

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

**Civil Case  
No. 21/3918 SC/CIVL**

**BETWEEN: Malon Nelson**  
Claimant

**AND: Steven Remy**  
First Defendant

**AND: Republic of Vanuatu**  
Second Defendant

*Date of Trial:* 19 April 2024  
*Before:* Justice V.M. Trief  
*In Attendance:* Claimant – Mrs M. Markward  
First Defendant – Mr S.T. Joel  
Second Defendant – Mr J. Wells  
*Date of Decision:* 30 August 2024

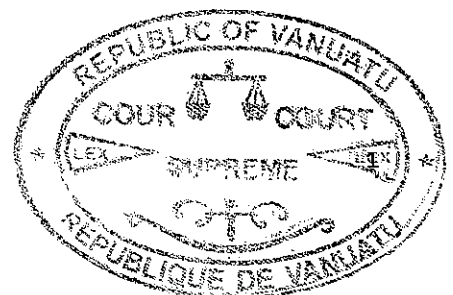
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**JUDGMENT**

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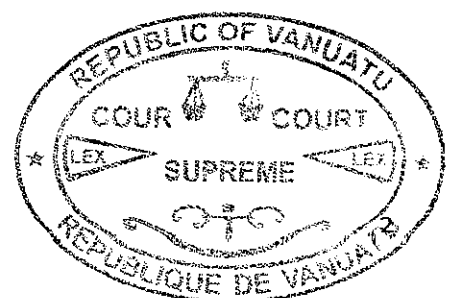
**A. Introduction**

1. The Claimant Malon Nelson is the registered proprietor of leasehold title no. 03/OH72/015 situated in Luganville on Santo island (the '015 lease'). He filed the Claim on 26 November 2021 seeking orders for the eviction of the First Defendant Steven Remy who has a rental house on the leased land; VT10,000,000 damages for trespass, loss of profits and use of the land, and damage to the property; interest; costs; and any other order deemed fit by the Court.
2. It was alleged that Mr Remy permitted the BORCOS 2 landing craft to be berthed alongside the 015 lease and to be repaired on the leased land without Mr Nelson's consent. Finally, it was alleged that in 2017, Mr Nelson's agreement with Tanna



General Services was frustrated due to the caution placed by Mr Remy over the 015 lease hence VT8,000,000 is sought for loss of profits in respect of that agreement.

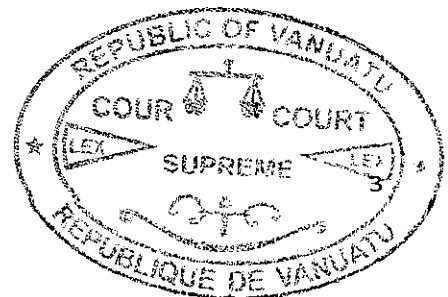
3. In the Defence and Counter Claim or Set-Off filed on 11 February 2022, Mr Remy accepted that he has built a house that lies partly on lease 015, but that he did so well before Mr Nelson's lease was registered. He alleged that he has an overriding interest under para. 17(g) of the *Land Leases Act* [CAP. 163] (the 'Act'). In addition, he denied that he is the owner of the BORCOS 2 or that he is liable for any claim involving that craft. Finally, he denied liability in relation to any agreement with Tanna General Services as alleged.
4. Mr Remy alleged in his Counter Claim that Mr Nelson obtained registration of the 015 lease by fraud or mistake therefore the lease should be cancelled pursuant to s. 100 of the Act. He also alleged that the Minister of Lands should forfeit the 015 lease due to Mr Nelson's breaches of the lease. Finally, he sought a declaration of his overriding interest under para. 17(g) of the Act and sought in the Set-Off that if eviction is ordered, that he be given adequate time before being required to vacate the lease.
5. The Claimant's Reply to Defence and Defence to Counter Claim was filed on 13 May 2022. He denied that Mr Remy has a right under para. 17(g) of the Act and alleged that Mr Remy is in actual occupation of the leased land without his (the Claimant's) consent. It was also alleged that the State as owner of the land was entitled to grant the 015 lease. Finally, he alleged that Mr Nelson did not notify him of his intention to register the 015 lease therefore the lease is subject to his overriding interest under para. 17(g) of the Act due to his actual occupation of the leased land.
6. On 15 June 2022, the First Defendant filed Reply to Defence to Counter Claim. He joined issue with what was pleaded in the Claimant's Defence to Counter Claim.
7. The Second Defendant the State was then joined as a party and on 16 August 2022, filed the Second Defendant's Counter Claim. It alleged that the Claimant Mr Nelson has committed several breaches of the lease and sought a declaration that Mr Nelson is in breach of the 015 lease, a declaration that the First Defendant Mr Remy is trespassing on the 015 lease, an order for the cancellation of the 015 lease due to Mr Nelson's alleged breaches of the lease, an order evicting Mr Remy and costs.
8. In the Claimant's Defence to the Second Defendant's Counter Claim, filed on 20 September 2022, Mr Nelson denied or does not answer to the allegations made and denied that the State is entitled to the relief sought.



