

**IN THE MAGISTRATES COURT AT NADI  
CIVIL JURISDICTION**

**SCT Appeal Action No. 11 of 2024  
SCT Case No: 1068/23**

**BETWEEN : VINAL VILASH DEO**

**Appellant**

**AND : MANUELI KETENIBUA**

**Respondent**

**RULING**

This is an appeal from the decision of the Small Claims Tribunal (SCT) dated 13 February 2024 in SCT Claim No. 1068 of 2023.

**Background**

The SCT ordered the Appellant (Respondent in the original claim) to pay the Claimant the sum of \$5,000 for a vehicle (Reg. No. HX096), with monthly installments of \$200 to commence on 29 February 2024 until full payment. Payments were to be made at the Nadi Magistrates Court Registry, and in default, the entire balance would become due and payable immediately.

The Notice and Grounds of Appeal were dated 15 February 2024 but filed on 20 February 2024. This falls within the 14-day time limit as set out in section 33(3) of the **Small Claims Tribunal Act 1991 ("the Act")**. The appeal therefore is properly before the Court.

**Grounds of Appeal**

The Appellant raises three grounds in Form 6:

1. That the referee was biased.
2. That the referee did not allow him to present his case on delayed payment.
3. That the referee did not allow him to present the Sale & Purchase Agreement.

## **Jurisdiction of Appeal**

The right of appeal is limited by section 33(1) of the Act. Appeals can only be brought on two grounds:

- That the proceedings were conducted in a manner unfair to the appellant and this affected the outcome; or
- That the tribunal exceeded its jurisdiction.

Appeals on the merits, or on errors of law, are not permitted.

This position is well established in case law:

- **Nabalarua v Alfred [2014] FJMC 44**: Appeals are strictly limited to procedural unfairness or excess of jurisdiction - not dissatisfaction with the decision.
- **Pratap v Singh [2012] FJMC 291**: Reinforces that the appeal process is not a chance to revisit the facts but to test whether natural justice was observed. Referees are not bound by legal technicalities.
- **Sheet Metal and Plumbing v Deo (HBA 7 of 1999) and Hertz NZ v Disputes Tribunal (1994)**: There is no right of appeal on the merits - even where a referee may have made a mistake in law.
- **Aaryan Enterprise v Mehak Unique Fashion [2011] FJHC 727**: Appeals under section 33 are limited to procedural issues. The Magistrates Court reviews the form of the hearing, not the outcome.
- **Vidya Wati & Suresh Charan v Waqabaca Truck Hire [2005] HBA 0001/2005**: An error of law or fact does not provide a right of appeal under the SCT framework.

## **Assessment of the Appeal**

I have reviewed the Copy Record dated 17 June 2024. The record confirms that both parties were present throughout the proceedings - on 14 November, 11 December 2023, and 8 January 2024.

On 11 December 2023, the Tribunal directed both parties to bring all relevant documents and witnesses. This claim arose from a Sale & Purchase Agreement dated 18 July 2023. The following documents were tendered:

- The Sale & Purchase Agreement;
- Receipts of payment;
- A text message from the Appellant's wife (11 October 2023);
- A Police Report (12 October 2023); and
- Various other receipts.

On 8 January 2024, the Appellant was given the opportunity to present his case. His own evidence is recorded as follows:

*"Didn't get any witness or relevant documents. I don't have receipt for \$800 because the person did not give me the receipt... Agrees receiving \$5,930.35... My witness is not available... Don't want a settlement."*

At no point in his oral evidence does he raise the issue of delayed payment or discuss the terms of the Sale & Purchase Agreement.

He now claims that he was not given a chance to raise those issues, but that is not supported by the record. In fact, the issue of delayed payment was raised by the Respondent (Claimant at SCT level) in his Form 1, where he stated:

*"Until 2/10/23, there were few days that I did not make payment as I was in Suva attending Seminar."*

This evidence was already before the Tribunal and clearly considered. The Sale & Purchase Agreement was also part of the documents placed before the Tribunal.

There is no indication in the record that the referee refused to admit or consider any of the Appellant's evidence or that he was denied the opportunity to be heard. He had time to prepare, was present at all hearings, and simply did not provide the supporting material or witnesses when asked.

The claim of bias is unsubstantiated. The Appellant does not point to any specific conduct that would amount to actual or perceived bias. The Tribunal gave clear directions and allowed time for preparation. The referee conducted the hearing within

the spirit of the SCT process: informal, fair, and focused on substantive justice as required under section 15(4) of the Act.

### **Conclusion**

This Court's function is not to rehear the matter or substitute its views for those of the Tribunal. The only issue is whether there was unfairness in how the proceedings were conducted or whether the Tribunal exceeded its jurisdiction.

Having reviewed the record, I find no procedural unfairness or excess of jurisdiction. The Appellant was heard, documents were considered, and the decision falls squarely within the powers and process outlined under the Act.

### **Orders**

Accordingly, the Court makes the following orders:

1. The Appeal is dismissed;
2. The SCT Order granted on 13 February 2024 is upheld;
3. There will be no order as to costs.

Any party aggrieved by the decision has the right to appeal.



**Setavana Saumatua**  
**Resident Magistrate**  
8 August 2025.

