

IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

HBC 157 of 2023

BETWEEN : **FIJI PUBLIC TRUSTEE CORPORATION LIMITED**

PLAINTIFF

AND : **AKOSITA SOROVAKATINI**

FIRST DEFENDANT

AND : **TIKIKO KOROCAWIRI**

SECOND DEFENDANT

BEFORE : **M. Javed Mansoor, J**

COUNSEL : **Ms. L. Silatolu for the plaintiff**
Mr. S. Raikanikoda for the first defendant

Date of Hearing : **17 November 2023**

Date of Judgment : **29 November 2023**

JUDGMENT

*SALE OF LAND Originating summons – Property administered by Public Trustee –
Arrears of rent and rates – Section 119, Property Law Act 1971*

1. The plaintiff filed an originating summons on 25 May 2023 seeking an order for sale of the property comprised in Housing Authority sub lease No. 241170 Graha Lane, off Matanisiga Road, Makoi in Nasinu. The application was made under section 119 of the Property Law Act of 1971 and was supported by Salaseini Drekeni, manager estate and trusts of the Fiji Public Trustee Corporation Limited.
2. Ms. Drekeni deposed that the plaintiff is the executor and trustee of the estate of Samuela Vakaruivalu (deceased), who died interstate on 4 December 1992. She stated that the deceased's wife (widow) instructed the plaintiff to obtain letters of administration to administer the estate. Thereafter, letters of administration were granted to the plaintiff on 2 December 1993.
3. The deponent says that on 8 January 2012, the plaintiff received a written letter from all beneficiaries stating their willingness to sell the property. On 12 March 2013, one of the children of the deceased, Miriama Ciriwale, renounced her share of the subject property to the widow. On 15 November 2016, another beneficiary, the second defendant, notified the plaintiff that he is renouncing his rights to his elder brother, Neori Vakatovolea.
4. The deponent says that Neori Vakatovolea moved into the subject property with his wife, the first defendant, on 19 February 2017 on the understanding that he would pay \$100.00 each to the widow and to the plaintiff every month. Neori Vakatovolea died interstate on 10 July 2017.
5. The deponent states that on 17 April 2017, the widow informed the plaintiff that she did not receive any payments and wanted to sell her share and the shares of her daughters to the occupants of the property. On 17 May 2018, the plaintiff issued the first defendant a letter notifying her to vacate the property on the

request of the surviving beneficiaries in order to sell the property. A similar letter was sent on the 10 of August 2018.

6. The deponent states that a majority of the beneficiaries have agreed to the sale of the property and that a buyer has been found. She states that the first defendant refused to leave the property and has not assisted the plaintiff in its efforts to sell the property.
7. The deponent says that on 15 May 2017, the Nasinu Town Council issued a demand notice to recover town rates. On 26 August 2020, the plaintiff was issued a rental arrears notice by the Housing Authority. The plaintiff says the ground rent in arrears was \$289.10 and the arrears to the Nasinu Town Council was \$4,181.05 as at 1 July 2022.
8. The plaintiff states that the beneficiaries to the property are not willing to pay the arrears of ground rent and rates, and the plaintiff's administration fees. The plaintiff says it is unable to complete administration of the estate in the present circumstances.
9. The plaintiff seeks an order to sell the property at market value in order to settle the arrears of ground rent to the Housing Authority, arrears of town rates owing to the Nasinu Town Council and clear its administration fees and costs from the sale proceeds.
10. The first defendant filed an affidavit in opposition objecting to the sale of the property. She admits receiving a notice to vacate from the plaintiff, but says she is exercising the vested rights of her husband who was a beneficiary to the deceased's estate. She claims to be settling arrears due to the Housing Authority and the Nasinu Town Council.
11. There was no representation for the second defendant.
12. The court is of the view that an order for sale of the property would be apt in the circumstances. A sale of the property would be necessary to settle the arrears of

rent and rates, and to pay the costs of administration. Although the first defendant says she is paying the arrears, there is no evidence in support of this claim.

13. The plaintiff's affidavit discloses that the property was valued at \$25,000.00 on 7 September 1993. Thereafter, it was valued at \$80,000.00 on 14 January 2017. It is almost six years since the property was last valued. A fresh valuation will assist in determining the market price of the property.

ORDER

1. Property comprised in Housing Authority sub lease No. 241170 Graha Lane, off Matanisiga Road, Makoi in Nasinu is ordered to be sold under the following guidelines.
2. The plaintiff's solicitors will cause a valuation to be carried out by a valuer acceptable to the first defendant within 30 days of this decision. Valuation expenses are to be deducted from the proceeds of the sale.
3. The valuation is to be used as the base price. The solicitors of the plaintiff and the first defendant may agree on a price below the market value.
4. The plaintiff's solicitors will advertise the property for sale by written tender in at least two newspapers circulating in Fiji.
5. Tenders shall be opened in the presence of the defendant's solicitors.
6. Sale shall be to highest tenderer who is to pay all transfer expenses usually paid by a purchaser.
7. Arrears of rent, rates and administrator's expenses are to be paid out of sales proceeds.
8. Upon settlement, the plaintiff's solicitors shall pay into court the balance of the sales proceeds and furnish an account of the disbursement and costs incurred in selling the property and of the settlement of arrears.

9. Within two weeks after payment of settlement monies into court, the plaintiff must ensure that beneficiaries of the deceased's estate are paid their entitlements out of the balance sales proceeds.
10. The chief registrar is to execute the conveyance if the defendant does not cooperate in transferring her share to the purchaser.
11. Parties are at liberty to apply generally.

Delivered at **Suva** on this **29th** day of **November, 2023**.



M. Javed Mansoor
Judge