9. The First Defendant's Defence and Response to the Second Defendant's Counter Claim filed on 31 March 2023 disputed the State's Counter Claim.
10. The Claimant filed the following sworn statements:
  - a) Malon Nelson filed on 25 April 2022;
  - b) Roel Toto filed on 4 May 2022; and
  - c) Malon Nelson responding to the Defendant's Strike out Application, filed on 13 July 2022.
11. The First Defendant relied on the Sworn statement in Support of Application to Strike out the Claim, by Mary Joel, filed on 15 June 2022.
12. The Second Defendant filed the Sworn statement of Gordon Willie, the Director of Lands, on 21 October 2022.
13. On the date set for trial, counsel all stated that they did not require any witnesses for cross-examination. After extensive discussion with counsel, I directed the filing of closing submissions and stated that the Court would issue its decision after that.
14. The Claimant and the First Defendant filed closing submissions. No closing submissions have been filed for the State.
15. There was also a pending Application to Strike out the Claim by the First Defendant (the 'Application'), along with the Sworn statement of Mary Joel in support, both filed on 15 June 2022. On 1 July 2022, the First Defendant filed submissions in support of the Application. On 13 July 2022, the Claimant filed the Sworn statement of Malon Nelson in response and then submissions on 8 July 2022 and 14 July 2022. I informed counsel that I would also determine the Application in the judgment.

B. The First Defendant's Strike-Out Application

16. By the Application, Mr Remy sought orders striking out part or the whole of the Claim and costs.
17. The first ground advanced in the Application was that the part of the Claim pleaded in para. 11 of the Claim was struck out but that Mr Nelson has 'refiled' the Claim in the present matter without first applying for the leave of the Court following that strike-out. There is simply no merit to this ground as there was no requirement to seek the leave of the Court following the strike-out. That ground fails.



18. The second ground advanced in the Application was that Mr Nelson's evidence is insufficient to prove that the boat named BORCOS 2 was repaired above the highwater mark on the 015 lease. Thirdly, that Mr Nelson's claim for damages for trespass is bound to fail due to the admissions made in the Claim. Finally, that Mr Nelson's evidence as to his agreement with Tanna General Services is also inadequate. All of these matters are matters for the trial; they cannot be determined on a strike-out application. Accordingly, these grounds are devoid of merit and also fail.
19. For the reasons given, the First Defendant's Application to Strike out the Claim filed on 15 June 2022 will be declined and dismissed.

C. The Claim

20. It is common ground that on 26 November 2009, the Claimant Mr Nelson became the registered proprietor of lease 015. The lessor is the Vanuatu Government: Annexure "MN1", Sworn statement of Malon Nelson filed on 25 April 2022.

