

IN THE HIGH COURT OF SOLOMON ISLANDS

Civil Jurisdiction

Civil Case No. 104 of 2024

BETWEEN: JIMMY HUGO RAMOLI - Claimant

**AND: MRS. JOANNA MAEBIRU, CHRIS JUNIOR MAEBIRU
AND RICHARD MAEBIRU
(Representing the deceased estate of
late Chris Maebiru Snr) - Defendants**

Date of Hearing: 14th August 2025

Date of Ruling: 28th August 2025

Mr. M. A. Sina for the Claimant

Mr. J. To'ofilu for the Defendants (no appearance)

RULING ON APPLICATION FOR SUMMARY JUDGMENT

AULANGA; PJ:

1. This ruling concerns the Claimant's application for summary judgment against the Defendants in a land dispute proceeding involving a Fixed Term Estate in Parcel No. 191-052-1363 ("the land"), situated at Matariu in Central Honiara. The Claimant seeks declaratory orders that he is entitled to be the registered owner of the land pursuant to a Sales and Transfer Agreement ("SA") executed with the deceased, Chris Maebiru, prior to his death; that the SA is binding and enforceable against the Defendants; that the Defendants must effect immediate transfer of the land (through rectification of title) to the Claimant; and an order for costs.
2. Chris Maebiru died on 24th January 2022. At the time of signing the SA, the land was registered in his name. The Claimant fully performed his obligations under the SA. It is evident from the

SA and a letter written by Chris Maebiru to the Commissioner of Lands that the land was to be transferred to the Claimant upon full performance of the SA. This transfer did not occur after the Defendants were granted administration of the deceased's estate.

3. Following the death of Chris Maebiru, the Defendants, namely, the deceased's wife as the First Named Defendant and his biological children as the remaining Defendants, applied to the High Court and were granted Letters of Administration over the deceased's estate. Despite having full knowledge of the SA, they proceeded to register the land in their own names, disregarding the Claimant's complete performance of the contractual obligations under the SA.
4. At the hearing of the application, the Defendants' counsel failed to file written submissions as directed by the Court on 6th June 2025 and did not appear at the hearing without notice. The application was therefore heard ex parte.

Brief Facts

5. The relevant facts show that the land was registered to Chris Maebiru on 26th March 2019. On 16th September 2021, the Claimant and his business partner, John Aba, entered into and signed the SA with Chris Maebiru for the purchase of the land for SBD \$100,000. There is no dispute regarding the existence of the SA.
6. The Claimant paid the full purchase price, including an excess amount of SBD \$5,000, totalling SBD \$105,000, paid by 31st January 2022. The final payment was received by Joanna Maebiru, the First Named Defendant.
7. Chris Maebiru made efforts to have the land transferred, including writing to the Commissioner of Lands on two occasions in 2021, but the process was delayed due to COVID-19 restrictions and the Commissioner of Lands' absence overseas.
8. Chris Maebiru died intestate on 24th January 2022 before the transfer was effected. After his death, the Claimant held discussions with the Defendants, who acknowledged the SA and

verbally assured him that the land would be transferred to him and John Aba upon their appointment as administrators of the deceased's estate.

9. The Defendants applied to the High Court and were appointed administrators of the estate on 1st June 2022. Thereafter, they lodged an application to the Ministry of Lands to have the land registered in their names.
10. On 5th October 2022, they registered the land in their own names without informing the Claimant. The Claimant discovered this upon making inquiries at the Ministry of Lands, resulting in the present proceeding.
11. In support of the application, the Claimant relies on the claim, his sworn statements filed on 20th March 2024, 9th July 2024, and 24th July 2025; the sworn statement of Misimake filed on 11th June 2024; the sworn statement of Slyver Dunge filed on 2nd July 2024; the sworn statement of John Aba filed on 10th July 2024; the sworn statement of Fenando Pryan filed on 10th July 2024; and the Claimant's reply to the Defendants' response to the application.
12. The Defendants filed a defence, a response to the application, and a sworn statement by Chris Junior Maebiru. They contend that they are no longer administrators but registered owners of the land. They also challenge the validity of the SA and argue that the alleged fraudulent or mistaken registration of the land needs to be investigated at trial. Accordingly, they submit that the application should be dismissed.
13. In the absence of written submissions from the Defendants, the Court was not assisted by any explanation of the matters raised in their materials.

