

**IN THE COURT OF APPEAL IN
THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

CIVIL APPEAL NO. 09 OF 2008

IN THE MATTER OF: A Mortgage undated in respect of
title number 11/OG33/044

AND:

IN THE MATTER OF: The Land Leases Act [CAP 163]

BETWEEN: **NATIONAL HOUSING CORPORATION**
of PO Box 982, Port Vila, Efate in the Republic of
Vanuatu
Applicant

PACIFIC LAWYERS
Applicant's Lawyer

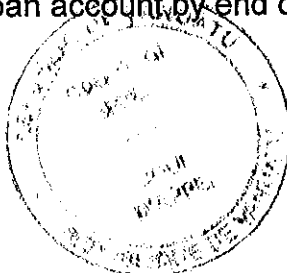
AND: **HENRY TOKON** of Fresh Wota Central, Port
Vila, Efate in the Republic of Vanuatu
Efate in the Republic of Vanuatu
Respondent

STEPHEN TARI JOEL & ASSOCIATES
Respondent's Lawyer

CONSENT ORDERS

**BY CONSENT OF THE NATIONAL HOUSING CORPORATION, THE
APPELLANT AND HENRY TOKON, THE RESPONDENT, the Court hereby
makes the following orders:**

1. That the Appeal is allowed and the whole judgment of the Supreme Court of May 9, 2008 is dismissed.
2. That the parties by consent reach agreement as follows:
 - (a) That the total balance agreed to by the Appellant and the Respondent for the purpose of settlement on December 4, 2008 is VT 2,024,537
 - (b) The total balance of VT 2,024,537 shall be paid together with interest at the rate of 10% per annum. Repayment of VT 16,636 per month towards the agreed balance together with interest at the rate of 10% per annum calculated monthly and shall be paid on or before December 31, 2008 and such monthly installment of VT 16,636 shall continue thereafter until full settlement
 - (c) In addition to the monthly payment of VT 16,636 mentioned in paragraph 2(b) above, the Respondent shall pay VT 150,000 towards the loan account by end of February 2009.




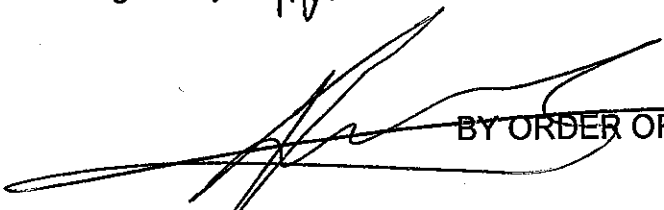


- (d) That in the event that the Respondent fails to pay ~~VT 2,024,537~~ ~~(together with accrued interest of 10% per annum)~~ to the Appellant on three (3) consecutive months, the whole of the loan balance due and payable then the Appellant may apply directly to the Supreme Court and the Supreme Court may grant the enforcement orders, a copy of which is attached to this order. The Respondent agrees not to oppose the application.
- (e) That the Respondent pay his lawyer's legal fees related to and in respect of Supreme Court proceedings SCC 47 of 2004 and also Civil Appeal Case no. 9 of 2008.
- (f) That the Appellant pay the Appellants lawyer's legal fees related to and in respect of Supreme Court proceedings in SCC 47 of 2004 and also Civil Appeal case no. 9 of 2008.
- (g) That the Supreme Court may make such other variations to the attached enforcement orders as it deems fit prior to approval of enforcement orders by the Court.
- (h) That the Appellant and the Respondent are not prevented from enforcing fully the terms of the Deed of Settlement in the event that the Respondent fails to honor the three (3) consecutive monthly installments and the Appellant had to enforce or invoke the power of sale under the registered mortgage subject to approval of the Supreme Court.

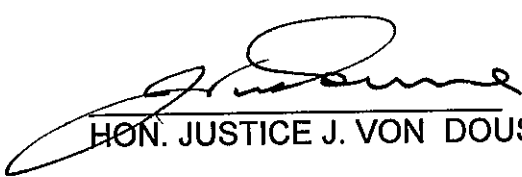
Dated at Port Vila this 4th December 2008

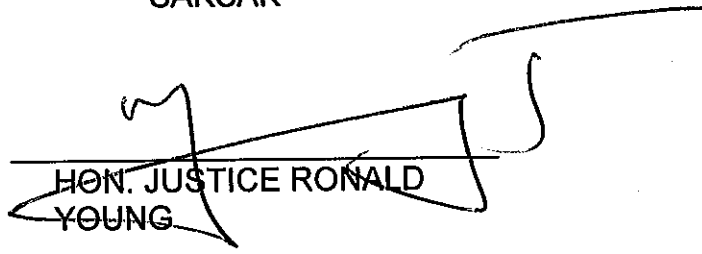

 Signed by the Appellant's Solicitor


 Signed by the Respondent's Solicitor


 BY ORDER OF THE COURT
 HON. CHIEF JUSTICE VINCENT LUNAPEK


 HON. JUSTICE OLIVER SAKSAK


 HON. JUSTICE J. VON DOUSSA


 HON. JUSTICE RONALD YOUNG



IN THE MATTER OF: A Mortgage undated in respect of title
number 11/OG33/044

AND:

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BETWEEN: NATIONAL HOUSING CORPORATION of PO
Box 982, Port Vila, Efate in the Republic of Vanuatu
Applicant

PACIFIC LAWYERS
Applicant's Lawyer

AND: HENRY TOKON of Fresh Wota Central, Port Vila,
Efate in the Republic of Vanuatu
Respondent

STEPHEN TARI JOEL & ASSOCIATES
Respondent's Lawyer

ENFORCEMENT ORDERS

(attached enforcement orders to be approved by the Supreme Court)

The Court, upon receiving the application and also a sworn statement in support by the Applicant,
hereby approves the terms of the Enforcement Orders as follows:

1. That the Applicant, as Mortgagee, be empowered to sell and transfer the leasehold property contained and described in Title Number 11/OG33/044 by such means and in such manner as it shall deem fit.
2. That pending such sale and transfer the Applicant, as Mortgagee, or any agent or agents duly authorised by it in writing, be empowered to enter on the said leasehold property and act in all respects in the place and on behalf of the proprietor of the lease, and to apply in reduction of the monies due and owing to the Applicant all or any rent received in respect of the said property.
3. That the purchase monies to arise from the sale and transfer of the said leasehold property and the monies received (if any) by the Applicant pending such sale and transfer shall be applied:
 - (a) Firstly, in payment of the expenses occasioned by the sale and transfer or going into and remaining in possession (as the case may be), including the costs of this application;
 - (b) Secondly, in payment of the monies then due and owing to the Applicant as Mortgagee;



- (c) Thirdly, in payment of subsequent registered mortgages or encumbrances (if any) in order of their priority; and
 - (d) Fourthly, the surplus (if any) shall be paid into this Honourable Court pending further order.
4. The Respondent shall pay the costs of and incidental to this suit, to be taxed if not agreed.

DATED at PORT VILA this day of 20__.

BY ORDER OF THE COURT

**Judge of the Supreme Court
Of the Republic
Of Vanuatu**

