had filed its writ of summons and the Statement of Claim seeking, inter alia, the following reliefs;

- i. *For an Order that the Bond Monies to the sum of \$22,000.00 (Twenty Two Thousand), is refunded back to the Plaintiff.*
- ii. *For an Order that the sum of \$150,000.00 (One Hundred and Fifty Thousand Dollars) is returned to the Plaintiff for all the renovations and improvements made on the derelict property of the Defendant, at the commencement of the Agreement to lease, and during the course of the Plaintiff's use of the Defendant's premises.*
- iii. *Damages for the personal belongings and Business Chattels, of the Plaintiff, that the Defendant has removed and/or sold from the property.*
- iv. *Exemplary and punitive damages, which in the opinion of this Court may deed just and this Court proper.*
- v. *Cost of this action on Solicitor / Client indemnity basis.*

### **Defence & Counter Claim.**

11. The Defendant by his Statement of Defence (SOD) filed on 23<sup>rd</sup> October 2020, having denied the contents of the majority of averments in the SOC, except for the contents of the averments in paragraphs 1, 2, 3, 4 7,8, 23,24& 25 thereof, from paragraph 21 of his Statement of Defence pleaded and prayed for following reliefs by way of his Counter claim
  - i. *A sum of \$85,100.00 as rental arrears as pleaded in paragraph 24 of the SOD.*
  - ii. *A sum of \$1,96764.00 as damages as pleaded in paragraph 25 of the SOD,*
  - iii. *A sum of \$10,067.80 as payment for water and Electricity rates.*
  - iv. *Damages for loss of income and or mesne profit.*
12. Further Pleadings and the PTC formalities being finalized, minutes thereof was filed on 16<sup>th</sup> August 2022, with 6 agreed facts and 24 agreed issues to be tried, which are reproduced for easy reference; However, I find that answering of the pivotal issues highlighted bellow would dispose the matter fully and finally.
  1. ***Whether the Plaintiff at all material times ensured that all rentals were paid as per the lease agreement?***
  2. ***Whether the Defendant issued receipt for all the monthly lease rental payment made by the Plaintiff?***
  3. ***Whether at any given point did the Plaintiff endeavor to make alternative arrangement, with the Defendant, for her leaser rental payments?***
  4. *Whether the Defendant disregarded and/or ignored the alternative arrangement proposal made by the Plaintiff's company?*
  5. *Whether the Plaintiff's company was notified by the Defendant to deliver the keys of the premises to the agents of the Defendant?*

6. *Whether the Defendant at any given time, refrained the Plaintiff and/or its agents from entering and removing it personal belonging and business chattels form the Defendant's property.*
7. *Whether the Defendant threatened the Director of the company and his family?*
8. *Whether the defendant's approach to intimidate and threaten the director and his family is justifiable?*
9. ***Whether the force majeure clause binds both the parties to perform their contractual obligation?***
10. ***Whether the Defendant ignored and/ or neglects to adhere to force Majeure clause?***
11. ***Whether the Defendant was in breach of contract by not observing the force majeure clause and proceeding to prohibit the Plaintiff from entering the premises?***
12. ***Whether or not the Plaintiff at any point in time default in lease rental payment and due to that breached the Lease Agreement?***
13. ***Whether the "default in payment clause" supersedes the "force majeure clause"?***
14. ***Whether the Defendant consented to the improvement and renovation made by the Plaintiff?***
15. *Whether the Defendant was unjustly enriched from the renovations and/ improvement made to the premises?*
16. *Whether the Plaintiff's action was unlawful, in demolishing and/or removing of the renovation made by the Plaintiff?*
17. *Whether the Plaintiff has caused substantial damage to the Defendant's property?*
18. *Whether the Defendant had suffered damages to his properties?*
19. *Whether the Plaintiff's personal belongings and chattels were adversely affected and/or damaged from the demolished and/or removal made by the Defendant?*
20. *Whether the Defendant removed and/or sold the chattels owned by the Plaintiff?*
21. *Whether the Plaintiff is entitled to refund for all/ any renovation and improvement made to the derelict property?*
22. *Whether the Plaintiff is entitled to orders sought in the statement of claim?*
23. *Whether the defendant is entitled to any other orders sought in their counter-claim?*
24. *Costs and on what scale.*