21. It was pleaded in paras 4 and 5 of the Claim as follows:

4. *The Defendant settled on title 015 without any form of legal title or ownership prior to the Claimant obtaining a registered lease for title 015.*
5. *The Defendant built a house and operated business out of the Claimant's land.*

22. In his defence, the First Defendant Mr Remy accepted that he built a house that lies partly on lease 015, but that he did so well before Mr Nelson's lease was registered therefore claimed an overriding interest under para. 17(g) of the Act which provides as follows:

17. *Unless the contrary is expressed in the register, the proprietor of a registered lease shall hold such lease subject to such of the following overriding liabilities, rights and interests as may, for the time being, subsist and affect the same, without their being noted on the register –*

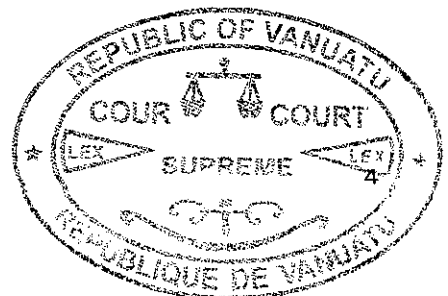
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(g) *the rights of a person in actual occupation of land save where enquiry is made of such person and the rights are not disclosed; and*

...

*Provided that the Director may direct registration of any of the liabilities rights and interests herein before defined in such manner as he may think fit.*

21. The rights of an occupier pursuant to s 17(g) which subsist "for the time being" without being noted on the register are an exception to the indefeasibility of registered titles: *William v William* [2004] VUCA 16.



22. The Court of Appeal stated the following in *William v William* at p. 9:

In a particular case, how the provision operates to give overriding effect to the rights it protects will depend on the nature of the rights. For example, and pertinent to this case, if the person "in actual occupation of land" is there pursuant to an equitable proprietary interest, the protection will subsist as long as the equitable interest continues. In such a case, the nature and duration of the equity will have to be determined. Where the interest is one acquired through or under a previous proprietor of a registered lease, the interest may continue for as long as the term of the lease.

(my emphasis)

23. And then at p. 10:

Fifthly, s.17(g) operates in respect of "rights", that is rights recognized by the law of Vanuatu. A person in actual occupation who is a trespasser will have no "rights" which are protected by the provision. A right may arise under custom law, or it might be a right that derives from and through the proprietor of a registered lease or the predecessor in title of that lease. The nature of the rights asserted in this case by the appellants are rights which they say derive from the Ezra William when he was the registered proprietor of the lease.

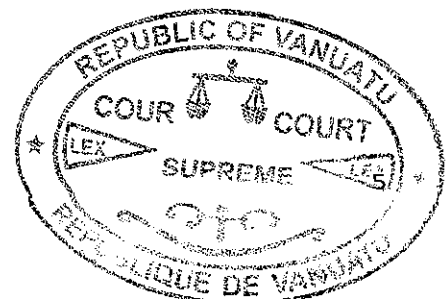
Sixthly, if the person in actual occupation claiming under s.17(g) establishes rights which support the occupation, the rights will be 'overriding' rights unless the proprietor of the registered lease establishes that enquiry was made of that person for an explanation of his or her occupancy, and the rights were not disclosed. The onus of proof as to the making of due enquiry is on the proprietor of the registered lease. To discharge that onus the proprietor would have to establish that a sufficient enquiry was made before the proprietor became the registered proprietor of the lease.

Seventhly, the evident intent of s.17(g) is to protect on the one hand a person who is in actual occupation of land pursuant to rights recognized by law, and on the other hand to provide a mechanism for those acquiring leases to protect themselves by making appropriate enquiry and inspection before acquisition. If a person in actual occupation is found on the land, the would-be purchaser, by making enquiry, can have the rights of that person identified so that the consideration for their acquisition can be adjusted, or the proposed acquisition can be abandoned. Alternatively, if the person found in actual occupation does not disclose a right that justifies his or her actual occupation, the would-be purchaser will obtain good title against that person, and will be entitled after registration to recover possession.

