

IN THE MAGISTRATES COURT AT NADI
CIVIL JURISDICTION

Civil Case No. 42 of 2025

BETWEEN : RAGNI DEVI & LALIT KUMAR SHARMA

Plaintiff

AND : MICK TRANSFERS & TOURS (FIJI) PTE LTD

Defendant

RULING

This is the Plaintiffs' claim filed on 1 April 2025. An Affidavit of Service was filed on 11 June 2025.

The Court notes that the Defendant was served with the Writ on 4 June 2025 through the Defendant Company's Manager, one Aminio Colawai Toga, at Westfield Subdivision, Nadi, where the Defendant Company was then operating. The Defendant was not served at its registered office as the office was no longer in operation from its registered location.

The matter was first called on 11 June 2025. There was no appearance by the Defendant, nor was any Notice of Intention to Defend or Statement of Defence filed. The Plaintiffs were granted time to file their Affidavit Evidence, which they filed jointly on 4 August 2025. The claim has now been formally proved before the Court.

The remedies sought are for judgment in the sum of \$26,391.15 together with interest pursuant to the Magistrates' Court Rules.

The Plaintiffs have pleaded and deposed that they are the registered proprietors of a lease described as Lot 32, Crown Lease No. 44077. Annexed to their Affidavit, however, is a **Certificate of Title No. 44077** showing that they acquired *freehold* title to the property on 28 August 2019. This creates a material inconsistency between what is pleaded and sworn to in affidavit evidence and what is actually tendered. What is pleaded and deposed is a leasehold interest, while what is exhibited is a freehold interest.

The Court must stress the importance of ensuring that what is pleaded, sworn, and tendered into evidence is internally consistent. Affidavits are evidence on oath and must not only be truthful but must correspond with the documents relied upon. Failure to

reconcile these inconsistencies undermines the credibility of the evidence and the integrity of the claim.

Equally, affidavits should be drafted in proper chronological order so that the evidence flows logically and is easy for the Court to follow. This is especially important in matters such as tenancy and rent arrears where events are sequential and dates determine rights and obligations. A disordered or inconsistent affidavit does not assist the Court in reaching a just conclusion.

Substance of the claim:

The Plaintiffs entered into a tenancy agreement with the Defendant dated 5 July 2022 for a one-year term commencing on 1 July 2022 and ending on 1 July 2023 at a monthly rental of \$850. The Defendant was also required to pay a bond.

The Plaintiffs allege that the Defendant breached the tenancy agreement, following which a Notice to Vacate was issued on 8 February 2023. Rent arrears are claimed from March 2023 to July 2024, being 17 months in total, which amounts to \$14,450.

The Plaintiffs also claim costs incurred in High Court eviction and writ of possession proceedings for HBC 210 of 2023, bailiff fees, sheriff fees, legal costs for these proceedings, and repair and labor costs, amounting to \$11,941.15.

Costs analysis:

Some of the claimed legal costs, specifically those paid in September 2023 and February 2025 were incurred in the Plaintiffs' **High Court proceedings** in relation to eviction and possession of the same property. While these proceedings are factually connected to the tenancy, they were conducted in a separate forum, and no cost orders were made by the High Court.

The Court finds that it would be **unjust and improper** to allow recovery of those costs in this action. To do so would circumvent the High Court's determination that no costs are awarded. That is determinative. When a Court has not awarded costs, it means each party must bear its own expenses. It is not open to a litigant to re-introduce those expenses in a different action in order to recoup them. To do so would amount to an indirect appeal or review of the High Court's decision on costs, and would undermine the finality of its order.

Only costs that are **directly incidental** to this action are recoverable, namely:

- Bailiff fees: \$600
- Sheriff's fees: \$720
- Repairs and labour: \$2,746.15
- Legal costs incurred in July 2025 for this claim: \$2,875

The total recoverable costs therefore amount to **\$6,941.15**.

ORDERS

1. Judgment is entered for the Plaintiffs in the total sum of **\$21,391.15** (\$14,450 rent arrears + \$6,941.15 recoverable costs).
2. The said sum shall carry interest at the prescribed rate of 5% per annum pursuant to the Magistrates' Court Rules from the date of judgment until the date of payment.

FINAL NOTE

The Court emphasises that costs must be sought in the proceedings in which they are incurred. Even if separate proceedings are factually connected, costs cannot be imported from one forum into another. Where no cost orders are made, parties must bear their own expenses. Attempting to recover such costs in a different action undermines the finality of Court orders and risks unfair double recovery. Litigants must claim only those costs that are properly incidental to the matter before the Court.

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

Setavana Saumatua

Setavana Saumatua
Resident Magistrate
30 September, 2025.

