

IN THE HIGH COURT OF SOLOMON ISLANDS

Civil Jurisdiction

Civil Case No. 513 of 2017

BETWEEN: RONELLA JAQUELINE ALEPIO - Claimant**AND: VALERIANO KAUNI - Defendant**

Date of Hearing: 12 February 2026

Date of Extempore Ruling: 12 February 2026

Ms. S Kilua for the Claimant

Mr. E Etomea for the Defendant

RULING**AULANGA, PJ**

1. This is an application by the Defendant to set aside the default judgment entered on 17 April 2018. The Claimant had filed a claim against the Defendant, but service of the claim was effected upon the Defendant's wife rather than upon the Defendant personally. The Defendant did not enter an appearance or file a defence within the prescribed time, and default judgment was accordingly entered. Enforcement of that judgment was subsequently granted on 8 November 2018. However, the enforcement order has since expired and was not renewed. The Defendant now seeks to set aside the judgment, though notably, he has not applied to stay enforcement of the judgment pending determination of his application.
2. In addition, there is a separate application by the Claimant seeking leave to enforce the said judgment pursuant to rule 21.6(a) of the *Solomon Islands Courts (Civil Procedure) Rules 2007* ("the Civil Procedure Rules"), on the basis that more than six years have elapsed since the judgment was granted. This second application has not been contested. Despite the Court's direction made on 13 October 2025 requiring the Defendant to file any response to the Claimant's application, no response has been filed. The Claimant's application therefore stands unopposed.
3. The Defendant's sworn statement in support of his application consists of only four paragraphs, with a copy of the draft defence annexed as exhibit ("VK"). The relevant paragraphs state as follows:

"2. That I was not able to file any defence to the claim Category A filed on the 6th November, 2007 as I was not served personally as to the rules. The claim was filed and might be served upon my wife but I did not receive it.

3. That I upon enquiring with the Ministry of Lands, the Fixed Term Estate No. 191-004-131 was obtained by the Respondent/Claimant without the Land's Board approval. In this case, the process of obtaining the title in Parcel No. 191-004-131 was never through the Land's Board.

4. That for the above reasons, I do have a good excuse in law and a good defence. Therefore, I am applying for the default judgment order to be set aside and I have filed a defence within time required."

4. The statement of case in the draft defence consists of only three paragraphs as follows:

"1. As to paragraph 1 of the claim, the Applicant/Defendant admits part of it and further says the process of issuing of the Parcel No. 191-004-131 has never gone through the Land's Board, therefore the obtaining of the title was illegal.

2. As to paragraph 2 of the claim, the Applicant/Defendant admits part of it and further says as the title was obtained illegally, his occupation is not illegal. In fact, the occupation of the land by the Applicant/Defendant was through the consent of Chief Damaso Roko, the holder of the Vesting Order as the Lessor of the land for the SIWA pipeline.

3. As to paragraphs 3, 4, 5 and 6, of the claim, the Applicant/Defendant denies and repeats paragraphs 1 and 2."

5. There is no dispute that service of the claim was effected on the Defendant's wife, Doreen Kauni, on 4 December 2017 by Brian Papage at their residence at Tasahe B. During submissions, counsel for the Defendant, Mr. Etomea, conceded that the Defendant and his wife were living in the same household at the time of service and continue to reside together.

6. Hence, this application raises the following issues for the Court to consider:

1. Whether service on the Defendant's spouse was sufficient in practice to constitute proper service.
2. Whether the Defendant has shown reasonable cause for failing to defend the claim and for the delay in bringing this application.
3. Whether the Defendant has demonstrated a meritorious defence.
4. Whether setting aside the judgment would cause substantial prejudice to the Claimant.

5. Whether the limited scope of the application, confined to setting aside the judgment without opposing the leave for enforcement, affects the appropriateness of granting the relief.
7. Rules 9.52 to 9.54 of the Civil Procedure Rules provide that a defendant against whom default judgment has been entered may apply to have it set aside. The application must explain the reasons for not defending, justify any delay beyond three months, and provide details of a defence supported by a sworn statement. The court may set aside the judgment only if satisfied that there is reasonable cause for the delay, a meritorious defence, and no substantial prejudice to the other party that cannot be remedied by costs.