(my emphasis)

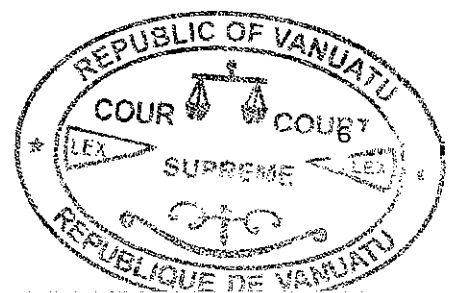
23. To determine the nature and extent of the right asserted requires an examination of the evidence and findings of facts: *William v William* at p. 10.

24. Mr Remy pleaded in both the Defence and in the Counter Claim that he has an overriding interest under para. 17(g) of the Act. However, he has not pleaded anywhere the substantive nature and extent of his alleged right to occupy the leased land. The State is the lessor of the land therefore at a bare minimum, Mr Remy must show that he had the State's permission to occupy the land. There is no pleading in the Defence or the Counter Claim that the State granted Mr Remy a right to occupy



the land. There is no evidence of any such right in the Sworn statement of Mary Joel filed on 15 June 2022.

25. Mr Willie deposed at para. 17 of his Sworn statement filed on 21 October 2022 that prior to the registration of the 015 lease, Mr Remy occupied the land without permission from the State. He deposed at para. 18 that Mr Remy continues to occupy the land without permission from the State.
26. I conclude and find, therefore, that Mr Remy does not have any right to occupy the leased land and is a trespasser on that land. I am fortified in this conclusion because the State owns the land therefore if Mr Remy had had the State's permission to occupy the land, the logical next step would have been for the State to grant a lease to him. However, there is no evidence of any steps taken to grant a lease to Mr Remy prior to the registration of the 015 lease or since then.
27. Indeed, in the Court and counsel's discussions on the date set for trial, the First Defendant's counsel Mr Joel conceded that the First Defendant Mr Remy now understands that he is a trespasser on the 015 lease – see p. 8 (para. (iii)) and p. 14 (para. (d)) of the First Defendant's Final Submissions filed on 28 June 2024.
28. For the reasons given, I find that well before Mr Nelson's lease was registered, Mr Remy built a house that lies partly on lease 015 and that he did so as a trespasser on the land subject to the 015 lease. Accordingly, I find and declare that Mr Remy does not have an overriding interest or right under para. 17(g) of the Act.
29. In the circumstances, if the First Defendant succeeds on his Counter Claim, Mr Nelson may lose the lease. On the other hand, if the First Defendant's Counter Claim is dismissed, Mr Nelson will be entitled to an order for Mr Remy's eviction from the leased land.
30. Also alleged in the Claim was that Mr Remy permitted the BORCOS 2 landing craft to be berthed alongside the 015 lease and to be repaired on the leased land without Mr Nelson's consent. However, there is no evidence that Mr Remy was the owner of the BORCOS 2 therefore on the evidence, he cannot be liable for any claim involving that craft. This aspect of the Claim fails.
31. Finally, it was alleged that in 2017, Mr Nelson's agreement with Tanna General Services was frustrated due to the caution placed by Mr Remy over the 015 lease hence VT8,000,000 damages was sought for loss of profits.
32. A copy of Mr Nelson's agreement with Tanna General Services dated 8 March 2017 was attached as Annexure "MN10" to the Sworn statement of Malon Nelson filed on 25 April 2022. The first clause of the agreement provides that Mr Nelson agreed to



provide the 015 lease as security for an VT8,000,000 loan from Tanna General Services.

