

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

**Civil
Case No. 20/1803 SC/CIVL**

BETWEEN George Toa

Applicant

**AND: Christian Oska & Family, Joseph Oska, Saky
Oska, Luwi Lapinpel and Sam Visai & Family**

Respondents

Date: 23rd November 2020
Date of Decision: 8th December 2020
Before: Justice Oliver.A.Saksak
In Attendance: Mr Daniel Yawha for Claimant
Mr Less Napuati for Defendants

DECISION

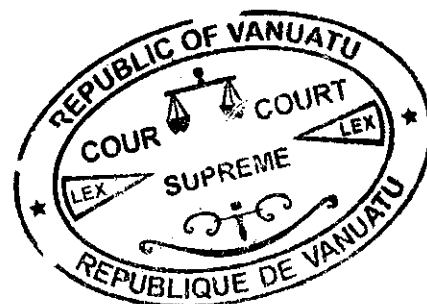
1. Summary Judgment is hereby entered in favour of the claimant.

Reasons

2. The defence of the defendants is flawed and there is no prospect of defending the claims successfully.
3. The defendants are estopped from raising the issue of boundary. This matter is resjudicata.
4. The defendants failed to appeal within the time allowed for appeals as required by Act.
5. The argument by the defendant that the decision annexed as "VN1" was the decision of Sub-Area Land Tribunal is wrong. The decision is the decision of Vahas Village Land Tribunal dated 21st May 2009. The defendants failed to appeal within the period provided in the notice.

Result


6. The defence of the defendants are hereby struck out for the foregoing reasons.



Orders

7. The defendants are entitled to an eviction order within 28 days from the date of this decision in the event the defendants do not remove themselves and any by property or food crops they have planted on the land by 31st January 2021.
8. The defendants by themselves, their families, relatives, servants and agents are hereby restrained from trespassing and entering into the claimant's land after 31st January 2021.
9. This matter will be returnable on 2nd February 2021 at 8:15am for check on the execution of this judgment.
10. The defendants will pay standard costs of this proceeding to the claimant.

**DATED at Port Vila this 8th day of December 2020
BY THE COURT**


OLIVER.A.SAKSAK
Judge