Whether service on the Defendant's spouse was sufficient in practice to constitute proper service

8. There is no dispute that rule 6.4 of the Civil Procedure Rules requires that a claim must be served on the defendant personally, unless the Court has made an order for substituted service or has otherwise directed that service may be effected in another manner. Rule 6.29 further defines the meaning of personal service, making clear that it involves delivering the claim directly to the defendant. Rule 6.4 is expressed in mandatory terms and reflects the fundamental principle that a defendant must be given proper notice of the proceeding against him or her in order to safeguard the right to be heard.
9. The requirement of personal service is not a mere technicality but a safeguard of natural justice. It ensures that a defendant is made fully aware of the proceeding and is afforded the opportunity to respond. However, the Court must also consider the practical realities of the service. Where service is effected at the defendant's residence and received by a spouse with whom the defendant resides, it is ordinarily sufficient to constitute proper service, as it is reasonably expected that the claim would be communicated to the defendant.
10. In the present case, the claim was served on the Defendant's wife, Doreen Kauni, at their shared residence. While the Defendant argues that he was not personally served, his counsel has conceded that he and his wife were living together at the time of service and continue to reside in the same household. The Court must therefore consider whether service upon the Defendant's wife at their common residence satisfies the requirements of rule 6.4, or whether it amounts to defective service.
11. Rule 6.4 contemplates that substituted service may be ordered where personal service is impracticable, but no such order was sought or obtained in this case. Strictly speaking, service upon the Defendant's wife without a court order for substituted service does not comply with rule 6.4.
12. Service on a spouse, when the spouse is not a party to the proceeding, is not automatically sufficient under the Civil Procedure Rules and more broadly, at common law. The rationale is that the spouse is a separate legal person, and the Court must acquire jurisdiction over the defendant personally. However, in practice, Courts have sometimes treated service on a spouse living in the same household as adequate if it is reasonably likely that the documents would be passed on to the defendant. This is especially so where the defendant later fails to provide evidence that the spouse did not communicate the claim. The Courts would normally ask this question: did the service reasonably bring the claim to the Defendant's attention? If the wife lived with him, service on her would ordinarily be considered effective in practice.
13. In this case, the claim was served on the Defendant's wife at their shared residence. The Defendant has not produced any sworn statement from his spouse to confirm that the claim was not

communicated to him. In the absence of such evidence, the Court is entitled to infer that the Defendant was aware of the proceeding and chose not to respond. While service was technically irregular in that it was not effected directly upon the Defendant, the Court is satisfied that the Defendant had notice of the claim. In other words, rule 6.4 of the Civil Procedure Rules requires service of the claim to be done on the defendant personally. In this proceeding, it is the Court's view that service on a spouse in the same household is sufficient in practice, unless there is clear evidence to the contrary. In this case, the absence of a sworn statement from the Defendant's wife undermines the Defendant's claim of non-receipt and supports the validity of the original service. Accordingly, the irregularity in service does not, by itself, justify setting aside the default judgment.

Whether the Defendant has shown reasonable cause for failing to defend the claim and for the delay in bringing the application

14. The Defendant filed his application to set aside the default judgment on 13 October 2025, more than seven years after the judgment was entered on 17 April 2018. During that period, an Enforcement Order was issued by the Registrar of the High Court on 8 November 2018, followed by a Notice of Eviction issued by the Sheriffs of the High Court on 14 November 2018. Despite these significant steps taken towards enforcement, the Defendant remained inactive until the present application.
15. The only explanation advanced by the Defendant, as set out in paragraph 2 of his sworn statement, is that he did not receive personal service of the claim. Beyond this assertion, no further explanation has been provided as to why he failed to act promptly after the issuance of the enforcement order or the eviction notice. The Defendant's explanation, in the Court's view, is lame and at best minimal. It does not demonstrate diligence or provide a credible account of his prolonged inaction.
16. Rule 9.53(b) of the Civil Procedure Rules requires that an applicant seeking to set aside a default judgment must explain the delay for failing to file a defence within the prescribed timeframe, particularly where the application is filed more than three months after the judgment was entered. In *Guo Fengli Chi v Guo Fengli* [2012] SBCA 11, at paragraph 17, the Court of Appeal emphasized that the application of the rule must be judged in a common-sense fashion, asking what a reasonable person might have done in the circumstances. A range of reasonable responses may be available, but the conduct must fall within the boundaries of "*reasonable cause*."
17. The explanation must therefore be reasonable and supported by evidence. The threshold is not met by a bare assertion of non-receipt of the claim alone, particularly where service was effected at the Defendant's residence and received by his spouse, with whom he resided in the same household. Premised on the above reasons and considering the absence of any corroborating evidence such as a sworn statement from the spouse, it is the view of the Court that it further undermines the credibility of the explanation.
18. In these circumstances, the Court finds that the Defendant has failed to provide a reasonable or sufficient explanation for his default. His application does not satisfy the requirements of rule 9.53(b), and the extraordinary delay of more than seven years further militates against the exercise of any discretion in his favour.

