

BETWEEN: Aaron Bongmial Hanghangkon
Claimant

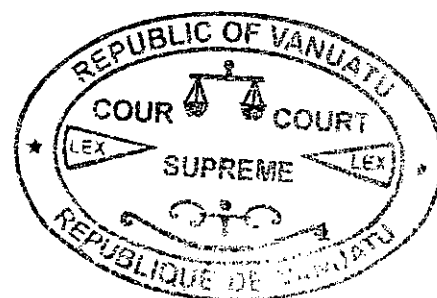
AND: Anita Wong Kam
Defendant

Date: 2 August 2024
Before: Justice V.M. Trief
Counsel: Claimant – in person, ph 761-3962
Defendant – Mr D.K. Yawha

JUDGMENT

A. Introduction

1. This is a dispute over leasehold title no. 12/O633/671 located at Bladiniere Estate area in Port Vila (the '671 lease') which was previously owned by the Claimant Aaron Bongmial Hanghangkon's father Aaron Hanghangkon (deceased).
2. It is alleged that the transmission of the 671 lease to the Defendant Ms Anita Kam Wong following the death of Aaron Hanghangkon (deceased) was 'illegally' made. This matter proceeded to formal proof hearing as no defence had been filed.
3. After I made the Orders dated 26 June 2024 directing the filing of submissions, on 8 July 2024, the Defendant filed a Defence. No leave was sought to file the Defence. Numerous opportunities had previously been given for Ms Kam to file a defence and she did not comply with the Court's Orders. As no leave has been given for the Defence to be filed, I give no further consideration to the Defence filed.
4. This is the decision as to formal proof of the Claim.



B. The Claim

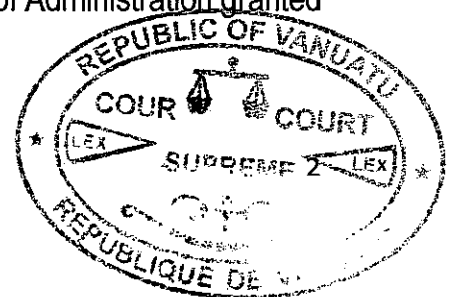
5. It is alleged in the Claim filed on 1 February 2023 that on the dissolution of the Claimant's parents' marriage, that his father was obligated to settle his mother Kesaio Hanghangkon's entitlements as per the judgment in Civil Case No. 12 of 2008 ('CC 2008/12') and Enforcement Case No. 1145 of 2020 ('EnfC 2020/1145'). However, instead of settling those debts, his father 'illegally' transferred the 671 lease from himself to the Defendant Ms Kam.
6. It is also alleged that in 2021, the Claimant's father died. Subsequently, there was a transmission of the 671 lease to his *de facto* partner Ms Kam which is alleged to be 'illegal' because of the unpaid judgment debt from CC 2008/12 and EnfC 2020/1145 [**Sworn statement in Support of Illegal Transfer of Leasehold Title 12/0633/671 (location: Bladiniere Estate, Port Vila, Efate) filed on 4 September 2023**].
7. It is obvious from the two preceding paragraphs that the Claim asserts two contradictory positions. On the one hand, it is alleged that the Claimant's father illegally transferred the 671 lease to Ms Kam. On the other hand, it is also alleged that following the Claimant's father's death, there was an illegal transmission of the 671 lease to Ms Kam.
8. Finally, it is alleged that the Claimant is the administrator of his father's estate.

C. Evidence

9. The Claimant's sworn statements include the following:
 - a) Sworn statement in Support of Illegal Transfer of Leasehold Title 12/0633/671 (location: Bladiniere Estate, Port Vila, Efate) filed on 4 September 2023;
 - b) Sworn statement in Support of Illegal Transfer of Leasehold Title 12/0633/671 (location: Bladiniere Estate, Port Vila, Efate) filed on 19 January 2024; and
 - c) Sworn statement in Support of Illegal Transfer of Leasehold Title 12/0633/671 (location: Bladiniere Estate, Port Vila, Efate) filed on 7 May 2024.
10. On 10 July 2024, the Claimant filed Submissions to Proof [sic] the Claim.

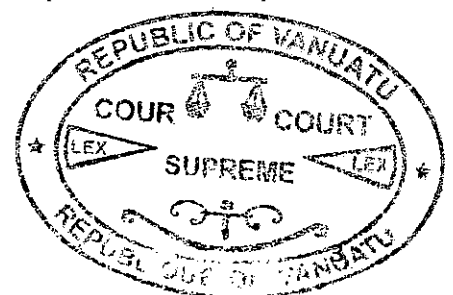
D. Consideration

11. The Claimant Aaron Bongmial Hanghangkon is the administrator of his and the First Defendant's father Aaron Hanghangkon's estate – Letters of Administration granted



to the Claimant by Orders dated 17 April 2023 in Probate Case No. 2678 of 2022 [**Claimant's Sworn statement filed on 28 March 2024 – Annexure “ABH1”**] and [**Sworn statement of Gordon Willie – Attachment “GW9”**] – see the Judgment in *Hanghangkon v Hanghangkon* [2024] VJSC 110 at [7].

12. There is no evidence that the 671 lease was transferred from the Claimant's father to Ms Kam while the Claimant's father was still alive.
13. That cannot have happened because a copy of Ms Kam's Application for Registration of Transmission of the 671 lease from the Claimant's father to herself was produced in evidence. This application was registered on 4 March 2021 [**Claimant's Sworn statement filed on 7 May 2024 – Annexure “ABH1”**].
14. However, there is no evidence that a transmission of the lease from the Claimant's father to Ms Kam was registered.
15. There being no evidence that the 671 lease was either transferred to Ms Kam during the Claimant's father's lifetime or that a transmission of the lease to Ms Kam was registered, the Claim must fail.
16. As I understand the pleadings, it is alleged that the transmission of the 671 lease to Ms Kam (although no transmission has been proved) is illegal because of the unpaid judgment debt from CC 2008/12 and EnfC 2020/1145.
17. However, the Claimant's evidence contains bare assertions only that that judgment debt is unpaid. There is no copy of a minute or decision from either CC 2008/12 and EnfC 2020/1145 in evidence to show that that alleged judgment debt is unpaid. There is also no evidence from the administrator of the mother's estate (if there is one) to say that the alleged debt exists and remains unpaid.
18. Even if there was an unpaid debt, it must be enforced in EnfC 2020/1145 or other enforcement proceedings related to CC 2008/12. It cannot be enforced in the present proceedings which are unrelated to CC 2008/12 and EnfC 2020/1145.
19. Even if any judgment debt could be enforced in the present proceedings, no authority or principle of law has been cited as to how an unpaid judgment debt would override and supersede a lawful transmission of the lease (if there was one).
20. In the circumstances, the Claimant has failed to prove on the balance of probabilities that there is an unpaid judgment debt from CC 2008/12 and EnfC 2020/1145, that it can be enforced in the present proceedings and that that unpaid judgment debt would render illegal the lawful transmission of the 067 lease (if there was one).



E. Result and Decision

21. For the reasons given, the Claimant has failed to prove the Claim on the balance of probabilities therefore the Claim is **dismissed**.
22. Costs are to lie where they fall.

**DATED at Port Vila this 2nd day of August 2024
BY THE COURT**


Justice Viran Molisa Trief