**Trial:**

13. At the trial held before me on 11<sup>th</sup> and 12<sup>th</sup> September 2023, Ms. Kritel Kriteshma- the Director of the Plaintiff Company, and 3 other witnesses on its behalf gave evidence marking exhibits as “Pex-1” to “Pex-10”, after which only the Defendant gave evidence for and on his behalf by marking exhibits from “Dex-1” to “Dex-10”.
14. Both parties have filed respective written submissions as aforesaid. Counsel for the Plaintiff in paragraph 4 of her written submissions, has narrowed down the issues hereof to 3 main legal issues as follows;
  - 4.1. *Whether or not the Defendant is liable for breach of the principles of natural justice and procedural fairness?*
  - 4.2. *Whether or not the Defendant breached the Lease Agreement when he not observe the provisions in the Force **Majeure Clause**?*
  - 4.3. *Whether or not the defendant is liable for damages in the sum of \$150,000.00?*
15. Counsel for the Defendant has filed her written submissions mainly focusing on the undisclosed Rental receipts objected to by the Plaintiff’s Counsel, which the Defendant claims to have issued to the Plaintiff, and with regard to the applicability of **Force Majeure Clause** relied on by the Plaintiff’s Counsel. She also has drawn my attention to number of case Law Authorities on breach of Agreement, of which copies were also tendered with.

**Discussion:**

**Reliefs claimed by the Plaintiff:**

16. The first relief claimed by the Plaintiff, as per the prayer to its Statement of Claim, is ***for an Order that the Bond Monies to the sum of \$22,000.00 (Twenty-Two Thousand Dollars), is returned back to the Plaintiff.***
17. There is no dispute that at the commencement of the Lease, a sum of \$24,000.00 (being the two months’ rental) was paid in advance as Bond Money. The Plaintiff now claims \$22,000.00 out of it, after deducting \$2,000.00 for the month of April 2020.
18. However, the entitlement of the Plaintiff, if any, for the refund of the Bond Money, totally relies on the answers to the questions whether the Plaintiff has paid all the due rental as agreed for till the termination of the Agreement? Whether the utility bill have been duly paid and settled? And whether any damages have been caused by the Plaintiff to the Property in question as alleged by the Defendant? Unless, the above questions are answered in favor of the Plaintiff, this court cannot order for the refund of the Bond Money or any part of it to the Plaintiff. These questions will stand answered, once the counter claim of the Defendant is adjudicated later in this judgment.

**The 2<sup>nd</sup> Relief claimed by the Plaintiff:**

19. The 2<sup>nd</sup> Substantial relief claimed by the Plaintiff is for the refund of \$150,000.00 (Hundred and Fifty Thousand Dollars) on account of all the, purported, renovations and improvements made on the Defendant's property by the Plaintiff at the commencement of the lease and during the pendency of the lease.
20. There is no evidence on as to what type of renovations and/ or improvements were made, or details as to how much was spent on each work, and specific evidence as to whether those, purported, improvements and renovations were necessarily to be attended by the Plaintiff or the Defendant in terms of the clause for the "**Maintenance / Repair**" under the Agreement. If any of or some of or all of those works were to be attended by the Defendant, and if the Plaintiff had in fact done those works on its own, the question arises whether necessary consent was obtained by the Plaintiff from the Defendant, answer to which has to be necessarily "No" as there is no evidence on it. The said clause in the Agreement specifically states that certain repairs and maintenance are to be attended by the Plaintiff, while some are to be attended by the Defendant. Thus, in the absence of any evidence on these factors, no relief can be given to the Plaintiff as prayed for in paragraph 2 of the prayer to the SOC.

**3<sup>rd</sup> Relief claimed by the Plaintiff.**

21. As far as the 3<sup>rd</sup> relief of the Plaintiff is concerned, I find that at the end of the hearing of the Application for injunctive reliefs held on 4<sup>th</sup> November 2020, the Plaintiff was given an order to remove all the personal items and the Business Chattels from the premises in suit. There is no evidence before this Court as to what items were removed or sold by the Defendant. It is only a mere allegation by the Plaintiff that the Defendant removed and/ or sold the items. The Plaintiff, who was given 7 days' time to have the things removed, cannot now be heard to say that the Defendant has removed and/ or sold those items. The Court cannot make any orders as prayed for by the Plaintiff in this regard as well.

