

**IN THE HIGH COURT OF FIJI
AT SUVA
PROBATE JURISDICTION**

Probate Action No. 48 of 2024

IN THE ESTATE OF JEREMAIA MOLIDUADUA VEIDIVI of Lot 12 Velau Drive, Kinoya, Suva, Carpenter, Deceased, Intestate.

AND

IN THE ESTATE OF SILOVATE LILICALA VEIDIVI aka SILOVATE LILICALA Of Lot 12 Velau Drive, Kinoya, Nasinu, Retired, Deceased.

AND

IN THE ESTATE OF RO IVA QOLOUVAKI VEIDIVI of Lot 12 Velau Drive, Kinoya, Fiji, Domestic Duties, Intestate.

AND

IN THE MATTER of an Application pursuant to Section 38 of the Succession, Probate and Administration Act 1970.

AND

IN THE MATTER of an Application for Removal of Executor, Administrator and Trustee pursuant to Order 85 Rule 2 and Rule 4 of the High Court Rules and Section 35 of the Succession, Probate and Administration Act 1970.

AND

IN THE MATTER of an Application for the Appointment of Administrator and Trustee pursuant to Section 4 and 73 of the Trustee Act 1966 and Section 35 of Succession, Probate and Administration Act 1970.

BETWEEN: **SAKIUSA VOSAICAKE** also known as **SAKEUSA VOSAICAKE** Formerly of Kinoya, now of Narere, Stage 1, Suva, in the Republic of Fiji Islands as Administrator of **IN THE ESTATE OF RO IVA QOLOUVAKI VEIDIVI** of Lot 12 Velau Drive, Kinoya, Fiji, Domestic Duties, Intestate vide Letters of Administration No. 60632.

PLAINTIFF

AND: **FIJI PUBLIC TRUSTEE CORPORATION PTE LTD** having its registered office at Public Trustee House, 83-85 Amy Street, Toorak, Suva as the Administrator **IN THE ESTATE OF JEREMAIA MOLIDUADUA VEIDIVI** of Lot 12 Velau Drive, Kinoya, Suva, Carpenter, Deceased, Intestate vide Letters of Administration No. 35000 and the Executor **IN THE ESTATE OF SILOVATE LILICALA VEIDIVI aka SILOVATE LILICALA** Of Lot 12 Velau Drive, Kinoya, Nasinu, Retired, Deceased, Testate Vide Probate No. 68312.

DEFENDANT

Appearances:

Mr V. Kumar (for the Plaintiff) – Sunil Kumar. Esq
Ms. L. Silatolu (For the Defendant) – Fiji Public Trustee Corporation Limited.

Date of Hearing: 11th October 2024

RULING

[1] The Plaintiff filed Originating Summons seeking that the Defendants be directed to:

- “a. Administer the **ESTATE OF JEREMAIA MOLIDUADUA VEIDIVI** of Lot 12 Velau Drive, Kinoya, Suva, Carpenter, Deceased, Intestate and transmit and transfer the said estate into the Plaintiff as the sole administrator and beneficiary of the **ESTATE OF RO IVA OLOUVAKI VEIDIVI** of Lot 12 Velau Drive, Kinoya, Fiji, Domestic Duties, Intestate.
- b. Administer the **ESTATE OF SILOVATE LILICALA VEIDIVI** aka **SILOVATE LILICALA** Of Lot 12 Velau Drive, Kinoya, Nasinu, Retired, Deceased, Testate and transmit and transfer the remaining half share of the said estate unto the Plaintiff as the sole administrator and beneficiary of the **ESTATE OF RO IVA OLOUVAKI VEIDIVI** of Lot 12 Velau Drive, Kinoya, Fiji, Domestic Duties, Intestate.” or **alternatively**,
- “a. **AN ORDER** that the Defendant be removed as the administrator **IN THE ESTATE OF JEREMAIA MOLIDUADUA VEIDIVI** of Lot 12 Velau Drive, Kinoya, Suva, Carpenter, Deceased, Intestate vide Letters of Administration No. 35000 and the Executor **IN THE ESTATE OF SILOVATE LILICALA VEIDIVI** aka **SILOVATE LILICALA** Of Lot 12 Velau Drive, Kinoya, Nasinu, Retired, Deceased, Testate for their failure to Administer and execute the Estate within reasonable time.
- b. **AN ORDER** that the Plaintiff be appointed as the the administrator **IN THE ESTATE OF JEREMAIA MOLIDUADUA VEIDIVI** of Lot 12 Velau Drive, Kinoya, Suva, Carpenter, Deceased, Intestate vide Letters of Administration No. 35000 and the Administrator with Will annexed **IN THE ESTATE OF SILOVATE LILICALA VEIDIVI** aka **SILOVATE LILICALA** Of Lot 12 Velau Drive, Kinoya, Nasinu, Retired, Deceased, Testate.”

The Originating Summons was filed with an affidavit of Sakiusa Vosaicake aka Sakeusa Vosaicake. An affidavit opposition of Mere Ralolo (Acting Manager Estates and Trusts) of Fiji Public Trustee Corporation Pte Limited was filed. The Plaintiff filed a reply to Ms Ralolo’s affidavit.

