

SURESH SUSHIL CHANDRA CHARAN & ANOTHER

v.

SUVA CITY COUNCIL & ANOTHER

[HIGH COURT, 1989 (Palmer J) 30 June]

Civil Jurisdiction

Practice (Civil)- limitations on operation of the "slip rule" - High Court Rules 1988 Order 20 r 10.

Several months after a Judgment was delivered the Plaintiffs sought an order for interest on the damages awarded to them. By this time the trial Judge had left Fiji. The High Court dismissed the application and HELD: absent an error within the narrow scope of the slip rule the Court has no jurisdiction to vary the terms of its Judgment previously delivered and perfected.

No case was cited.

Plaintiffs in person
I. Khan for the Defendants

Interlocutory application in the High Court.

Palmer J:

This is an application for an Order that the 1st Defendant pay interest on damages awarded against it.

The Plaintiffs instituted proceedings against the Defendants in 1984, for damages under a number of heads. The action came to trial before Sheehan J. in January 1987. The learned trial Judge held in a reserved judgment that the Plaintiffs had succeeded on one issue and gave judgment for them in the sum of \$300 plus costs. The judgment was entered on 9.3.88 and the Defendants paid the Plaintiffs the amount of the Judgment two days later.

The affidavit in support of this application merely recites the above history and contains statements to the effect that the \$300 had been owing to the Plaintiffs for a long time and that they think they should be compensated for this by an award of interest.

Before me the 1st Plaintiff rested his case on the fact that interest had been claimed in his statement of claim. However, that in itself is not significant. What is significant is the fact that the 1st Plaintiff appeared and conducted the Plaintiffs' case at the trial. There is no suggestion in the evidence before me that the matter of interest was argued, or that the learned trial Judge overlooked it, or that the Plaintiffs took any opportunity to remind him, either before or after giving judgment, that the claim to interest had been overlooked. The 1st Plaintiff himself

HIGH COURT

took out the judgment on 9.3.88. The present application was filed on 16.11.88. It is clearly an afterthought.

A I draw the irresistible inference from this state of facts that the claim to interest had not been pursued at the trial. It is not mentioned in the judgment.

B I am now being asked to add something to the judgment delivered by Sheehan J. who is no longer a member of the Court or indeed in the country. There is no jurisdiction or mechanism for doing this on the facts of this case. The only occasion for a Court of first instance to vary its own orders arises under Order 20 Rule 10 of the High Court Rules 1988 which is as follows:-

“Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omissions, may at any time be corrected by the Court on motion or summons without an appeal.”

C This is the so-called slip rule. There is a mass of authority to the effect that this rule only applies where there is an accidental slip or omission. Thus the 1985 Annual Practice (“White Book”): “Apart from the rule the Court has an inherent power to vary its own orders so as to carry out its own meaning and to make its meaning plain..” See cases cited *ibid* under Order 20 Rule 11. And further on:-

D “Where an error of that kind has been committed it is always within the competency of the court to correct the record in order to bring it into harmony with the order which the Judge obviously meant to pronounce.”

E And again: “The error must be an error in expressing the manifest intention of the Court.”

F There is nothing in this case which could attract the operation of that rule. But in any event I have no jurisdiction to vary the judgment. It is well established that the Court has no power under any application in the action to alter or vary a judgment after it has been entered, or an order after it has been drawn up, except so far as is necessary to correct errors in expressing the intention of the Court. See cases cited *ibid* under 0.20 r. 11/6. As I said, there is no evidence before me that the judgment does not express the intention of the Court.

The application is dismissed with costs to be taxed if not agreed.

G (*Application dismissed.*)