**Counter Claim by the Defendant:**

22. One of the substantial claims of the Defendant is for the recovery of the balance rental in a sum of \$85,100.00 as shown in the annexure marked as "Dex-2". It is undisputed that the monthly rentals in a sum of \$10,900.00( being the initial reduced sum)from the commencement of the lease in January 2017 till the month of July 2019 were duly paid.
23. The dispute in relation to rental payment seems to have cropped up only from the Month of August 2019, which has persisted till the Month of April 2020, for which period of 9 months, the Plaintiff claims that the full rental was duly paid, but the Defendant did not issue receipts for those payments.
24. Conversely, the Defendant has taken up a stern position that within the disputed period of 9 months commencing from the Month of August 2019 till April 2020 the payments were made only at the rate of \$2,000.00 for 5 months, \$3,000.00 for one month, and no

payment whatsoever was made at all for 3 months, namely, for January, February and March 2020, as substantiated by the annexure marked as “Dex-2”.

25. The Defendant states further that, after giving credit to a total sum of \$13,000.00 paid as aforesaid for the period of 9 months, a further sum of \$85,100.00 is yet to be recovered from the Plaintiff. When the Plaintiff takes up the position that the full Rental at the rate of \$10,900.00 for the said disputed period of 9 months were also duly paid, the “PW-1” the Director of the Plaintiff or any other witness for the Plaintiff have not adduced any documentary evidence to substantiate this position. They have simply said no receipts were issued by the Defendant.
26. If no receipts were issued by the Defendant, as alleged by the Plaintiff, it being such a large business entity, with some other business activities, manned by around 42 staff members, including an Accountant, the Plaintiff should have maintained some form of records for payments, if it really paid the rental. Although, the “PW-1” said that the payments were duly entered in a diary, neither such a diary nor any books of account or other records of her Company was tendered in evidence.
27. The Defendant does not deny the non-issuing of receipts for the reduced payments made for 6 months, during the disputed period of 9 months, except for issuing the receipt No 48 dated 6<sup>th</sup> August 2019 for \$2,000.00. The Defendant says that he gave up issuing receipts as the payments were not made in full during the disputed period. The “Dex-2” document clearly depicts the reduced payments that the Defendant received for the months of August, September, October, November, December 2019 and for April 2020. The non-payment of any amount for the Months of January, February and March 2020 also shown in it. The Defendant admits that he received the reduced payments for the said 6 months, while the Plaintiff fails to adduce evidence to prove any amount of payment she claims to have made during the disputed period. The Defendant was honest enough to admit the receipt of the reduced amounts for 6 months, out of 9 disputed months, which he could have refuted, if he wished to do so.
28. When the Defendant was giving evidence in chief, an attempt on the part of the Defence Counsel to mark certain rent Receipts (Dex-10) was vehemently objected by the Plaintiff’s Counsel on the ground that those receipts were not disclosed. However, when the Defendant was under cross examination, same counsel for the Plaintiff asked whether the Defendant has any proof for issuing receipts, the Defence Counsel immediately marked the receipts “Dex-10”.
29. However, I find that, except for the aforesaid receipt NO-48 dated 6<sup>th</sup> August 2019 for a sum of \$2,000.00, all other receipts in “Dex-10” were for the undisputed periods prior to July 2019, wherein the monthly payments at the rate of \$10,900.00 had been duly made.
30. As per the “Pex-3” Lease Agreement, if the rent for a particular month is not paid on 30<sup>th</sup> of any month, the Defendant was at liberty to exercise his right to repossess the property through the bailiff within next 7 days from the date of default.