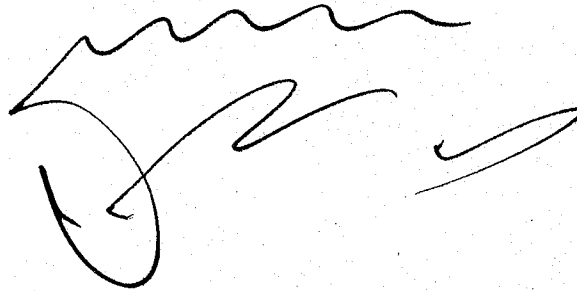
[2] The Plaintiff, Sakiusa Vosaicake aka Sakeusa Vosaicake is the Husband of Ro Iva Qolouvaki Veidovi. Ro Iva was the only child of Jeremaia Moliduadua Veidovi and Silovate Lilicala Veidovi aka Silovate Lilicila. Ro Iva and both her parents are now deceased.

- [3] Jeremaia Moliduadua Veidovi passed away on 30th June 1997, his letters of administration was granted to Public Trustee of Fiji on 29th January 1998. Following the demise of Jeremaia, his wife, Silovate Lilicala Veidovi aka Silovate Lilicila passed away on 24th June 2012. Her Probate was granted to Fiji Public Trustee Corporation Limited on 25th April 2022. She had made a will. Following the demise of the parents, Ro Iva passed away on 2nd June 2017. Her letters of administration as issued to the Plaintiff, Sakiusa Vosaicake aka Sakeusa Vosaicake on 8th August 2017.
- [4] Jeremaia Moliduadua Veidovi and Silovate Lilicala Veidovi aka Silovate Lilicila were the Registered Proprietors of Housing Authority Lease No. 112700, Being Lot 12 on D.P 3318, in the Province of Naitasiri having an area of 18.8 perches.
- [5] At the hearing of this matter, The Plaintiff's lawyers abandoned the declarations they were seeking but sought that the Court interpret clause 3 (b) of the last will and testament of Solivate Lilicala Veidovi aka Silovate Lilicila. This was the issue for contention between the parties. The Defendants also sought clarification of the same. Clause 3 (b) reads as follows "*To dispose my half share in the real property morely described as Housing Authority Sublease No. 112700 being Lot 12 on DP 3318 unto my niece namely Atalaite Dibau for her own use and benefit absolutely.*"
- [6] Section 41 (1) of the Succession, Probate and Administration Act 1970 allows me to "*...make such order with reference to any question arising in respect of any will or administration, or with reference to the distribution or application of any real or personal estate which an executor or administrator may have in hand, or as to the residue of the estate, as the circumstances of the case may require.*" The general rules of construction of a will is provided in Section 26 of the Wills Act. Lord Hodge in **Trump International Golf Club Scotland Ltd v Scottish Ministers [2015] UKSC 74, [2017] 1 All ER 307, [2016] 1 WLR 85 (at [33])** said: "*There is a modern tendency in the law to break down divisions in the rules on the interpretation of different kinds of document, both private and public, and to look for more general rules on how to ascertain the meaning of words. In particular, there has been a harmonisation of the interpretation of contracts, unilateral notices, patents and also testamentary documents. ...*".
- [7] A recent authoritative exposition of the principles applicable to testamentary documents is that of the UK Supreme Court in **Marley v Rawlings [2014] UKSC 2, [2014] 1 All ER 807, [2015] AC 129**. Lord Neuberger said: "*When interpreting a contract, the court is concerned to find the intention of the party or parties, and it does this by identifying the meaning of the relevant words, (a) in the light of (i) the natural and ordinary meaning of those words, (ii) the overall purpose of the document, (iii) any other provisions of the document, (iv) the facts known or assumed by the parties at the time that the document was executed, and (v) common sense, but (b) ignoring subjective evidence of any party's intentions. ... [20] When it comes to interpreting wills, it seems to me that the approach should be the same. Whether the document in question is a commercial contract or a will, the aim is to identify the intention of the party or parties to the document by interpreting the words used in their documentary, factual and commercial context. ...*".

- [8] Having noted the law and the principles of interpretation of wills I find that clause 3 (b) of the last will and testament of Silovate Lilicala Veidovi is unambiguous. Under clause 3 (b) Silovate Lilicala Veidovi disposes of her half share in Housing Authority Lease No. 112700 being 12 DP 3318 to her niece, Atalaite Dibau, absolutely. The Housing Authority Lease No. 112700 had two owners, one was Jeremaia Moli Veidovi. The other was Silovate Lilicala Veidovi. Jeremaia and Silovate jointly owned the property. Each had half share in the property. What Silovate disposed of was **her half share**. She did not state in her will, half of her share. Which has a different meaning. Through her last will Silovate disposed her half share in the property to Atalaite Dibau. Silovate following her demise sought that her half share in the property be transferred to Atalaite, absolutely.
- [9] With the provision of the will clarified the parties are to immediately attend to the said Estates and ensure that the beneficiaries get their relevant shares in the property. No orders as to costs.

Court Orders

- (a) I direct that the Trustee in the Estate of **SILOVATE LILICALA VEIDIVI aka SILOVATE LILICALA** as per her last will and testament transfer the share of **SILOVATE LILICALA VEIDIVI aka SILOVATE LILICALA** Housing Authority Lease No. 112700 being 12 DP 3318 to her niece, Atalaite Dibau.
- (b) No orders as to costs.



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Chaitanya S.C.A. Lakshman

Puisne Judge
31st October 2024

