



**IN THE SUPREME COURT OF NAURU
AT YAREN
CIVIL JURISDICTION**

Civil Case No. 02 of 2025

BETWEEN : SALIKA HEDMON of Ewa District, Nauru.

Applicant

AND : OIJEN DIEMA of Ewa District

Respondent

BEFORE: Keteca J

DATE OF HEARING: 03rd April 2025

DATE OF RULING: 03rd April 2025

CITATION: Hedmon v Diema

KEYWORDS: Interlocutory Injunction

APPEARANCES:

Counsel for the Applicant: J Olsson

RULING

BACKGROUND

1. This is an *ex-parte* application by the Plaintiff for an interim injunction against the Defendant. Amongst others, she seeks the following:
 - i. The Defendant, his servants and agents be restrained from entering and building on Land Portion 167, Baitsi District as he has not obtained the consent of the landowners;
 - ii. The Defendant, his servants and agents be restrained from continuing to build his house on the Plaintiff's part of Land Portion 167 where there is an existing footing for the Plaintiff's house.

2. In an affidavit filed on 27th March 25, the Plaintiff states:
 - i. She had obtained 77% of the landowners consent to build on Land Portion 167 in Baitsi District. Her father started to build a footing on this land which is behind their Hedmon family home.
 - ii. The Defendant, using a bulldozer, demolished a substantial part of this footing and started building his house on top of it.
 - iii. The Defendant had promised her father that he would not interfere with her existing footing.
 - iv. She seeks orders that the Defendant and his agents to stop all the construction activities on the portion of 167 that she has started building her house on.
 - v. She makes the usual undertakings as to damages.
3. Hemon Hedmon, the Plaintiff's father deposes as follows:
 - i. He completed the footing for her daughter's house which measures 18 x 15 meters on Land Portion 167. He had to reduce the footing corner as advised by the surveyors.
 - ii. The construction of his daughter's house halted because of financial constraints. The Defendant wanted to build on the same site as his daughter's footing. The Defendant promised him that he will not touch the Plaintiff's footing. He relied on the Defendant's promise. Two weeks later he saw that half of the footing that he constructed for his daughter had been demolished.
 - iii. The Defendant later came to see him and apologised that his wife and the workers that demolished the footing. In his words- '*Please forgive me. I did not know what was going on there. My wife was supervising the work there. She broke your footing.*'
 - iv. The Defendant initially agreed to pay for the damaged footing in instalments. To date, the Defendant has failed to pay any moneys and they continue to build on his daughter's footing.
 - v. He too seeks that the Defendant be restrained from continuing with the construction of his building on top of the Plaintiff's footing until this matter is resolved in the Court.

THE LAW

4. In *Castlemaine Tooheys Ltd v South Australia* [1986] HCA 58; (1986) ALR 553, at 557, ACJ Mason said:

'The principles governing the grant or refusal of interlocutory injunctions in private law litigation have been applied in public law cases, including constitutional cases, notwithstanding that different factors arise for consideration. In order to secure such an injunction the plaintiff must show (1) that there is a serious question to be tried or that the plaintiff has made out a prima facie case, in the sense that if the evidence remains as it is, there is a probability that at trial of the action the plaintiff will be entitled to relief; (2) that he will suffer irreparable injury for which damages will not be adequate compensation unless an injunction is granted; and that the balance of convenience favors the grant of an injunction.'

DISCUSSION

5. Considering the evidence submitted by the Plaintiff, I am satisfied that her claim against the Defendant has a serious question to be tried. She will suffer irreparable damage as the Defendant has not compensated her for destroying her footing. The balance of convenience also favours the Plaintiff in this matter.
6. I grant the interlocutory injunction sought by the Plaintiff.

ORDERS

1. The Defendant, his wife, his agents and servants are restrained from entering the site on Land Portion 167, Baitisi District where the Plaintiff has her demolished footing;
2. The Defendant, his wife, agent and servants are to stop their construction of a building on the demolished footing built by the Plaintiff on Land Portion 167;
3. The Plaintiff is to serve this order, the Motion and affidavits of the Plaintiff and her father and the Writ of Summons in Civil Case No. 2/ 2025 on the Defendant, or his wife or his legal representative by 4pm tomorrow.
4. The defendants are to file and serve their Statement of Defence within 14 days from the date of this Ruling.
5. Costs reserved.

Dated this 03rd Day of April 2025



Kiniviliame T. Keteka

JUDGE

