

In the High Court of Fiji

At Suva

Civil Jurisdiction

Civil Action No. HBC 219 of 2021

Usha Chandra Ramlu

aka Chandra Usha Ramlu

Plaintiff

v.

The Director and Registrar of Co-operatives

First defendant

Eta Boila

Second defendant

The Attorney General of Fiji

Third defendant

Counsel: Mr V. Kumar for the plaintiff

Ms P. Singh with Ms G. Naigulevu for the defendants

Date of hearing: 28th March,2022

Date of Judgment: 9th May,2023

Judgment

1. The plaintiff, in her originating summons seeks a declaration that the defendants transfer Block 6 of Lot 21, Muir Lane, (property) held under liquidation by Suva Industrial Co-operatives Limited,(SICL) and issue strata title in her name. Alternatively, a declaration that the defendants hold the property on trust, until a strata title is issued.

2. The plaintiff, in her supporting affidavit states that her parents were members of SICL. Her mother passed her membership rights to her by letter of 29th May, 2007, to the liquidator. The nomination was accepted by the first and second defendants. On 3rd July,2008, the liquidator requested her to pay city and town rates and strata title expenses, which she did. The defendants gave assurances that she was the owner of the property. She has actively participated in the Co-operative on their representation and acquiescence as a member and shareholder.

3. The first defendant, in his affidavit in opposition states that on the death of Mr David Mahadeo Prasad, (a registered member of the Co-operative) his interest in the Co-operative was transferred to his wife Mrs. Vidyawati Prasad. Mrs. Prasad by letter dated 29 May, 2007, purported to transfer the property to the plaintiff. The plaintiff has never been a registered member of the Co-operative nor has she had any interest in the Co-operative. The plaintiff acted as a representative of Mrs. Prasad in all transactions including payments of rates. On 4th May, 2018, Mrs. Prasad revoked the Power of Attorney, (POA) granted to the plaintiff and granted POA to Mr. Satish Prasad. All payments of rates made by the plaintiff to the Ministry and the Council between 29 May, 2007, and 4 May, 2018, were made on behalf of Mrs. Prasad. Payments after 4 May, 2018, were made by Mrs. Prasad in her personal capacity and recognized by the first defendant as payments for Mrs. Prasad.

The determination

4. The plaintiff claims a property of SICL on the basis that she is a member of SICL, as her mother transferred her membership rights to her in the SICL by letter of 29th May, 2007.
5. The letter of 29th May, 2007, reads that she “*would like to transfer her block 6 ... to be directly transferred to (her) daughter (the plaintiff)*”.
6. The plaintiff also relies on the letter of 3rd July,2008, of the Liquidator, Dept of Co-operatives to the plaintiff stated as follows:

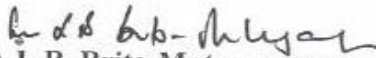
*The delay in completion of the Strata Titles had made me request you the 6 Lot holders to pay the City Rates, Town Rates and Strata Titles expenses...
You are requested to pay....\$1528.19} to cover the cost of above*

7. The defendants contend that the plaintiff has never been a registered member of the Co-operative. She acted as a representative of her mother, Mrs. Prasad in all transactions including payments of rates.
8. On 4th May, 2018, Mrs. Prasad revoked the Power of Attorney granted to the plaintiff and granted Power of Attorney to Mr. Satish Prasad. All payments of rates made by the plaintiff to the Ministry and the Council between 29 May, 2007, and 4 May, 2018, were made on behalf of Mrs. Prasad. Payments after 4 May, 2018, were made by Mrs. Prasad in her personal capacity and recognized by the first defendant as payments for Mrs. Prasad.
9. In my judgment, the letter of 3rd July,2008, requests the plaintiff to make payment of rates and strata title expenses, but there is no recognition nor acceptance of her as a member of SICL.
10. I note that in a letter of 30th November,2021, to the plaintiff’s solicitor, the first defendant advised the plaintiff that she does not have any interest and entitlement to the property consequent to the revocation of the POA by her mother on 4th May,2018, and any payments made thereafter will be refunded to her.

11. In my judgment, the plaintiff's claim is misconceived and is declined.

12. Orders

- a. The plaintiff's summons is declined.
- b. The plaintiff shall pay the defendants costs summarily assessed in a sum of \$1000.


A.L.B. Brito-Mutunayagam
JUDGE
9th May, 2023

