

**IN THE COURT OF APPEAL OF
THE REPUBLIC OF VANUATU
HELD AT PORT VILA**

CIVIL APPEAL CASE NO. 598 OF 2018

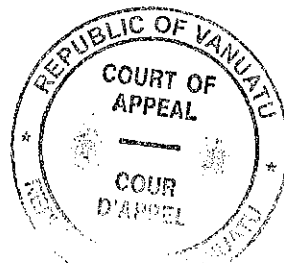
(Civil Jurisdiction)

<u>BETWEEN:</u>	<u>BOETARA FAMILY represented by LAUREN SOLOMON, JOHN TARI MOLBARAV, JEROME NATU AND MICHEL TAMATA</u> <u>Appellant</u>
	<i>Counsel: Felix Laumae Kabini, Trans-Melanesian Lawyers</i>
<u>AND:</u>	<u>MATHAIS MOLSAKEL</u> <u>First Respondent</u>
	<i>Counsel: Garry Blake, Ridgway Blake Lawyers</i>
<u>AND:</u>	<u>ZEBEDEE MOLVATOL</u> of Tutuba Island, Santo in the Republic of Vanuatu <u>Second Respondent</u>
	<i>Counsel: Mr Robin Kapapa, Kapapa Lawyers & Consultancies</i>
<u>AND:</u>	<u>THE REPUBLIC OF VANUATU</u> <u>Third Respondent</u>

CONSENT ORDERS

UPON HEARING Mr Felix Laumae, Counsel for the Appellant and Mr Garry Blake, Counsel for the First Respondent, there being no appearance for the Second Respondent and noting that the leases already issued by the Appellant within the area of Belbarav land have, in the first instance, all been issued to Botara Trustees Limited, and subsequently sold or offered for sale by Botara Trustees Limited, it is hereby ordered by consent as follows:-

1. That the Appellants and the Second Respondent be restrained from dealing with land



within the area known as Belbarav (also known as Beltarav) land in Santo as shown in the map annexed hereto and marked "A", and including:

- a. That they be restrained from acting or purporting to act or holding themselves, or any of them, out as the custom owner of Belbarav land or any part of it;
- b. That they be restrained from creating, selling or agreeing to sell any leasehold title over land within the Belbarav land;
- c. Subject to order 3, that they be restrained from giving consent to any lease/sublease/transfer/mortgage of any lease of land within the Belbarav land; and
- d. That they be restrained from developing, including clearing of land, or otherwise altering the land within the Belbarav land.

2. That the Third Respondent through the Director of Lands be restrained from registering any lease/sublease/transfer/mortgage of land or other dealing over leasehold titles within the Belbarav land without the joint written consent of counsel for the Appellant and First Respondent acting on their clients' instructions, which consent may not be unreasonably refused.

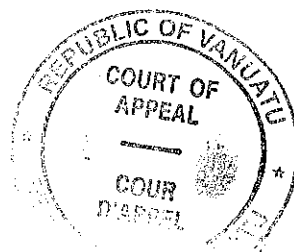
3. That in respect to any dealings over leasehold titles within the Belbarav land issued by the Appellants or the Second Respondent and registered with the Land Records Office of the Third Respondent before the 19th of December 2017 that require the lessor's consent, such consent may only be signed by the Lessor of such lease if counsel for the Appellant and First Respondent, acting on their clients' instructions, have jointly consented in writing to such consent being so signed, which consent may not be unreasonably refused.

4. That:-

- (a) all premiums applicable to any leases of land within Belbarav land;
- (b) all sale proceeds, including any compensation paid or to be paid in respect to any compulsory acquisition of such land;
- (c) all land rents, consent fees and lessor benefit fees arising under s.48A of the Land Leases Act

received or to be received by the Appellants and/or the Second Respondent after the 19th of December 2017, in respect to land or leasehold titles within the Belbarav land shall to be paid into a joint account to be established by counsel operated on the basis of both counsel to sign (the "joint account") pending the determination of the appeal in this proceeding.

5. That in respect to the proceeds of sale of a lease within Belbarav land registered in the name of Botara Trustees Limited, the proceeds of sale shall be applied first in meeting the rights to such proceeds of any registered mortgagee over the said leasehold title, with the balance to be paid into the joint account. Where there is no mortgage registered over such lease, all proceeds shall be paid into the joint account.



6. That the First Respondent be restrained from dealing with land within the area known as Belbarav land and from acting or purporting to act or holding himself out as the custom owner of Belbarav in connection with any such dealing.
7. That the Appellants, the Second Respondent and their servants, agents or friends associating with them be restrained from threatening, assaulting or interfering with the First Respondent and any of his family, servants or agents.
8. That the Appellants, the Second Respondent and their servants, agents or friends associating with them be restrained from damaging any of the First Respondent's property.
9. That the First Respondent and his servants, agents or friends associating with him be restrained from threatening, assaulting or interfering with the Appellants and the Second Respondent and any of their family, servants or agents.
10. That the First Respondent and his servants, agents or friends associating with him be restrained from damaging any of the property Appellants and the Second Respondent.
11. It is noted that Mr Laumae has undertaken to provide to Mr Blake a list of all leases issued by the Appellants within Belbarav land.
12. That there be liberty to the parties to apply on three (3) days notice to a single judge of the Supreme Court, ~~sitting on the bench of the Court of Appeal in these proceedings,~~ hear such application, including any application to vary these orders.

Dated at Port Vila this ^{27th} day of April 2018.

BY THE COURT
Lunabek C.J.

Counsel for the Appellant

Counsel for the First Respondent