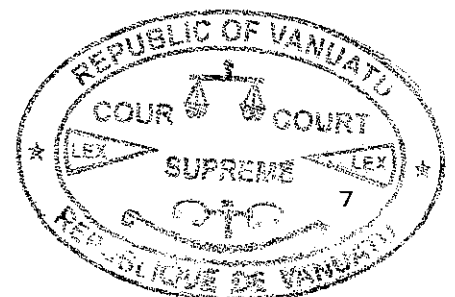
33. However, there were already two cautions registered over the 015 lease: (i) a caution by Stanley Alick registered on 21 December 2010; and (ii) the caution by Mr Remy registered on 28 September 2011 [Annexure “MN3” – Sworn statement of Malon Nelson filed on 25 April 2022].
34. I accept that the existence of the cautions registered over the 015 lease prevented the registration of any mortgage in favour of Tanna General Services and therefore frustrated its agreement with Mr Nelson.
35. However, it does not follow that Mr Nelson is entitled to an award of loss of profits in respect to his agreement with Tanna General Services. That agreement was for Mr Nelson to obtain a loan from Tanna General Services. Even if he had obtained a loan, there is no certainty that he would have operated a business that generated profits. Further, what was lost was the taking out of a loan. However, the loss of an opportunity to take out a loan is a different matter altogether from the loss of profits from the operation of a business. Accordingly, this aspect of the Claim also fails.
36. The Claimant also sought VT1,000,000 damages for trespass. The Court of Appeal held in *Pakoa v Kai* [2021] VUCA 24 at [67] as follows:

67. *The normal measure of damages in the case of wrongful occupation or use is the market rental value of the property for the period of that wrongful occupation or use: McGregor on Damages, 20<sup>th</sup> Edition, Sweet & Maxwell, at [39-046]; Inverugie Investments Ltd v Hackett [1995] 1 WLR 713. However, Mr Kai did not make a claim for damages of this kind.*

37. Similarly, Mr Nelson did not make a claim for damages for the market rental value of the property for the period of its wrongful occupation or use. Even if he had, there is no evidence to justify the VT1,000,000 damages for trespass sought. Accordingly, no such award is made.
38. There is also no evidence of damage to property. Accordingly, there is no award made for VT1,000,000 damage to property as was sought in the Claim.

D. First Defendant’s Counter Claim

39. Mr Remy alleged in his Counter Claim that Mr Nelson obtained registration of the 015 lease by fraud or mistake therefore the lease should be cancelled pursuant to s. 100 of the Act which provides as follows:



100. (1) *Subject to subsection (2) the Court may order rectification of the register by directing that any registration be cancelled or amended where it is so empowered by this Act or where it is satisfied that any registration has been obtained, made or omitted by fraud or mistake.*
- (2) *The register shall not be rectified so as to affect the title of a proprietor who is in possession and acquired the interest for valuable consideration, unless such proprietor had knowledge of the omission, fraud or mistake in consequence of which the rectification is sought, or caused such omission, fraud or mistake or substantially contributed to it by his act, neglect or default.*

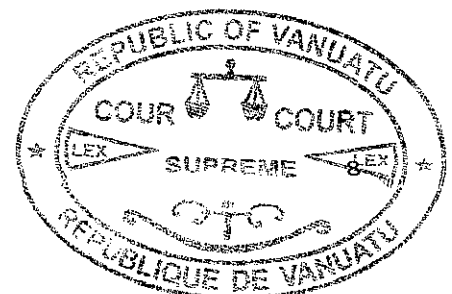
40. It was alleged that Mr Nelson's intention to obtain the 015 lease was never to develop the land but for quick profit by sale otherwise he would have properly inspected the land and discovered not only Mr Remy's but others' actual occupation of the land.

41. In addition, the following particulars of the registration of the 015 lease by fraud or mistake were set out in para. 15 of the Counter Claim:

- (a) Failure to inspect the 015 land prior to registration of the lease to ascertain that Mr Remy was already in actual occupation of a portion of that land;
- (b) Mr Nelson did not, prior to registration of the 015 lease, approach Mr Remy and notify him of his intention to obtain a lease over the portion of land occupied by Mr Remy;
- (c) Mr Nelson has alleged in the Claim that Mr Remy has trespassed onto the 015 lease however he (Mr Nelson) also has attempted to steal Mr Remy's house and chattels through registration of the lease without notice and demanding that Mr Remy vacate the property without any offer of compensation;
- (d) That Mr Nelson has breached the terms of the lease by not starting construction of any buildings within 5 years; and
- (e) Mr Nelson never intended to comply with the lease terms to develop the land because he was seeking to register a mortgage with Tanna General Services in 2017.

