

In the High Court of Fiji
At Suva
Civil Jurisdiction

Civil Action No. HBA 26 of 2020

Laukesh Rolan Lal
Saleshni Sangeeta Devi
Appellants

v

Clyde Equipment (Pacific) Pte Limited
Respondent

Counsel: Mr A. Chand for the appellants
Mr R.K. Naidu for the respondent
Date of hearing: 1st June, 2022
Date of Judgment: 13th October, 2022

Judgment

1. The appellants seek to appeal a judgment of the Magistrates Court of 21 September, 2020.
2. The appellants filed notice of appeal and grounds of appeal in the Magistrates Court on 20th October, 2020.

3. At the commencement of the hearing , Mr Naidu, counsel for the respondent submitted that the appellants have not complied with the mandatory provisions of Or XXXV11,r 1 of the Magistrates Court Rules in not given notice of intention to appeal “*within seven days after the day on which the decision appealed was given to the respondent and to the court*” nor filed an application to appeal out of time or sought extension of time.
4. The appellants filed notice of intention to appeal on 12 October, 2020, and served it on the solicitors for the respondent on 14 October, 2020. As Mr Naidu quite correctly submitted the appellants could not proceed to file the grounds of appeal having failed to file notice of intention to appeal by 28 September, 2020.
5. The appellants have not sought to appeal out of time nor sought extension of time.
6. The appeal fails.
7. **Orders**
 - a. The appeal is declined.
 - b. The appellant shall pay the respondent costs summarily assessed in a sum of \$1000.00.



A.L.B. Brito-Mutunayagam

A.L.B. Brito-Mutunayagam
JUDGE

13th October, 2022