31. But, for the reasons best-known to the parties, despite the Plaintiff was paying only a minimal amount from August 2019 and also no rental was paid for 3 months in 2020, the Defendant had not taken any steps to evict the Plaintiff for 8 months from 7<sup>th</sup> September 2019 till 7<sup>th</sup> April 2020. The Plaintiff in its SOC has admitted that PW-1 endeavored to make alternative arrangements with the Defendant for the rental. This is a tacit admission on the part of the plaintiff, that she was not paying the rental as per the Agreement.
32. The Plaintiff has not duly challenged the Defendant's evidence on reduced payment for 5 months and non-payment for 3 months of rentals during the period of last 9 months before her vacation of the premises on 7<sup>th</sup> April 2020. The Defendant has recovered only a nominal amount for six months and not received any rental at all for the months of January, February and March 2020. The reason adduced by the Defendant for not issuing receipt, in my view, was not blameworthy as the sums he was receiving was very minimal compared to the initially agreed rental and as he is not denying the receipt of it.
33. However, for reason/s not disclosed by evidence, the Defendant had permitted the Plaintiff to remain in the property on payment of nominal sums from August 2019 and also tolerated the nonpayment of any sum for 3 months in 2020 as aforesaid. He also did not take steps to evict the Plaintiff on the very first default and waited for 9 months to do so. He did not even add \$100.00 per day for the period of default as per the arrangement in the lease. The uncontroverted evidence before the Court is that it was when the Plaintiff was in the act of removing the things from the premises without informing the Defendant on 6<sup>th</sup> April 2020, the Defendant rushed to the premises and stopped the Plaintiff from moving the things.
34. It was under these circumstances, the Plaintiff, having vacated the premises on 7<sup>th</sup> April 2020, sent the letter dated 16<sup>th</sup> April 2020, marked as "Pex-4", unto the Defendant through her Solicitors, demanding the refund of \$22,000.00 out of the Bond money and for the removal of the Padlock to enable her to have the personal belongings and business chattels uplifted from the premises. It was also notified that the failure to do so would result in filing of civil action for the recovery of \$150,000.00 on account of Bond Money, Personal belongings, Business chattels and as damages for renovations and defamation.
35. In addition to above letter of demand, the Plaintiff also had sent an email giving '**Force Majeure Notice**' to the Defendant by relying on the clause 11 of the Agreement for lease. In view of the above, the counter claim advanced by the Defendant has to survive the said '**Force Majeure Clause**' in the lease Agreement for him to succeed in his claim for rental arrears.

**Force Majeure Clause:**

36. The Plaintiff heavily relied on the aforesaid '**Force Majeure Clause**'. The said clause releases the Plaintiff from the liability of performing her obligation, if any, under the lease due to the reasons of riot, earthquake, volcanic activity, fire, storm and operation of law, or other like cause beyond the control of the Plaintiff. The '**Force Majeure**' event relied on by the Plaintiff hereof was Covid- 19 Pandemic. It is a common ground that the Covid 19



pandemic affected the Fiji as well resulting restrictions on travel , business hours, together with lockdown and curfew as well being imposed as measures taken by the Government to curb the pandemic. However, the said clause 11 in the Agreement has an exception where it states as follows.

*“ .... but without prejudice to any pre-existing claim or pre-existing liability in respect of the lease ...”*

37. The Covid 19 pandemic being declared as an ‘Act of God’ by the World Health Organization in April 2020, the Section 24 of the Employment Relation Act of 2007 was accordingly amended by the Employment Relations (Amendment) Act No-11 of 2020 to include the Pandemic as an ‘Act of God’. This being an Act God, was neither predictable nor preventable. If the Plaintiff seeks to release herself from the liability under ‘Force Majeure’ clause in this lease Agreement, she has to fall within the relevant timeframe.
38. The Court takes judicial notice that the above restrictions had come into effect in Fiji from 19<sup>th</sup> March 2020. “PW-1” under her cross examination admitted, in page 25 of the transcript, that there was no Covid from August 2019 and the business was going on till 17<sup>th</sup> March 2020. However, it is observed that from August 2019 till 7<sup>th</sup> April 2020 for a period of 9 months, the Plaintiff has remained there by paying reduced amounts as rental for 6 months and not paying any rental at all for 3 months as aforesaid.
39. So, if the Plaintiff is seeking to evade from liability under the clause ‘**Force Majeure**’ in terms of paragraph 11 of the Agreement, it would be available to her only from 19<sup>th</sup> March 2020, and not with effective from August 2019 as claimed by her. As per the ‘Force Majeure’ clause hereof, the rent payable from August 2019 till 19<sup>th</sup> March 2020 was a pre-existing liability. As such the Plaintiff could not have avoided those rental payments for the said period. However, she should be at liberty to have herself released from liability from 19<sup>th</sup> March 2020. The Plaintiff has not adduced any reason as to why the Defendant should not be allowed to recover the rent at the rate of \$10,900.00 from August 2019 till 19<sup>th</sup> March 2020.
40. The fact that the Plaintiff moved to rely on the said ‘**Force Majeure Clause**’ itself demonstrates that the Plaintiff was in arrears of rental to the Defendant. However, she can get herself released from the liability only with effective from 19<sup>th</sup> March 2020 till the premises was locked by the Defendant on 7<sup>th</sup> April 2020, by which act the occupancy of the Plaintiff was terminated and no liability could have continued thereafter.
41. After being so lenient towards the Plaintiff, namely, 1. By collecting only \$13,000.00 as rental for the whole disputed period of 9 months, 2. By not moving to evict the Plaintiff during the said period in dispute, and 3. By not adding daily penalty for the arrears of rental, if the Plaintiff is still minded to recover the full rental, he can do so only up to 18<sup>th</sup> March 2020 and not for any period thereafter. In other words, the Plaintiff cannot evade the liability of full payment from August 2019 till 18<sup>th</sup> March 2020.

