

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

**Civil
Case No. 21/238 CIVL**

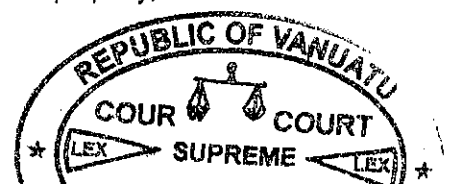
BETWEEN: ANZ Bank (Vanuatu) Limited
Claimant

AND: Ecofresh Vanuatu Limited
Defendant

Date: 11 March 2021
Before: Justice G.A. Andrée Wiltens
Counsel: Ms E. Blake for the Claimant
No appearance by or for the Defendant

Judgment

1. The Claim and supporting Sworn Statement were served on 8 February 2021. There has been no response. Accordingly, the Claimant sought Summary Judgment orally.
2. There is no prospect of defending the Application. The evidence of Michel Donald is compelling and unchallenged. Judgment should not be further delayed.
3. The application is accordingly granted in the following terms:
 - The ANZ Bank (Vanuatu) Limited as mortgagee is empowered to sell and transfer the property contained and described in Leasehold Title No. 12/1031/003 ("the property") by such means and in such manner as it shall deem fit;
 - Pending such sale and transfer, the ANZ Bank (Vanuatu) Limited as mortgagee, or any agent or agents duly authorised by it in writing, is empowered to enter on the property, and act in all respects in the place and on behalf of the proprietor of the property, and to apply in reduction of the money due and owing to the ANZ Bank (Vanuatu) Limited all or any rent received in respect of the property;



- The purchase money to arise from the sale and transfer of the property and the money received (if any) by the ANZ Bank (Vanuatu) Limited 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 money then due and owing to the ANZ Bank (Vanuatu) Limited 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 Claimant is entitled to the costs of this litigation. I set that at VT 25,000 plus the VT 20,000 filing fee – a total of VT 45,000. The costs are to be paid within 21 days.

Dated at Port Vila this 11th day of March 2021

BY THE COURT

Gandrie Wiltens
Justice G.A. Andrée Wiltens

