

**IN THE SOLOMON ISLANDS COURT OF APPEAL**

<b>NATURE OF JURISDICTION:</b>	Appeal from Judgment of The High Court of Solomon Islands (Kouhota J)
<b>COURT FILE NUMBER:</b>	Civil Appeal Case No. of 27 of 2024 (On Appeal from High Court Civil Case No.83 of 2017)
<b>DATE OF HEARING:</b>	22 October 2025
<b>DATE OF JUDGMENT:</b>	31 October 2025
<b>THE COURT:</b>	Muria P Gavara-Nanu JA Morrison JA
<b>PARTIES:</b>	SELWYN RIUMANA AND ROCK HAVEN INN LIMITED  -V-  FANGS COMPANY LIMITED
<b>ADVOCATES:</b>	
APPELLANT:	E. Matangani
RESPONDENT:	L. Ramo
<b>KEY WORDS:</b>	
<b>EX TEMPORE/RESERVED</b>	RESERVED
<b>ALLOWED/DISMISSED</b>	DISMISSED
<b>PAGES</b>	1 - 5

## **JUDGMENT OF THE COURT**

### **Introduction**

1. The Appellants appealed against the Ruling of the Court (Kouhota J) delivered on 11 April 2024 which dismissed their applications to set aside and to stay the Enforcement Orders arising from the judgment of 24 March 2021 in High Court Civil Case No. 83 of 2017.

### **Background**

2. On 14 March 2017 the respondent file a claim in category B in the sum of SBD365,076.00 being for goods obtained on credit by the three defendants (the two Appellants and HPA Enterprises Ltd). No defence had been filed by the defendants and so on 1 August 2017 a judgment in default was entered for the respondent in the sum of \$299,298.80, taking into account part payments made by the two Appellants who were the first and third defendants in the primary court.
3. On 17 November 2017, the primary court made an Order that if HPA (the second defendant in the primary Court) settled the claim, the defendant was given 14 days to file a Defence which was filed on 27 April 2018. The primary Court directed the parties to progress the matter to trial. The defendants failed to comply with the direction and upon application by the claimant (now respondent) under Rule 8.19 and for non-appearance by Counsel for the applicants, the primary court on 24 March 2021 and perfected on 26 March 2021, ordered the defendants' defence to be dismissed and entered judgment against the defendants in the sum of SBD299,298.50 with interest at 5% per annum commencing on 9 September 2016 plus costs.
4. On 9 November 2023 the respondent commenced enforcement proceedings against the Appellants, since they failed to pay the judgment sum.
5. The defendants, however, brought two applications, filed on 9 November 2023 to stay enforcement and the other, filed on 25 January 2024 to set aside the primary Court's Order of 24 March 2021 and perfected on 26 March 2021, on the ground of fraud. The two applications were heard together on 16 March 2025 and were dismissed on 11 April 2024 and perfected on 1 May 2024 with costs. The Appellants have now brought this appeal to this Court.

## Grounds of Appeal

6. The Appellants advanced two grounds of appeal:
  1. The Judge erred in law and fact when failing to make a finding or determination on submissions made by the Appellants that the Appellants are different persons in law from the Third Defendant (HPA Enterprises Limited) in High Court Civil case no. 83 of 2017 and the Appellants already paid the Respondent and thus ought to be removed from the Judgment Order perfected, signed and sealed on the 24<sup>th</sup> March 2024 or / and Enforcement Orders on the 9<sup>th</sup> November 2021.
  2. The Judge erred in law and fact by allowing the Judgment Order perfected, signed and sealed on the 24<sup>th</sup> March 2024 and Enforcement Orders filed on the 9<sup>th</sup> November 2021 to stand. The Judge erred because:
    - (i) The Appellants will be paying for the amounts they have already paid to the Respondent; and
    - (ii) The Appellants will be liable for debt of the Second Defendant (HPA Enterprises Limited) in High Court case no. 83 of 2017, when the Appellants are different persons at law from the second Defendant (HPA Enterprises Limited) in High Court Civil case no. 83 of 2017.
7. This appeal can be disposed of very briefly.