**Claim for Damages by the Defendant:**

42. The Defendant also claims from the Plaintiff a sum of **\$195,764.00** being the estimated costs for the repairs of the damages, allegedly, caused by the Plaintiff to the property in question while being in occupation of it. The document marked in relation to this claim is only an estimate, which appears to be for the full refurbishment of the entire building.
43. No specific damages were shown to have been caused by the Plaintiff. There is no details of actual damages and costs incurred. By merely tendering an estimate, in the absence of detailed evidence, the Defendant cannot succeed in this claim.

**Claim for Utility Bills:**

44. There are 2 water bills marked as “Dex4” & “Dex-5” representing two separate accounts both showing the consumption from April 2020 till July 2020 as \$ 114.90 and \$1.50 respectively. This period is not in relation to Plaintiff’s possession. However, in both bills there appear two separate amounts purporting to be previous arrears in a sum of \$1,371.80 and \$3,323.58 respectively. A cheque dated 17<sup>th</sup> March 2020 for a sum of \$4,743.26, apparently given for the settlement of the said arrears, has been bounced and the Defendant is claiming that amount. I find that the Defendant is entitled to recover the said amount \$ 4,743.26 in the cheque marked as “Dex-5”.

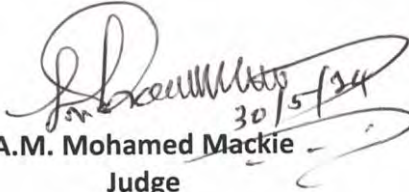
Then comes in is an EFL bill marked as “Dex- 5” for a sum of \$5,324.54. The bill period shown is from 7<sup>th</sup> August 2020 to 8<sup>th</sup> September 2020 for a period very much after the vacation of the premises by the plaintiff. There are 4 full months in between the date of vacation by the Plaintiff and the date of the bill in hand, which poses the question who is liable for these 4 months. I find it difficult to assess the exact consumption of the Plaintiff prior to 7<sup>th</sup> April 2020. Therefore, I decline this claim by the Defendant.

45. Before, I conclude, I must put on record that if the Defendant moves to recover the relevant amount of rental arrears from August 2019 till 18<sup>th</sup> March 2020 as alluded to above, and the arrears of water bill in a sum of \$4,743.26 cts, the Plaintiff will be at liberty to have her bond money in a sum of \$24,000.00 deducted from and out of the said amount.

**FINAL ORDERS**

- A. The Plaintiff’s action partially succeeds.
- B. The Plaintiff is entitled to recover her ‘Bond Money’ in a sum of \$24,000.00.
- C. The Plaintiff’s claim for damages in a sum of \$150,000.00, is hereby dismissed
- D. The Defendant’s Counter claim also partially succeeds.

- E. The Defendant is entitled to recover the agreed rental from the month of August 2019 till 18<sup>th</sup> March 2020, however subject to reduction of \$13,000.00 made as part payment.
- F. The Defendant also entitled to recover the arrears for water Bill in a sum of \$4,743.26.
- G. The Defendant's claim for the recovery of damages in a sum of \$ 195,764.00 is dismissed.
- H. The Defendant's claim for recovery of EFL bill arrears is also dismissed.
- I. There shall be no costs and the parties shall bear their own costs.

  
A.M. Mohamed Mackie  
Judge



At High Court Lautoka on this 30<sup>th</sup> May, 2024.

**SOLICITORS:**

**For the Plaintiff:**

**Messrs. Iqbal Khan & Associates- Barristers & Solicitors.**

**For the Respondent**

**Messrs. Patel & Sharma - Barristers & Solicitors. +**