

**IN THE HIGH COURT OF THE COOK ISLANDS
HELD AT RAROTONGA
(CIVIL DIVISION)**

APPLICATION NO: Plaintiff 17/2015

BETWEEN

COLLECTOR OF INLAND REVENUE

Plaintiff

AND

HENRY IRIPA

Defendant

Counsel: Ms A Mills for the Plaintiff
No Appearance for the Defendant

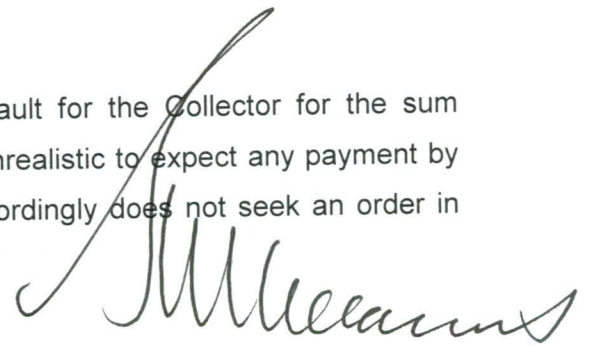
Date: 2 June 2016

JUDGMENT OF HUGH WILLIAMS, J

- [1] The Plaintiff is seeking judgment by default in this case for the amount owing by the defendant tax payer as at 23 May 2016 of \$517,009.98.
- [2] The proceeding has been on foot since 14 October 2015 when the sum of \$521,836.67 was claimed. This relates to unpaid tax.
- [3] The affidavit of the collector makes clear that the tax debt goes back as far as 2001. Initially, it was of modest proportions until about 2009, but in 2012 an audit of the defendants 2007 income tax return was undertaken. Essentially, that focused on his subleasing of two properties and his receipt of \$700,000.00 from the disposal of the subleases.
- [4] That sum was determined to amount to income. The tax payer has not disputed that assessment. The result of the reassessment was that the tax payers 2007 income tax return was amended on 31 January 2013 to include additional income of \$706,000.00 with the result altogether totalling \$380,089.56. There was no objection lodged to that assessment.
- [5] Since that time there has been a meeting with the tax payer and his tax agent which showed that the proceeds from the sub leases were used by the defendant to purchase a house and boat for his fishing business but although there have been

modest payments since that time, principally by deduction, the total debt mentioned remains outstanding.

- [6] In procedural terms the defendant was served with the statement of claim on 25 November 2015, with service being followed by a Notice of Intention to Defend filed two days later by Mr Arnold. Mr Arnold has advised the Plaintiff that he has no current instructions to act for the defendant.
- [7] The matter was called before Grice, J on 27 November 2015 and adjourned to the March sessions. In March this year, Potter J made a minute first to check with Mr Arnold, and then to advise Mr Iripa of the Collector's intention to seek judgment by default.
- [8] Mr Iripa was served with that minute on 1 April 2016 and so is clearly aware of the Collector's intention. On 25 May 2016 an officer of MFEM served with Mr Iripa with the Crown's Notice of Intention to seek judgment by default and a memorandum in support.
- [9] Mr Iripa has taken steps to the extent of writing to the Court and to the Chief Collector on 26 May essentially acknowledging responsibility for the debt but saying he has no chance whatsoever of paying it. In the letter to the Collector he sets out his personal circumstances, including the costs of maintaining his family and the spasmodic income he is able to make from his fishing business.
- [10] Those, however, are factors which will no doubt in due course be taken into account by the Collector in deciding what, if any, further action he wishes to take against Mr Iripa.
- [11] For the present, there will be judgment by default for the Collector for the sum mentioned \$517,009.98. Ms Mills accepts it is unrealistic to expect any payment by Mr Iripa for the costs of the proceeding and accordingly does not seek an order in that respect.



Hugh Williams, J