

IN THE SOLOMON ISLANDS COURT OF APPEAL

NATURE OF JURISDICTION:	Appeal from Judgment of The High Court of Solomon Islands, Lawry J)
COURT FILE NUMBER:	Civil Appeal Case No. 66 of 2023 (On Appeal from High Court Civil Case No. 125 of 2010)
DATE OF HEARING:	Paper Hearing
DATE OF ORDER:	8 July 2025
THE COURT:	Sir John Muria, (P)
PARTIES:	MARY CHOW -V- AGGIE PODARUA
ADVOCATES: APPELLANT: RESPONDENT:	
KEY WORDS:	
EX TEMPORE/RESERVED	EX TEMPORE
ALLOWED/DISMISSED	DISMISSED
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ORDER ON APPLICATION FOR LEAVE

1. On 10 November 2023 the High Court (Lawry J) refused to grant leave to the applicant to enforce the Judgment of the High Court dated 3 August 2010. This application is brought by the applicant for leave to appeal against the decision of Lawry J.
2. I have read the application, the submissions on behalf of both parties and other supporting documents, and I have formed the clear view that the applicant's central aim in her attempt to appeal against the ruling of Lawry J dated 10 November 2023 is to enable her to enforce the Judgment of the High Court given on 3 August 2010. The first and foremost hurdle faced by the applicant is the time limitations stipulated in sections 6 and 39 of the *Limitation Act* (the Act), as well as Rules 21.5, 21.11, 21.13 of the *Solomon Islands Courts (Civil Procedure) Rules 2007* (the Rules). Relevantly, it is provided that judgments of the Courts are to be enforced within 6 years from the date the judgment became enforceable (section 6 of the Act); it provides for the exceptions to the normal 6 years time limit for bringing an action; Rule 21.5 permits applications for enforcement of judgment to be made within 6 years; Rule 21.11 provides that the enforcement order remains in force for one (1) year from the date it is made; and Rule 21.13 provides that the person who has the enforcement order can apply to renew it before it is expired.
3. The applicant was not able to bring herself within any of the provisions of the Act or the Rules mentioned above. It is no wonder that her application on 22 May 2018 for a renewal of the Enforcement Order issued on 9 September 2010 was not granted, as it had long expired.
4. The applicant deposed to in her Sworn Statement that she filed "fresh" application on 3 April 2023 for Enforcement of the Orders of the Court of 3 August 2010. That application was later followed by another application filed on 21 April 2023 for leave to apply for Enforcement of the same Order. No application has ever been made to renew the Enforcement Order of 3 August 2010 as required under Rule 21.13 of the CPR. It is not surprising indeed that Lawry J heard and refused the application on 10 November 2023 for leave to enforce the Orders made on 3 August 2010.
5. Before I leave this matter, there is a serious concern that needs to be pointed out. There is an apparent contradiction between the grounds of appeal, obviously drawn up by Counsel, and the contents of the supporting Sworn Statement from the applicant in this case. The first ground of appeal alleges:

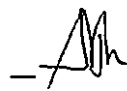
1. The Judge erred in law and fact when the trial Judge misconstrued the hearing before himself as though it was an application for Leave to Enforce the Orders dated 3 August 2010. The hearing was for Assessment of the total damages that should be awarded to the Appellant inclusive of costs and statutory interest. In fact, the judge himself, had already on 30 June 2023 orally granted leave to the appellant to enforce the Orders of 3rd August 2023.

6. The applicant's Sworn Statement dated 15 November 2023 (para. 2) confirmed that her Solicitor filed a "fresh" application on 3 April 2023 for enforcement of the Orders of 3 August 2010. Having been directed by the Registrar that the proper step to take was to apply for leave to enforce the Orders of 3 August 2010, the applicant's Solicitor filed an application on 21 April 2023 for leave to enforce the Orders of 3 August 2010 (para. 4). The application for leave came before Lawry J on 30 June 2023 for mention at which time His Lordship gave leave to be heard on the application for leave (para. 7). The Court heard the leave application on 23 and 24 October 2023 (para. 10) and delivered the Court's Ruling on 10 November 2023 (para. 11), refusing leave to enforce the Orders of the Court of 3 August 2010.
7. It must be plainly obvious in this case that what the learned Judge did on 30 June 2023 was that his Lordship gave leave to the applicant to be heard on her application for leave to enforce the Orders of 3 August 2010. That was the only way for her to be heard on 23 and 24 October 2023 on her application for leave to enforce the Orders of 3 August 2010. There is a marked difference between being given leave to be heard on an application and being given leave to enforce an order. Mr. Seuka of Counsel for the respondent was spot-on in his submission that the oral leave given by the learned Judge on 30 June 2023 was leave to be heard on the application and having done so, the Court heard the leave application on 23 and 24 October 2023 and delivered its ruling on 10 November 2023, refusing leave to enforce the orders of 3 August 2010.
8. Again, the assertion in Ground 1 also, is that the hearing before the learned Judge on 23 and 24 October 2023 was for assessment of the total damages that should be awarded to the appellant inclusive of costs and statutory interest, and that the learned Judge misconstrued the hearing before him as an application for leave to enforce the Orders of 3 August 2010. Yet the application before the learned Judge, supported by the Sworn

Statement of the applicant was leave to enforce the Orders of 3 August 2010. There is simply no basis for the allegations contained in Ground 1 of the proposed appeal.

9. The grounds of appeal were drafted and filed by Counsel who must know that advancing allegations without factual basis for doing so is unprofessional and may amount to abuse of court process as pointed out in *Medcalf v Weatherill & Anor* [2002] UKHL27; [2003] 1 AC 120. This Court, in *Solomon Islands Ports Authority v Helicopter Support Solomon Islands Ltd* (2025) Civil Appeal Case No 13 of 2023 (Judgment delivered on 31 March 2025) expressed similar concern of Counsel's conduct of characterising the trial Judge's action as "*based on imagination*" in accepting the respondent's evidence alleging that there was no basis for doing so, when in fact the respondent's evidence was admitted into evidence without any objection from the appellant's Counsel. The Court viewed such characterisation by Counsel of the Judge as "*not acceptable and may possibly be a violation of professional ethics.*"
10. There is clearly no merit in this application and it is refused.
11. The applicant's application for leave to appeal against the Ruling of the High Court (Lawry J) dated 10 November 2023 is refused.
12. Costs to the respondent to be taxed, if not agreed.

Dated 8th July 2025



Sir John Muria
President
Court of Appeal

