

BETWEEN : BANK OF TONGA : Plaintiff

AND : HINGANO HAUTAU : Defendant

AND

BETWEEN : 1. 'EMALATA MAFI
2. 'EMELINE HAUTAU
3. SAMISONI HAUTAU : Plaintiffs

AND : BANK OF TONGA : Defendant

BEFORE HON JUSTICE FINNIGAN

Counsel : Ms Tapueluelu for plaintiff/defendant, Mr Piukala for defendant/plaintiff

Date of Hearing : 22 October 1999

Date of Judgment: 22 October 1999

INTERIM JUDGMENT OF FINNIGAN, J

At this hearing in Vava'u I directed the consolidation of these two matters and commenced the hearing. The plaintiffs in C787/99 gave evidence and were cross-examined, and counsel on their behalf closed their case, reserving submissions. I now adjourn the hearing part heard because time has expired, and I make the following interim orders:

1. The Court will summarise the present position of the action C775/96 in a Memorandum to Counsel.
2. After that there will be a Directions Hearing to fix a date for continuation of the trial.
3. Before the Directions Hearing, the plaintiff in C775/96 the Bank of Tonga must locate the physical whereabouts of the defendant Hingano Hautau for personal service purposes, and advise the Court.

4. There is an interim order, made of the court's own motion, restraining the employees and agents of the Bank of Tonga from entering by any means the allotment and house occupied by the plaintiffs at Okoa Vava'u, and from approaching any of the plaintiffs personally, and in general from all actions that have the intended purpose of enforcing the judgment order of the Court #2 in the action C775/96, dated 16 October 1997, until further order of the Court.

My reasons are as follows:

- (a) The judgment order of 16 October 1997 cannot be enforced on strangers to it; it imposes obligations on the judgment debtor in C775/96, Hingano Hautau, and on no other parties unless reasons for treating those other parties as his alter ego are shown;
- (b) There appear to have been some errors made in respect of service on the judgment debtor; and
- (c) A further judgment order and/or service thereof are required.

VAVA'U, 22 October, 1999



D. Muijani
JUDGE