Issue for the Court's considerations

14. The central issue for determination is whether the Defendants' defence discloses any real prospect of succeeding at trial.

Legal principles

15. Rule 9.57 of the *Solomon Islands Civil Procedure Rules 2007* ("the Civil Procedure Rules 2007") provides that a claimant may apply for summary judgment where the defendant's defence does not have a real prospect of success. Rule 9.62 of the Civil Procedure Rules 2007 requires the opposing party, herein the Defendants, to file a response and supporting evidence demonstrating that the defence has merit and a real prospect of success.
16. Both parties have filed all relevant documents for this proceeding and have duly complied with the above provisions.
17. In *Natei v HHD Development Ltd* [2023] SBCA 25, the Court of Appeal explained at paragraph 17:

"An application for summary judgment is premised on the submission that there is no triable or arguable issue that has been raised in the defence to go to trial. In other words, that the defendant does not have any real prospect of defending the claim."

18. The Court then adopted the decision in *Beti v Kama* [2014] SBHC 13 where Apaniai J (as he then was) at paragraph 13 stated:

*"13. The Rule enables the court to grant summary judgment at an interlocutory stage without the delay and expense of a full trial. However, there is authority to say that such procedure is to be used sparingly. In *General Steel Industries Inc v Commissioner of Railways (NSW)* [1964] HCA 69; [1964] 112 CLR 125 [1] at pages 128-129, Barwick, CJ, said:-*

"The jurisdiction summarily to terminate an action is to be sparingly employed and is not to be used except in a clear case where the court is satisfied that it has the requisite material and necessary assistance from the parties to reach a definite and certain conclusion."

19. A triable issue in a summary judgment application in Solomon Islands is any genuine and arguable dispute of fact or law that requires examination at a full trial. The presence of such an issue defeats an application for summary judgment, which is only granted where the opposing party has no real prospect of success. Likewise, an arguable issue is a point of fact or law that is not frivolous, fanciful, or hopeless, but instead has some real prospect of success if proven or accepted by the Court. When the Court is confronted with the application and is satisfied that the Defendants' defence or part of it does not have any prospect of succeeding, the Court may grant summary judgment.
20. The Defendants' defence raises several matters which, in my view, do not disclose any triable or arguable issue in light of the precedent of *Natei v HHD Development Ltd* (supra). This is a straightforward case warranting summary judgment. Proceeding to trial would be futile, as the defence fails to raise any genuine issue for trial when these matters as raised in the defence are considered: The validity and enforceability of the SA between the Claimant and the late Chris Maebiru, which binds the Defendants; the Claimant's full performance of the SA, which in equity entitles him to specific performance; the Defendants' registration of the land in their own names, despite the SA, amounts to an outright fraud, and there is no breach of clause 15 of the First Schedule of the Grant Instrument.

The validity and enforceability of the SA between the Claimant and the late Chris Maebiru, which binds the Defendants

21. In this case, the SA entered into between the Claimant and late Chris Maebiru was in writing. This satisfies section 117 (2) of the *Land and Titles Act* (Cap 133) which requires any dealing to transfer or register an interest in registered land must be in writing. The SA was valid, voluntarily executed by the Claimant and the deceased, and supported by full consideration. The intention of the deceased in the SA is clear that upon full payment of the purchase price, the land should be transferred to the Claimant. The evidence is overwhelming that the Defendants knew very well of the SA when they were granted Letters of Administration by the High Court. They even made verbal assurances to the Claimant during a meeting with them on 30th January 2022 to have the land transferred to him. Those assurances were made before they registered the land in their names.

