

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

**Civil**  
**Case No. 19/2924 SC/CIVL**

**BETWEEN: Ben Alick Timataso and Karie Ruth  
Leipongi**

Claimants

**AND: Willy Ruben, Mackenzie Ruben, Sammy  
Ruben**

Defendants

*Date of Hearing:* 14 May 2020  
*Before:* Justice V.M. Trief  
*In Attendance:* Claimant – Ms K. Karu  
Defendants – no appearance (Mr A. Bal)

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**JUDGMENT**

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A. Introduction

1. The matter proceeding today was a formal proof hearing as the only step taken by the Defendants to date in relation to the Claim was to file an unsigned Response on 7 November 2019. No Defence has been subsequently filed.
2. The Claim seeks eviction of the Defendants from lease title no. 11/OH24/067 and costs.

B. Preliminary matters

3. In the course of the hearing, Ms Karu applied to amend the Claimant's name and add his wife's name as a Claimant on the ground that they are joint registered proprietors of the lease subject to this proceeding. Further, that the Claimant Mr Timataso commenced this proceeding on behalf of both himself and his wife. I granted this application. Accordingly the Claimants are now Ben Alick Timataso and Karie Ruth Leipongi.

C. Evidence

4. On 17 May 2019, the Director of Land Records registered a transmission of no. 11/OH24/067 to the Claimants as the administrators of the estate of Ben Calo

(deceased). Mr Calo was their adopted son. He died in 1992. On 6 March 2019, the Supreme Court granted the Claimants letters of administration. They then applied for and obtained registration of the transmission of the lease. Evidence of this is in the sworn statement of Mr Timataso.

5. Mr Timataso has produced in evidence a copy of the Lands Registry Advice of Registration of a Dealing in relation to the registration of the transmission of lease.
6. Mr Timataso has also produced in evidence documentation showing that land rent is owed to the Vanuatu Government for lease title no. 11/OH24/067. He deposes that the Defendants have lived on the property for over 10 years without paying any of the land rent. Since being made aware that the lease was at risk of being forfeited for the failure to pay land rent, Mr Timataso has paid VT60,000 land rent. An amount of VT247,076 remains outstanding.
7. The Claimants have sought, by way of a lawyer's letter of demand dated 24 October 2019, that the Defendants vacate the land in question. The Defendants have failed to respond and remain on the land.

D. Discussion

8. There is clear evidence of the Claimants' legal entitlement to the land. They are the registered proprietors of lease title no. 11/OH24/067.
9. There is also evidence that the Defendants occupy the land, and are unwilling to vacate the property.
10. The Claimant has proved his Claim and is entitled to the relief sought.

E. Decision

11. Judgment is granted.
12. The Defendants are to vacate lease title no. 11/OH24/067 within 28 days from the date of service of this decision.
13. The Claimants are entitled to their costs which I fix at VT30,000. The costs are to be paid by the Defendants within 28 days.

**DATED at Port Vila this 14<sup>th</sup> day of May 2020  
BY THE COURT**

*V.M. Trief*  
V.M. Trief  
Judge

