

IN THE HIGH COURT OF FIJI
IN THE CENTRAL DIVISION
CIVIL JURISDICTION

Civil Action No. HBC 135 OF 2025

BETWEEN: **JUNE PICKERING and SOLOMON TABAIWALU PICKERING** as Trustees of the Estate of Henry Harry Pickering.
1st PLAINTIFF

AND: **SOLOMON TABAIWALU PICKERING** as Trustee of the Estate of Eric Hillman Pickering and Trustees of the Estate Henry Vernon Pickering both of Navuni, Vanua Levu, Fiji, Retiree and Consultant respectively.
2ND PLAINTIFF

AND **PUBLIC TRUSTEE OF FIJI** as Trustee of the Estate of Mary Pickering a duly incorporated company having its Registered office at 83 to 85 Amy Street, Toorak.
1st DEFENDANT

BETWEEN: **JOHN TABAIWALU** as Trustee of the Estate of Ernest Vuki
2ND DEFENDANT

BETWEEN: **REGISTRAR OF TITLES**
3RD DEFENDANT

For the Plaintiffs : **Ms. Vaurasi. L and Mr. Hill. M**
For the 1st Defendants : **Mr. Serusavou. R**
For the 2nd Defendants : **Ms. Ratumaibulu. A**
For the 3rd Defendants : **Ms. Liku. S**
Date of Hearing : **12 November 2025**
Before : **Waqainabete-Levaci, S.L.T.T, Puisne Judge**
Date of Decision : **20 February 2026**

JUDGEMENT

INTRODUCTION

- 1.0 A 1958 Will was executed by the late Mary Pickering on 5th July 1902 leaving her Estate to her three sons- Henry Harry Pickering, Eric Hillman Pickering and Ernest Vuki Pickering. Inclusive in this Estate was Certificate of title Vo 48 Folio 4750 known as the Navuni Lands (referred to hereafter as Navuni Lands).
- 2.0 On the Demise of the late Mary Pickering, Henry Harry Pickering was granted probate of her Estate and on his death on 2 July 1958, he had not distributed the Estate according to Mary Pickering's Will. He however transferred the Navuni Lands to himself as Administrator.
- 3.0 Henry Harry Pickering had also executed his last will on 24 June 1958, a few days prior to his demise.
- 4.0 On 20th June 1972 the Navuni Lands was transferred to the Public Trustee Corporation Limited (hereinafter referred to as Public Trustee) as Letters of Administration *De Bonis Non* for the Estate of Henry Harry Pickering.
- 5.0 Eric Pickering passed away on 23 January 1921 in Makogai and Letters of Administration *de Bonis Non* was obtained by Solomon Tabaiwalu on 23 November 2004 who is the son of Ernest Pickering and grandson of the late Mary Pickering.
- 6.0 Thereafter, the Public Trustee transferred:
 - (a) 1/3 share of the Navuni Lands to the Estate of Henry Harry Pickering on 12 August 2015;
 - (b) 1/3 share and 1/6 shares of the Navuni Lands to Estate of Ernest Vuki Pickering on 22 October 2018; and
 - (c) 1/30th share of Navuni Lands to Solomon Tabaiwalu Pickering as Administrator of the Estate of Henry Vernon Pickering. As well as 1/6 share of Eastern Half and 1/6th share of the Western Half of the Estate of Henry Harry Pickering.
- 7.0 On 9th May 2022, by Orders of the Court, Justice Sharma VD ordered the removal of the Public Trustee as the Administrator of the Estate of Henry Harry Pickering.
- 8.0 On 12 December 2022, both Solomoni Tabaiwalu Pickering and June Annie Jane Pickering, who is the Plaintiff in this action and granddaughter of the late Henry

Harry Pickering, were appointed as Administrators *De Bonis Non* of the Estate of Henry Harry Pickering.

- 9.0 Being dissatisfied with the interpretation of the Will, the 2nd Plaintiff sort Courts interpretation of the Will for which Justice Tuiqereqere ordered as follows:

I declare that clause 4 (a) of the Will of Henry Harry Pickering of Navuni, Savusavu signed on 29 June 1958 has the meaning that the Eastern half of the land described a Certificate of Title Register Vol 48 Folio 4750 ('the Navuni Land') being Henry Harry Pickering's legal half share of the Navuni Land, is to be distributed as per clause 4 (a) 'to my [Henry Pickering's] several children jointly viz Mrs Lena Carruthers, Thomas Fowler Pickering, Samuel Albert Pickering aforesaid and Henry Vernon Pickering and my grandson Peter Pickering and I direct that none of them shall at any time sell transfer or dispose of his or her share or interest aforesaid except to the others or another of them the price to be settled if necessary by the majority of vote of all my said children and grandson.'

- 10.0 It is these Orders that the Plaintiff is now seeking enforcement by way of Originating Summons pursuant to section 168 of the Land Transfer Act 1971 from the Court for the Registrar of Titles, the 3rd Defendant, to:

(a) That the Registrar of titles cancel the two endorsements namely:

- (i) Registration Number 868436; and
- (ii) Registration Number 868437; and
- (iii) Registration Number 868438 on Certificate of title Vol 48 Folio 4750;

(b) The Public Trustee Cooperation Pte Limited is to transfer 1/3 share to Solomon Tabaiwalu Pickering as trustee of the Estate of Eric Hillman in Certificate of title Vol 48 Folio 4750.

