

**IN THE HIGH COURT OF NIUE
(CIVIL DIVISION)**

Application No: CV2022-00059

UNDER

Article 6 Niue High Court Rules
1916

BETWEEN

ETTIE ASEMAGA
Plaintiff

AND

DAVE ULUKITA
Defendant

Date: 12 December 2022

DECISION OF CHIEF JUSTICE C T COXHEAD

Introduction

[1] I heard this substantive matter on 25 July 2022 (Niue time). At that hearing I made orders that Mrs Asemaga was to pay for the materials but Mr Ulukita was to pay for the labour to be done (labour in terms of the cost of a carpenter to do the work required).

[2] Mrs Asemaga also applied for legal costs and cost due to inconvenience and stress.

[3] The claim for costs due to inconvenience and stress was dismissed at the hearing on 25 July 2022.

[4] In terms of legal costs, I reserved my decision and allowed Mr Ulukita to file a response with regards to lawyers costs. That response has been filed.

[5] Mr Ulukita has filed a response which basically states that he does not believe that he should have to pay the legal fees that Mrs Asemaga has incurred, as it was her own personal choice to seek legal advice in pursuing her claim.



[6] While Mrs Asemaga was successful in obtaining a Court Order for Mr Ulukita to pay for the labour to complete the work, Mr Ulukita was also partly successful in that the Court required Mrs Asemaga to pay for the materials.

Decision

[7] Given both parties were in a sense successful, costs should lie where they fall and the claim for costs is therefore dismissed.

Dated at Rotorua, Aotearoa New Zealand this 12th day of December 2022.

A handwritten signature in black ink, appearing to read 'C T Coxhead', written over a horizontal line.

C T Coxhead
CHIEF JUSTICE