

27/7/16

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**IN THE SUPREME COURT OF TONGA  
CIVIL JURISDICTION  
NUKU'ALOFA REGISTRY**

**CV 93 of 2013**

**BETWEEN: WESTPAC BANK OF TONGA**

- **Plaintiff**

**AND: 'ALATINI FISHERIES COMPANY LIMITED**

- **First Defendant**

**TRICIA EMBERSON**

- **Second Defendant**

**BEFORE LORD CHIEF JUSTICE PAULSEN**

**Ms. L. Tonga for the plaintiff**

**No appearance for the second defendant**

**RULING**

- [1] The plaintiff applies for summary judgment against the second defendant. There is proof of personal service upon the file.

recd 27/01/16  
HHC

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- [2] The second defendant was sued in her capacity as guarantor of the borrowings/debt the first defendant 'Alatini Fisheries Company Ltd with the plaintiff Westpac Bank of Tonga. In her statement of defence dated 20 May 2015 the second defendant pleads that she did not personally guarantee the first defendant's debt. She does not appear to raise any other substantive defence.
- [3] It is clear from the affidavits filed for the plaintiff in support of its application for summary judgment that the second defendant did guarantee the debt of the first defendant. The guarantee was in writing on the plaintiff's standard form and dated 23 September 2009 (Refer Affidavit of Sioeli F Nu'uhiva, dated 23 October 2015).
- [4] Having considered the papers I consider that the plaintiff has satisfied the burden that it has to prove that the second defendant has no arguable defence to the plaintiff's claim.
- [5] I enter judgment for the plaintiff against the second defendant as follows:
- (i) For the sum of \$423,031.68.

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- (ii) There will be interest on the sum in 5.1 at the contractual rate of 11.75% per annum from 24 October 2013 to the date of judgment.

- [6] The plaintiff is entitled to costs which shall be taxed by the Registrar if not agreed.



A handwritten signature in blue ink, appearing to read "O.G. Paulsen".

O.G. Paulsen

**NUKU'ALOFA: 15 January, 2016.**

**LORD CHIEF JUSTICE**

M. Taufa  
15/1/2016.