22. Despite the death of the deceased, the Defendants, as administrators under the law of intestacy, bore the legal responsibility to execute or complete the deceased's obligations under the SA. In my view, the Defendants owed a duty to act in accordance with the deceased's intentions and the binding legal obligations of his estate. The evidence clearly demonstrates that Chris Maebiru did not intend to transfer or bequeath the land to any of the Defendants; rather, he had already sold it to the Claimant pursuant to the SA.
23. When considering this defence, the Defendants' actions constitute a clear breach of the legal obligations of the deceased, which they assumed upon becoming administrators of his estate. Given that the Claimant has fully performed his obligations under the SA, as affirmed in *Devi v Fiji Cooperative Dairy Company Ltd* [2014] FJHC 683, the remaining duty lies with the Defendants as successors to the deceased's estate to complete the contractual obligation left unfulfilled by Chris Maebiru. Accordingly, the Defendants' defence, which challenges the claim for specific performance based on the SA, does not warrant further investigation at trial. It lacks any genuine or arguable issue and fails to disclose a real prospect of success.

The Claimant's full performance of the SA, which in equity entitles him to specific performance

24. The Claimant fully performed his contractual obligations, and the failure to complete the transfer was due to circumstances outside his control. The Defendants were fully aware of the SA, having acknowledged it and received final payment on behalf of the deceased.
25. In my view, the SA did not become void upon the death of Chris Maebiru; rather, it remains enforceable against his estate. As personal representatives of the deceased, the Defendants are legally bound by the contractual obligations arising under the SA. This obligation is further reinforced by their prior knowledge of the SA and the verbal assurances they gave to the Claimant that the land would be transferred to him. In these circumstances, the Defendants inherit the deceased's duty to effect the transfer of the land to the Claimant.

26. The principles of equity and the doctrine of part performance in contract law dictate that where a purchaser has completed payment and the seller fails to transfer legal title, the agreement may be enforced through specific performance or the imposition of a constructive trust. This ensures that the Defendants do not unjustly retain the benefit of the property. Put simply, it would be inequitable for the Defendants to retain the land or its value after the deceased had already received full consideration from the Claimant.
27. As cited by the Claimant's counsel, the case of *Loboi v Laugana* [2010] SBHC 38 at paragraph 24 provides persuasive authority in support of the relief sought. In that case, the Court upheld a claim for specific performance in relation to the sale of land and held:

"The relief sought by the Claimant includes a claim for an order for specific performance. Given my findings so far, I am of the view that he is entitled to such an order. He is entitled to an order that the First and Second Defendants do all that is necessary to enable the land he purchased to be registered in his name. That must be correct because of the operation of Section 117 of the Act referred to earlier. Given the words of Subsection 1, if the First and Second Defendants agree they have sold land to the Claimant they must also agree they should do everything to ensure that the Claimant has a registered interest in the land. That they would do so is implicit in any agreement to sell or transfer registered land."

28. This reasoning is directly applicable to the present case. The Defendants, having acknowledged the existence of the SA and the Claimant's full performance, are under a legal and equitable obligation to do all that is necessary to ensure the land is registered in the Claimant's name. Their failure to do so, despite assurances and knowledge of the agreement, reinforces the appropriateness of granting an order for specific performance.
29. Additionally, in *Augwi Ltd v Xun Xin Xin* [2014] PGSC 83 at paragraph 17, the Supreme Court of Papua New Guinea provided a clear exposition on the doctrine of specific performance. Drawing upon various case authorities, the Court affirmed that specific performance is a right enforceable against a defaulting party where the terms of a valid and binding agreement have been fulfilled by the claimant. The Court stated that once a party has performed their

contractual obligations, equity may compel the other party to complete the transaction, particularly in cases involving land, where damages may be inadequate and the subject matter is unique as explained in the following manner:

