

**IN THE COURT OF APPEAL, FIJI ISLANDS**  
**AT SUVA**

**CIVIL APPEAL NO. ABU0057 OF 1999S**  
(High Court Civil Action No. HBC0260 of 1996S)

**BETWEEN:**

**SEINI SENIRAUVULA NATUWAWA**  
**ASESELA SADOLE**

*Appellants*

**AND:**

**NATIONAL BANK OF FIJI**

*Respondent*

**In Chambers:** Tompkins, JA

**Hearing:** Friday 22 August, 2003, Suva

**Counsels:** Mr. S.R. Valenitabua for the Appellants  
Mr. R. Naidu for the Respondent

**Date of Decision:** Tuesday, 26 August 2003

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**DECISION**

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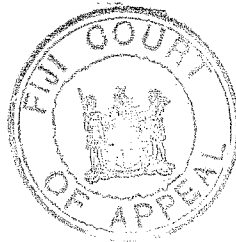
By a judgment delivered on 17 May 2002, this court allowed the appeal by the appellants and they were awarded costs of \$750 together with disbursements to be fixed by the Registrar.


The respondent has failed to pay the costs and disbursements which were fixed at \$427.80. The appellants filed a summons seeking orders that the respondent pay the costs plus disbursements plus costs on the summons assessed at \$500.

When the summons came before me I told Mr Naidu that I thought it deplorable that a responsible company such as the National Bank of Fiji in should so blatantly ignore orders of this court. This default it is all a more serious in view of the repeated requests on behalf of the appellants for payment.

I then advised Mr Valenitabua that I considered his application to be misconceived. He has already obtained in the order of this court for payment of the amounts due. There is no point in obtaining repeat orders and anyway this court is now *functus officio*. His remedy, if the bank remains in default, is to seal a judgment for the amount due, then remove the judgment into the appropriate court for the normal enforcement proceedings to be instituted to force the Bank to pay its debt.

The summons is dismissed. Under the circumstances I make no order as to costs.



  
Tompkins, JA

Solicitors:

Valenitabua S.R. Esquire, Suva for the Appellants  
Messrs. Sherani and Company, Suva for the Respondent