### Consideration

8. The Appellants, Selwyn Riumana and HPA Enterprises Ltd, by their Counsel, submitted that they are separate legal entities from the third defendant, Rock Haven In Ltd. That legal argument rests on the principle established in *Salomon –v- Salomon & Co. Ltd*<sup>1</sup>. Counsel for the Appellants failed or omitted to address the facts that HPA enterprises Ltd did not come into legal existence until 14 September 2016 and that on 1 February 2024 the company ceased to exist. It was de-registered. The goods or the debt incurred in this case were obtained by the Appellants between the 1 September 2015 and 16 February 2016. They were ordering goods and incurring debts for an unincorporated company. Unfortunately for them, they were the proper parties who incurred the debt and they were properly named as such. The principle of separate legal entities cannot assist the Appellants. It is a futile exercise for them to rely on it in this appeal.

<sup>1</sup> [1896]UKHL 1; [1897] AC 22.

9. We have considered the record and submissions. It is clear that the Appellants were duly named as Defendants in the High Court proceedings and that judgment was properly entered against them on 24 March 2021. Their defence was dismissed, and no appeal was filed within the prescribed time. The applications filed nearly three years later which sought to re-litigate matters already determined.
10. The argument in ground one (1) that the Appellants are distinct from HPA Enterprises Limited and therefore not liable is not supported by evidence. The Claim pleaded that the First Defendant (Riumana) purchased goods on credit for all three defendants: *see paragraph 5*. It also pleaded that all three defendants had paid down the debt: *see paragraph 8*.
11. The evidence included a Statement of Account that linked Riumana with HPA. There was no dispute that HPA received goods on credit from the Respondent: *see Sworn Statement of Mr Ero, paragraph 6*. The record plainly demonstrates that the Appellants were properly joined to the proceedings as Defendants and were bound by the resulting judgment. No material was presented to show any procedural irregularity or mistaken identity justifying the setting aside of that judgment.
12. The burden is on the Appellants, to establish on the record that they were not properly joined as defendants at the time the claim was filed on 14 March 2017. No evidence was shown by the Appellants at all to that effect. The record in fact shows that the judgment “is entered against the Defendants in the terms of the Claim filed on 14 March 2017” demonstrating the fact that they were defendants at the time the claim was filed and at the time the judgment was issued. The “**We are Different Legal Persons**” argument cannot succeed and so does not help the Appellants in this case.
13. On 11 April 2024 the High Court made the Order that the defendants (now Appellants) pay the respondent “*the sum of SBD 299,298.50 with interest thereon at 5% per annum commencing on 9<sup>th</sup> September 2016*”. That amount is the balance of the debt owing after accounting for the payment of SBD 65,777.20 by the Appellants as part payment of the original claim of SBD 365,076.00. There is no evidence, documentary or otherwise produced by the Appellants that the Respondent had been paid the judgment sum or any part of the outstanding balance. As already noted the outstanding amount ordered by the Court for the Appellants to pay is the balance of the debt after accounting for what

had already been paid to the respondent. The Appellants' "Double Payment" argument must fail.

14. The burden is on the Appellants to produce credible evidence to show irregularity, error or that they have some meritorious defense to the respondent's claim. Mere assertions or unsubstantiated allegations cannot displace a regular or perfected judgment.

**Result**

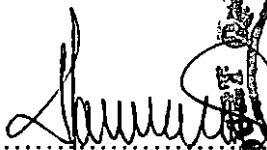
15. We therefore find no error of law or fact in the reasoning of the learned judge. The appeal lacks merit and is accordingly dismissed with cost.

**Order**

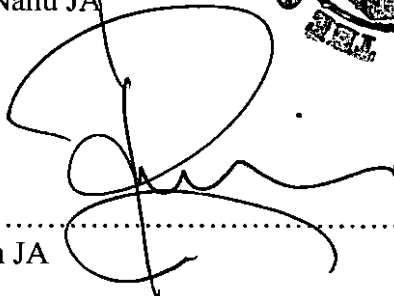
1. Appeal dismissed
2. Cost to the Respondent, to be taxed if not agreed



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Muria P



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Gavara-Nanu JA



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Morrison JA