

IN THE HIGH COURT OF FIJI
AT LAUTOKA
CIVIL JURISDICTION

HBC 139 of 1996/L

BETWEEN: **AMBARAM NARSEY PROPERTIES LIMITED** a limited
liability company having its registered office at Lautoka
PLAINTIFF

A N D: **MOHAMMED YAKUB KHAN, MOHAMMED NASIR KHAN,**
MOHAMMED SABIR KHA, MOHAMMED IQAL KHAN,
MOHAMMED MUKTAR KHAN and **MOHAMMED AZAD**
KHAN all of Lautoka, Businessman.
FIRST DEFENDANTS

A N D: **LAUTOKA CITY COUNCIL** a body corporate duly constituted by
the Local Government Act 1972
SECOND DEFENDANT

Appearances: Mr. C. B. Young for the Plaintiff
 Mr. S. Nand for the first Defendant
 Mr. S. Krishna for the second Defendant
Date of Hearing: 31.03.2021
Date of Ruling: 31.03.2021

R U L I N G

(Under Slip Rule - Order 20 Rule 10 High Court Rules 1988)

INTRODUCTION

1. Before me is an urgent application by the Plaintiff/Judgment Creditor. The application is not supported by an Affidavit but a letter was written to Court dated 29 March 2021 sets out the relevant facts none of which is contentious.

2. Although the application is made under the inherent jurisdiction of this Court, Order 20 Rule 10 of the High Court Rules 1988 is the more specific jurisdiction which gives me power to entertain this application. Order 20 Rule 10 provides 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.

3. The background of this case is set out in my ruling dated 26 March 2021 by which I granted Order in Terms on the plaintiff/judgment creditor's application for judicial sale on a certain property owned by the first defendant/first judgment debtor.
4. Essentially, the plaintiff/judgment creditor is seeking to levy execution of a judgment it obtained in 2007 against a State Lease which belongs to the first defendants/first judgment creditors.
5. In the 26 March 2021 Ruling, I had described the state lease in question as State Lease No. 26321. This was the original state lease number. The same land is now all comprised in State Lease No. 21284 and the said lease, as far as I am aware, is still owned by the first defendants/first judgment debtors.
6. A letter written to Court by Young & Associates dated 29 March 2021 explains the change in number from State Lease 26321 to State Lease 21284 as follows:

We refer to the Ruling delivered by his Lordship Mr. Justice Tuilevuka on Friday 26 March 2021.

We have noticed that the Ruling refers to Crown Lease No. 26321. This was the correct lease number when the Application for an Order for sale was made in 2014 but subsequently on 6 October 2017 the First Defendants obtained a new 99 years lease in its place under State Lease No. 21284.

The registered judgment was brought down on the new State Lease 21284 and the new Lease number has been referred to in all Orders made extending the registered judgment every 6 months since 5 December 2018. Copies of the Orders dated 5 December 2018 and

2 December 2020 are enclosed. All these Orders have been by consent of the First Defendants.

Please bring this letter to the attention of his Lordship to rectify the Ruling by adding before Crown Lease No. 26321 "State Lease No. 21284 previously". We hope to seal the Order with the new and old lease number.

By writing this letter, we have adopted the course of action suggested by Stock J. (with whom Marshoof JA & Keith JA agreed) in *Abbco Builders Ltd v Star Printery Ltd* [2019] FJSC 6. His Lordship said:.....

7. What the plaintiff is seeking essentially is to have the Ruling handed down on 26 March 2021 amended to correct the legal description of the land.
8. The error alleged is a slip which can be amended under Order 20 Rule 10 of the High Court Rules 1988.
9. I am prepared to grant order in terms of the proposed amendment having taken into account a letter dated 29 March 2021 by Young & Associates.
10. Accordingly, I grant Order in Terms. The Ruling dated 26 March 2021 is hereby amended by deleting the reference to State Lease or Crown Lease No. 26321 in paragraph 32 and substituting these with the following:

State Lease 21284.



Anare Tuilevuka
JUDGE
Lautoka

31st March 2021