Affidavit

- 11.0 The 2nd Defendant had denied that the Public Trustee had subdivided the lands for the benefit of his grandfather. He also deposed that the decision of Tuiqereqere J was on Appeal.

- 12.0 In response, the Plaintiff deposed that the Appeal against the decision of Tuiqereqere J had been struck off by the Court of Appeal.

13.0 The 1st Defendant denied that the distribution of the shares as per the allegation by the Plaintiffs and admits distribution of shares as follows:

- (1) On 12 August 2015 – 1/3 share to Public Trustee as Administrator for Henry Harry Pickering;
- (2) 22nd October 2018 – 1/3 share to Jone Tabaiwalu as sole Executor and Trustee of the Estate of Earnest Vuki Pickering.

14.0 The 1st Defendant deposes that they are willing to enable transfer of shares provided costs of \$1998.50 is paid.

15.0 The third Defendant, who registered the transfers deposed that:

- (a) *Transfer Dealing No. 817580* concerning the property was from Public Trustee as administrator for the Estate of Mary Pickering to Public Trustee as sole executor and trustee for the Estate of Henry Pickering (one undivided third share);
- (b) *Transfer dealing no. 868436* of the Property was from Public Trustee as the sole executor and trustee of the Estate of Henry Pickering to Solomon Tabaiwalu Pickering as the sole executor and trustee in the Estate of Henry Vernon Pickering (part- as one undivided thirtieth share – Eastern part of the land). However I further state the shares should have included as one undivided thirtieth share of the one third share of the Estate of Henry Pickering;
- (c) *Transfer dealing no. 868437* of the property was from Public Trustee as the sole executor and trustee of the Estate of Henry Pickering to Jone Tabaiwalu aka John Tabaiwalu Pickering as sole Executor and Trustee in the Estate of Earnest Vuki Pickering aka Ernest Buki Pickering (part – as to one undivided sixth share). However I further state that the area of the said transfer should have included the correct shares which in this case should have been as to one undivided sixth share of the one third share for the estate of Henry Pickering.
- (d) *Transfer dealing no .868438* of the property was from Public Trustee as the sole executor and trustee of the Estate of Mary Pickering to Jone Tabaiwalu Pickering as the sole executor and Trustee in the Estate of Ernest Vuki Pickering aka Ernest Buki Pickering.

Law and Determination

16.0 Section 168 of the Land Transfer Act 1971 states:

“In any proceedings respecting any and subject to the provisions of this Act, or any estate or interest thereof, or in respect of any transaction relating thereto, or in respect of any instrument, memorial, or any other endorsement affecting any such lands, estate or interest, the court may by decree or order direct the Registrar to cancel, correct, substitute, or issue an instrument of title or make any memorial or entry in the register or any endorsement or otherwise to do such acts as may be necessary to give effect to the judgement or decree or order of the Court.’

17.0 Section 168 of the Land Transfer Act requires a judgement, decree or order to be issued for the Court to direct the Registrar to cancel, correct, substitute or issue an instrument of title or make any memorial or entry in the register or any endorsement.

18.0 In Sharma -v- Prasad [2020] HBC 47 of 2019 Amaratunga J stated:

‘the scope of Section 168 of Land Transfer Act 1971 is wide and it allows a court to make any ancillary orders to give effect to a judgment or orders of the court. There is no dispute that this court had already made judgment against registered proprietor of the Property in issue for transfer of Property in issue. These orders were quoted previously. In order to transfer the Property in issue removal of caveat is essential. So removal of caveats lodged by Defendant is necessary to give effect to the judgment and or orders made by this court previously.

So when there is pending proceeding or concluded proceeding where additional orders are needed to give directions to Registrar Section 168 of Land Transfer Act 1971 can be invoked. This provision is meant to give effect to judgment or orders as human ingenuity can take various forms in order to delay or frustrate fruits of a judgment.

Since there is impediment to execute said judgment and orders due to lodgment of caveat by Defendants on 21.5.2018 again Section 168 of Land Transfer Act 1971 is used. This can be made in the same proceedings or in a separate proceeding as all the Defendants in this proceedings were not parties to previous action HBC 276 of 2007.’

19.0 The court has perused the Affidavits and finds that Judgement Orders had been entered against the Defendants.

20.0 Therefore it was imminent for the court to exercise its discretion to impose orders to direct to the Registrar of Titles.

21.0 The Court also found that the First Defendants has consented to the orders sort in this application for rectification of the Certificate of Title provided administrative costs were paid by the Plaintiff. The charging of these administrative costs are in accordance with Section 29 (3) of the Public Trustees Corporation Act.

ORDERS

22.0 The Court Orders as follows:

1. Third Defendant to cancel:
 - (i) Registration Number 868436; and
 - (ii) Registration Number 868437; and
 - (iii) Registration Number 868438 on Certificate of title Vol 48 Folio 4750;
2. The Public Trustee Corporation Pte Limited is to transfer 1/3 share to Solomon Tabaiwalu Pickering as trustee of the Estate of Eric Hillman in Certificate of title Vol 48 Folio 4750;
3. That the Plaintiff/or intended Administrator of the Estate of Eric Hillman bear the Administrative and distribution fees for the transfer of the Estate of Eric Hillman's 1/3 share;
4. Each party to bear their own costs;
5. File disposed.



Ms. Senileba LTT Waqainabete-Levaci
Puisne Judge of the High Court of Fiji