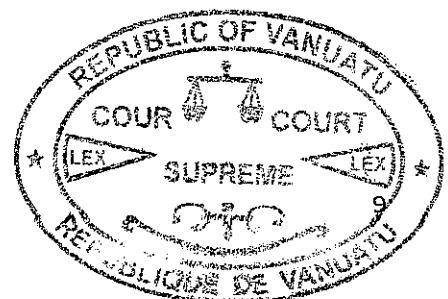
42. The orders sought were for the cancellation of the 015 lease and alternatively, a direction that the Minister of Lands forfeit the 015 lease due to various breaches of its terms and conditions by Mr Nelson.

43. Finally, an order was sought by way of set-off that if an eviction order is granted, that Mr Remy be allowed adequate time to undertake valuation of his properties, developments and houses within the 015 lease and time to negotiate with Mr Nelson, but that if no agreement is reached, the Court should determine the proper amount of compensation to be paid by Mr Nelson to Mr Remy.





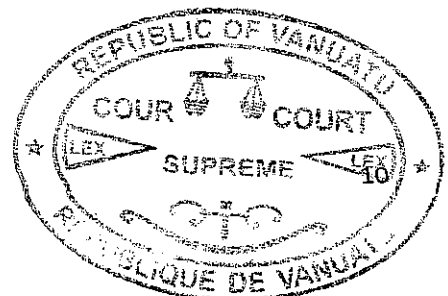
44. It was alleged in the Claimant's Reply to Defence and Defence to Counter Claim filed on 13 May 2022 that the State as owner of the land was entitled to grant the 015 lease. That is clear and inarguable.
45. However, the issue is whether or not the registration of the 015 lease was obtained by fraud or mistake. With respect, none of the matters pleaded constitutes fraud or mistake in the registration of the 015 lease:
- a) The lessee's intention to achieve a quick sale is not a mistake or amounts to fraud in the registration of the lease;
  - b) The alleged breach of one or more terms of the lease (construction of buildings within 5 years, or to develop the land) is a matter for the lessor *after* the registration of the lease, but does not and cannot constitute a mistake or fraud in the registration of the lease;
  - c) Whether or not the lessee inspected the leased land prior to registration of the lease to ascertain if any person was in actual occupation and what their asserted right to occupation was is relevant to the question of a right under para. 17(g) of the Act, but is not required and does not constitute a mistake or fraud in the registration of the lease;
  - d) There was no requirement in law for the lessee to approach a person in actual occupation of the land prior to registration of the lease and notify him of his intention to obtain a lease, therefore this does not constitute a mistake or fraud in the registration of the lease; and
  - e) That Mr Nelson has sought Mr Remy's eviction by the Claim without any offer of compensation is not a matter which constitutes mistake or fraud in the registration of the lease.
46. I find therefore that the First Defendant has failed to prove the Counter Claim on the balance of probabilities. It will be dismissed.
47. It was alleged in the Set-Off that Mr Nelson has attempted to steal Mr Remy's house and chattels by demanding that Mr Remy vacate the property without any offer of compensation.
48. The relief sought was an order that if an eviction order is granted, that Mr Remy be allowed adequate time to undertake valuation of his properties, developments and houses within the 015 lease and time to negotiate with Mr Nelson, but that if no agreement is reached, the Court should determine the proper amount of compensation to be paid by Mr Nelson to Mr Remy.