“Specific performance, of a contract of sale of land, as an equitable remedy, must follow as a matter of course except where the circumstances of the case fall under any of the recognized exceptions to this rule. Exceptions to the rules include a case where the plaintiff is guilty of laches in bringing an action for specific performance: Fred Angoram v Independent Public Business Corporation of Papua New Guinea (2011) N4363, Mehemet v Benson [1965] HCA 18; (1965) 113 CLR 295, Lamshed v Lamshed (1963) 109 CLR 140; or the subject matter of the contract no longer exists: Price v Strange [1978] 1 Ch 337. As much as specific performance in a contract for sale of land is a right of the vendor against a defaulting purchaser, it is a right of the purchaser against a defaulting vendor: Dougan v Ley [1946] HCA 3; (1946) 71 CLR 142, Turner v Bladin and others [1910] CLR 463. A valid contract for sale of land, enforceable by specific performance, exists irrespective of grant of statutory approval of the contract under the Land Act: McCoster & King v Kusher [1967-68] PNGLR 182, Daba Hisjunes Pty Ltd v Turner and Davey Electrical Pty Ltd [1974] 164; Phillip Taudevin v Charles Theseira and Theresa Theresa [1995] PNGLR 56, Wal Wine v Bill Giglmai [1990] PNGLR 462; Arnold Ningiga v Peter Lore Koavea [1988-89] PNGLR 312, Jacobs v Kwaindu [1991] PNGLR 366.”

30. This principle is directly applicable to the present case. The Claimant has fully performed his obligations under the SA, and the Defendants having assumed the role of administrators and later as registered proprietors are bound to complete the transfer. Equity demands that the SA be enforced to prevent injustice and to uphold the integrity of contractual dealings concerning the registered land.
31. The Defendants’ argument that the claim is solely for specific performance and not based on the registration of the land through fraud or mistake is, in my view, erroneous and does not raise any triable or arguable issue for trial. In any event, the Claimant has alternatively pleaded a claim for rectification of the land register, asserting that the land was registered in the

Defendants' names by fraud or mistake. This alternative claim further undermines the Defendants' defence and reinforces the conclusion that there is no genuine issue requiring resolution at trial.

The Defendants' registration of the land in their own names, despite the SA, amounts to an outright fraud

32. There is no dispute that the Defendants were appointed administrators of the deceased's estate on 1st June 2022. It is evident that they were aware of the SA as confirmed by the sworn statement of John Aba filed on 10th July 2024. That statement refers to the final payment of SBD \$5,000 made to the deceased's wife, the First Named Defendant, on 31st January 2022. Annexed as exhibit "JA-03" is a receipt which reads:

"Receipt

16th September 2021 Initial Payment for the transfer of the Parcel No. 191-052-1363 to Mr. John Aba and Jimmy Hugo.

I, Joana Maebiru wife of Chris Maebiru hereby acknowledged receipt of SBD 5,000 (five thousand only) being advance payment coming under Chris Maebiru agreement dated 16.09.2021 for the funeral expenses of Chris Maebiru.

I hereby undertake to comply with the agreement dated 16.09.2021.

Acknowledged receipt of \$5,000

[signature]

Joana Maebiru

Date: 31.01.2022

Witnessed By

[signature]

Jimmy Hugo

Date: 31.01.2022"

33. Following their appointment as administrators, the Defendants met with the Claimant and gave verbal assurances that the land would be transferred to him in accordance with the SA. Contrary to those assurances, they proceeded to apply to the Ministry of Lands and registered the land in their own names. This registration was effected without informing or consulting the Claimant, despite his full performance under the SA and their prior acknowledgment of the agreement.
34. The Defendants have raised the defence that they are no longer administrators of the estate but are now registered proprietors of the land, and therefore their title is protected by the principle of indefeasibility, a well-regarded principle of land ownership recognised under the *Land and Titles Act*. They argue that such title can only be challenged through a claim based on fraud or mistake. However, this defence overlooks the fact that the Claimant has, in the alternative, specifically pleaded a claim for rectification of the land register on the grounds of fraud or mistake. Accordingly, the Defendants' reliance on indefeasibility does not defeat the Claimant's application, and instead further supports the conclusion that their defence lacks any real prospect of success at trial.
35. Upon careful consideration of the Defendants' defence on this aspect, I am of the view that it does not raise any triable or arguable issue. The Defendants, having been appointed administrators of the deceased's estate and possessing full knowledge of the SA, were under a legal and fiduciary duty to act in accordance with the deceased's intentions and the binding contractual obligations of his estate. The registration of the land in their names was effected in the context of estate administration, not as bona fide purchasers and was done without notice to the Claimant and in direct contradiction to their prior assurances. Such conduct amounts to a breach of fiduciary duty and an act of bad faith, if not, as outright fraud. It reflects a dishonest dealing and improper registration of the land. In light of these facts, on the face of the Defendants' defence, I am of the considered view that there is no disclosure of any arguable or triable issue (whether in fact or law) in the Defendants' defence that is worth investigating at trial. The Defendants' defence in short is inherently weak and implausible. As administrators,

they were bound to honour the deceased's contractual commitments under the SA. Accordingly, their defence lacks merit and should be summarily dismissed.