Whether the Defendant has demonstrated a meritorious defence

19. As to the merits of the defence, the Claimant is the registered holder of Fixed Term Estate No. 191-004-131, granted in 2008. The Defendant argues that the Claimant's land title is invalid because it did not pass through the Lands Board. However, the Lands Board was not established until 2014

pursuant to the *Land and Titles (Amendment) Act 2014*, six years after the Claimant's title was issued. This defence is therefore illogical and misconceived. A title issued in 2008 could not have been subjected to a process that did not exist at the time. The Defendant's contention is unsustainable and does not amount to a meritorious defence.

20. The Defendant also relies on paragraph 2 of his draft defence, asserting that his occupation of the land was permitted by Chief Damaso Roko, the holder of a Vesting Order as the lessor of the land for the SIWA pipeline. However, this argument is problematic for two reasons. First, the Defendant's counsel clarified during submissions that the land referred to by Chief Roko was different land associated with the SIWA pipeline system, not the parcel in dispute. This defence was not pleaded in the draft defence and cannot be raised for the first time in oral argument. Second, the registered holder of the land in Parcel No. 191-004-131 is the Claimant, not Chief Roko. Consent from a local chief cannot override the statutory framework of a registered land. Under the *Land and Titles Act* and as held in *Amoi v Sale* [2024] SBHC 92, the only way to defeat a registered title is to plead and prove fraud or mistake under section 229 of the Act. The Defendant has not pleaded fraud or mistake, nor has he produced any evidence to support such a claim in the draft defence. His reliance on the alleged irregularities in the issuance of the title and on the purported consent from a local chief does not amount to a valid defence in law.
21. Accordingly, the Court finds that the Defendant's draft defence discloses no arguable case or triable issue. It fails to raise any grounds that could, if proven, defeat the Claimant's registered title. The defence is therefore unmeritorious and cannot justify setting aside the default judgment.

Whether setting aside the judgment would cause substantial prejudice to the Claimant

22. On the question of prejudice, the Court notes that the enforcement order has expired and was not renewed, so there is no ongoing enforcement process at present. While reopening the matter would inevitably cause delay and prolong the litigation, it would not cause irreparable prejudice to the Claimant in terms of immediate enforcement. Nonetheless, the absence of a meritorious defence and the unexplained delay of more than seven years weigh heavily against the Defendant.
23. In this case, the Court must balance the interests of justice, including the Defendant's right to be heard, against the need for finality in litigation and the integrity of the judicial process. In circumstances where the Defendant has failed to provide a reasonable explanation for his default and has not disclosed any arguable defence on the merits, the balance tilts decisively in favour of upholding the default judgment. On those grounds, the Court finds that the Defendant's application to set aside the default judgment cannot succeed. The requirements of rule 9.53 have not been met, that is, there is neither a reasonable explanation for the delay nor a meritorious defence disclosed.

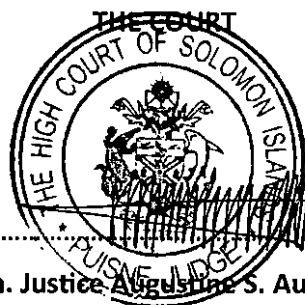
Whether the limited scope of the application, confined to setting aside the judgment without opposing the leave for enforcement, affects the appropriateness of granting the relief

24. Finally, the Defendant has confined his application solely to setting aside the default judgment, without seeking to oppose the Claimant's application for leave to enforce the judgment granted more than six years ago. The Defendant failed to file any response or document whatsoever in relation to this application despite the Court's direction issued on 13 October 2025. This limited scope undermines the seriousness of the challenge.

25. A genuine attempt to contest liability would ordinarily encompass both remedies: first, an application to set aside the judgment, and second, an application to oppose the Claimant's application for leave to enforce the judgment pending determination of the substantive challenge. By failing to address the enforcement aspect, the Defendant has left the Claimant's application unopposed, thereby weakening the credibility of his challenge and reinforcing the conclusion that his application is not pursued with diligence or seriousness.
26. The Court therefore finds that the Defendant's application is procedurally deficient, substantively unmeritorious, and filed after an extraordinary and unexplained delay. Taken together, these factors weigh decisively against the exercise of discretion to set aside the default judgment.
27. The Defendant's application to set aside the default judgment is dismissed. Pursuant to rule 21.6 of the Civil Procedure Rules, leave is granted for enforcement of the order. The Defendant shall pay the Claimant's costs of this application on a standard basis.

Orders of the Court

1. **The Defendant's application to set aside the default judgment entered on 17 April 2018 is dismissed.**
2. **The Claimant's application for leave to enforce the default judgment pursuant to rule 21.6(a) of the *Solomon Islands Courts (Civil Procedure) Rules 2007* is granted.**
3. **The Claimant is entitled to enforce the judgment notwithstanding that more than six years have elapsed since it was entered.**
4. **The Defendant shall pay the Claimant's costs of the application on a standard basis.**



Hon. Justice Augustine S. Aulanga

PUISNE JUDGE