

Civil Action No. 31 of 2012: K Naidu Investment Proprietary Ltd & Fiji Pine Ltd

High Court of Fiji at Labasa, 9/11/2015

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Key Points

- In a contract of hire, both parties must agree at the outset on the rates of hire. Without such agreement, there can be no concluded contract.
- A contract must be sufficiently certain and complete in order to be enforceable.

Facts: Fiji Pine Limited, the first defendant, is a company that plants, grows, harvests, processes, and markets pine and other species of trees. The plaintiff, K Naidu Investment Proprietary Limited (**K Naidu**), alleged that it entered into two written contracts with Fiji Pine to supply logging machines and trucks. K Naidu alleged that Fiji Pine failed to pay the monthly contract price for the hire of the machines and trucks for the period of the contract of ten years. K Naidu claimed damages for breach of contract, loss of business, future income and loss of assets.

Fiji Pines argued that the first contract was uncertain and obscure for many reasons; the agreement did not state where the goods were to be delivered to, was not made under the company seal, did not include the agreed rates, and it was difficult to determine whether it was an agreement for cartage or for logging.

Issue: Were the two written contracts sufficiently certain and complete to be enforceable?

Held: The first contract was held void as it did not contain essential terms of the agreement, namely the agreed rates of hire. The second written agreement was merely informing K Naidu that a contract (the first written agreement) had been awarded. It was not a contract in itself. The Court came to this conclusion by considering the unspecific language of the letter, and the fact that it contained phrases such as "Please do not hesitate to contact us for any queries", which indicated that it was not a finalised contract.

The Court also found that K Naidu had not established its loss, which is essential if damages are to be awarded. The plaintiffs action was therefore dismissed.

Counsel for the defendant, Feizal Haniff, is one of the founding partners of Haniff Tuitoga, a member of Pacific Legal Network. Feizal has extensive commercial litigation expertise, and may be contacted at feizal.haniff@haniffuitoga.com.fj for any inquiries.

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