

IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

Civil Action No. HBC 347 of 2019

IN THE MATTER of an Application pursuant
to the provisions of the Succession Probate
and Administration (Amendment) Act 2018

BETWEEN : LIKU LITEA of Villa 110 Belo Circle, Pacific Harbor, Deuba, Domestic Duties.

PLAINTIFF

AND : LINDA PAMELA OUAKNINE of 13928 Chandler Boulevard, Sherman Oaks,
California 91401, USA Care of Vijay Maharaj Lawyers, Marks Street, Suva.

DEFENDANT

BEFORE: Hon. Justice Vishwa Datt Sharma

COUNSEL: Ms. Ulamila F. - for the Plaintiff
Mr. Maharaj V.- for the Defendant

DATE OF JUDGMENT: 25th February, 2026.

JUDGMENT

[Defendant's Counter Claim]

On the outset when the Substantive Action commenced for trial, Counsel for the Plaintiff made an application for 'An **Adjournment of Trial**' which was refused. Then the Plaintiff's substantive matter proceeded to trial. The Plaintiff offered no evidence to Substantiate her claim since the Plaintiff was not present in Court. Accordingly, the Plaintiff's Substantive Writ Action coupled with the Statement of Claim was dismissed on failure of the Plaintiff to offer any evidence. Subsequently, the Defendant's Counterclaim was proceeded with and thus the Judgment ready for delivery now. Copies of Judgments are on the Court file.

A. Introduction

1. The Defendant filed its Statement of Defence together with a Counter Claim on 27th November 2019 and sought for the following orders:
2. *In its defence:*
 - (a) The claim be dismissed with Letters of Administration No. 63979 be revoked with immediate effect.
 - (b) Costs of this action, and
 - (c) Any other order or relief this Honourable Court may grant in the circumstances of the case.

In its Counter claim:

- (a) The Court to pronounce against the validity of the Letters of Administration No. 63979.
- (b) That the Letters of Administration No. 63979 is revoked forthwith.
- (c) A grant of Probate [Testate] in solemn form of the Estate be granted to the Defendant pursuant to Succession Probate and Administration Act.
- (d) Costs on indemnity basis to the Plaintiff, and
- (e) Such further and other relief to which the Defendant may be entitled to.

Evidence

3. [DW1] - Linda Pamela Ouaknine gave evidence and stated:
 - Husband is Albert Alain Ouaknine resident of Canada.
 - Date of marriage 15 January 1976.
 - Husband left a Will which is in her possession prepared in America.
 - Have two children.
 - I am named as the Trustee in the Will. Had family trust drawn up by husband.
 - Beneficiaries are myself and two children.
 - Husband had trust in Fiji, married for 43 years, lived in America.
 - Husband died as a result of an accident in Fiji.
 - Date of death - 4th February 2019.
 - Husband brought by me to USA and buried next to my mother.

- Probate Grant issued to me in my husband's Estate.
- Before I got Grant of Probate, Letters of Administration was granted to the Plaintiff Liku Litea No. 63979.
- Asking for Probate Grant.
- Seek for indemnity costs.

In cross-examination she states:

- Did not know Plaintiff - Liku Litea had a Defactor Relationship and lived in Tailevu.
 - Lived in Pacific Harbour.
 - Plaintiff and her children living on deceased husband's property.
 - Will of 2001.
 - Deny he had two children in Fiji - not proven if Plaintiff's children.
 - Aware husband has lots of properties in Fiji - not sure of ownership.
 - Relationship with Plaintiff - Liku Litea before funeral - came to know about the relationship.
 - Plaintiff told my husband that she was the wife of husband.
 - I do not know Plaintiff's two children.
 - I was ignorant of law whether properties in Fiji would come under Succession Probate and Administration Act.
4. At the end of the Defendant's case, the Plaintiff chose not to call any witness(s) and/or evidence rather relied on her Writ of Summons and Statement of Claim.

Analysis and Determination

5. The Deceased Albert Alain Ouaknine was a citizen of USA and a resident of 13928 Chandler Boulevard, Sherman Oaks, California 91401, USA investor in Fiji, died Testate on 4th February 2019 at Auckland City Hospital, New Zealand.
6. The Deceased left behind a Will dated 12th March 2001 in favour of the Defendant as Executrix and Trustee and included three beneficiaries entitled in the Will, the Defendant and his two children, Jason Ouaknine and Candice Ouaknine.
7. On or about 24th June 2019, the Plaintiff as purported as defacto wife of the deceased made an application with the High Court for a Letters of Administration (without Will) and thus Court granted a Letters of Administration vide application No. 63979.
8. The deceased lived in California USA at the time of Execution of his Will dated 12th March 2001.
9. The deceased had an accident while traveling to Fiji on an investment Visa and died on 4th February 2019 at Auckland Hospital.

10. The Defendant made an application to the High Court and sought for an order to recall and revoke the grant No. 63979 and revoke the Letters of Administration No. 63979 on the basis that the Defendant was appointed as Executor and Trustee by virtue of Will dated 12th March 2001 and the Defendant and her two children, Jason Ouaknine and Candice Ouaknine were the beneficiaries.
11. The Defendant by virtue of her appointment not only is the legal wife but as Executrix and Trustee and a beneficiary entitled to apply for a Grant of Probate pursuant to Succession Probate and Administration Act.
12. The said Will dated 12th March 2001 has been duly executed by the Deceased in accordance with the provisions of the Wills Act of Fiji.
13. On the balance of probabilities, I find:
 - That the Defendant has established that the deceased's Will dated 12th March 2001 was duly Executed by the Deceased Albert Alain Ouaknine.
 - I pronounce the validity the Will dated 12th March 2001.
 - The Letters of Administration No. 63979 issued to Liku Litea (Plaintiff) by the Court on or about 24th June 2019 is now revoked since there is evidence before Court of the Existence of the Deceased's Will dated 12th March 2001.
 - Therefore, I pronounce against the validity of the Letters of Administration No. 63979 issued to Liku Litea (Plaintiff).
 - Further, the Plaintiff Liku Litea to surrender the Letters of Administration Grant No. 63979 to the Principal Probate Registry within seven (7) days' time for revocation.
 - The Defendant is now at Liberty to file a formal application for a Grant of Probate in a solemn form of the Deceased's Estate of Albert Alain Ouaknine with a Court Order annexed to the application.

Costs

14. The matter proceeded to Hearing with parties filing affidavits, written submissions and the Defendant calling a witness.
15. It is only just and fair that I grant a summarily assessed costs of \$2,000 against the Plaintiff in favour of the Defendant to be paid within 14 days timeframe.

Orders

- (i) The Court pronounced for a validity of the Deceased Alain Albert Ouaknine's Will dated 12th March 2001.

- (ii) The Court pronounced against the validity of the Letters of Administration No. 63979.
- (iii) The Letters of Administration No. 63979 is hereby revoked.
- (iv) The Letters of Administration No. 63979 to be surrendered/deposited with the Principal Probate Registry.
- (v) The Defendant is at liberty to make a formal application for a Grant of Probate in terms of Deceased's Will dated 12th March 2001 pursuant to Succession Probate and Administration Act in solemn form and to be granted to the Executor/Trustee Linda Pamela Ouaknine.
- (vi) There is an order for costs summarily assessed at \$2,000 against the Plaintiff - Liku Litea in favour of Linda Pamela Ouaknine

Dated at Suva this 25th day of February , 2026.




VISHWA DATT SHARMA
PUISNE JUDGE

CC: MC LAWYERS, SUVA
LAW SOLUTIONS, SUVA