There is no breach of clause 15 of the First Schedule of the Grant Instrument

36. The Defendants have raised a defence that the SA violates clause 15 of the Grant Instrument.

37. Clause 15 of the Grant states:

"The Grantee shall not give up possession or transfer all or part thereof Land contained in this grant without the written consent of the Grantor within the period of five years from the date the Grantor signs the instrument."

38. And clause 16 of the Grant states:

"In the event that the parcel is undeveloped and the Grantee is applying to either subdivide, lease, transfer or part with possession of, or permit any sublease of the land comprised in the estate, the Grantor will not allow the application to proceed, however, will allow the Grantee to either

- Apply for variation*
- Surrender the land to the Commissioner of Lands."*

39. On 21st September 2021, the deceased, Chris Maebiru, applied to the Commissioner of Lands for the transfer of the land to the Claimant.

40. In my view, this defence lacks merit. A combined reading of clauses 15 and 16 clearly permits the Grantee to apply to the Commissioner of Lands for a variation of the conditions restricting transfer of the land within the five-year period, particularly where the land is undeveloped. This interpretation is supported by the evidence of Slyver Dunge, a former Commissioner of Lands, who confirmed that the intended transfer of the land by the deceased to the Claimant pursuant to the SA was permissible and could be approved by the Commissioner based on the reasons

provided in the deceased's letter. The facts of this case fall squarely within the circumstances where such a transfer may be lawfully granted.

41. In any event, this defence cannot be sustained at trial. The restriction under clause 15 of the Grant Instrument, which prohibits transfer within five years of the grant date without written consent, is no longer applicable, as the five-year period has now elapsed. Therefore, any transfer of the land resulting from this proceeding would not contravene the Grant Instrument. Once again, there are no genuine issues of fact or law requiring determination at trial. The Defendants' defence is without merit and must be summarily dismissed.
42. Accordingly, the Claimant's application for summary judgment is granted in the terms sought. Costs are awarded to the Claimant, to be paid by the Defendants on a standard basis.

Orders of the Court

1. **The Claimant's application for summary judgment is granted.**
2. **The Sales and Transfer Agreement entered into by the deceased, Chris Maebiru Snr., on 16th September 2021 is declared binding and enforceable in law against all the Defendants.**
3. **The Defendants are declared to hold title to the land in Fixed Term Estate Parcel No. 191-052-1363 as constructive trustees for the benefit of the Claimant.**
4. **The Defendants are hereby ordered to execute all necessary documents to effect the transfer and registration of the land in Fixed Term Estate Parcel No. 191-052-1363 in the name of the Claimant, and to submit such documents to the Commissioner of Lands and the Registrar of Titles within 30 days from the date of this order.**
5. **In default of compliance with Order 4, the Commissioner of Lands and the Registrar of Titles are directed to cancel the registration of the Defendants as proprietors of Fixed**

- Term Estate Parcel No. 191-052-1363 and substitute the Claimant as the registered proprietor.
6. Consequent to Orders 4 and 5, the Defendants are ordered to vacate the land and refrain from re-entering or occupying it within 60 days from the date of this order.
 7. The Defendants, whether by themselves, their agents, relatives, associates, or any other authorised persons, are permanently restrained from interfering with, disturbing, threatening, or harassing the Claimant in his possession and occupation of the said land.
 8. Costs of the hearing are awarded to the Claimant, to be paid by the Defendants on a standard basis.



Hon. Justice Augustine S. Aulanga
JUDGE
PUISNE JUDGE