49. It is common ground between the parties that Mr Remy built his rental house on the land eventually subject to the 015 lease well before that lease was registered.
50. It was not pleaded, nor is there any evidence, that prior to the registration of the 015 lease, that Mr Nelson was not aware of the existence of Mr Remy's house on that land.
51. On the contrary, I conclude from the pleadings and find on the evidence that Mr Nelson was aware of Mr Remy's house on the land to be leased but proceeded to obtain the registration of the 015 lease.
52. In the circumstances, it would be inequitable for Mr Remy to be required to vacate the land subject to the 015 lease unless he is compensated for the developments that he has made on the land: *Fujitsu (NZ) Ltd v International Business Solutions Ltd* [1998] VUCA 13 at p. 6 and *Hanik v Green* [1958] 2 QB 9, 23.
53. I would add that compensation needs to be paid if Mr Remy will vacate the land leaving behind developments that he has made on the land. However, if he will vacate the land removing all his property from it, then there will be no property for which he need be compensated.
54. In the circumstances, the Set-Off will be granted and order made that Mr Remy be allowed adequate time to either remove all his property from the land or if Mr Remy will vacate the land leaving behind developments that he has made on it, time to undertake valuation of his properties, developments and houses within the 015 lease and time to negotiate with Mr Nelson the quantum of compensation payable.
55. The parties must then inform the Court if Mr Remy will vacate the land removing all his property from it, or that Mr Remy will vacate the land leaving behind developments that he has made on it but that they have not agreed the quantum of compensation. If the latter, the Court will then need to determine the quantum of compensation for Mr Nelson to pay to Mr Remy.

E. Second Defendant's Counter Claim

56. The State is the lessor of the 015 lease. It alleged in its Counter Claim that the Claimant Mr Nelson has committed several breaches of the lease. It sought a declaration that Mr Nelson had committed breaches of the lease and an order cancelling the lease due to those alleged breaches.
57. A registration of a lease may be cancelled pursuant to subs. 100(1) of the Act where the Court is satisfied that the registration was obtained, made or omitted by fraud or



mistake. However, there is no provision in the Act for a lease to be cancelled for breaches of the lease.

58. With respect, the State's Counter Claim is misconceived as it completely ignores the forfeiture process in ss 43 and 45 of the Act which provide as follows:

43. (1) *Subject to the provisions of section 45 and to any provision to the contrary in the lease, the lessor shall have the right to forfeit the lease if the lessee commits any breach of, or omits to perform any agreement or condition on his part expressed or implied in the lease.*
- (2) *The right of forfeiture may be –*
- (a) *exercised, where neither the lessee nor any person claiming through or under him is in occupation of the land, by entering upon and remaining in possession of the land; or*
- (b) *enforced by a reference to the Valuer-General.*
- (3) *The right of forfeiture shall be taken to have been waived if –*
- (a) *the lessor accepts rent which has become due since the breach of the agreement or condition which entitled the lessor to forfeit the lease or has by any other positive act shown an intention to treat the lease as subsisting; and*
- (b) *the lessor is, or should by reasonable diligence have become, aware of the commission of the breach:*

*Provided that the acceptance of rent after the lessor has commenced a reference to the Valuer-General under subsection (2) shall not operate as a waiver.*

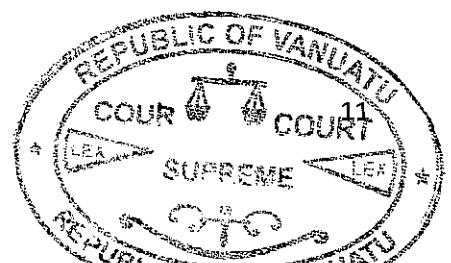
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45. *Notwithstanding anything to the contrary contained in the lease, no lessor shall be entitled to exercise the right of forfeiture for the breach of any agreement or condition in the lease, whether expressed or implied, until the lessor has served on the lessee and every other person shown by the register to have an interest a notice in writing which –*
- (a) *shall specify the particular breach complained of; and*
- (b) *if the breach is capable of remedy, shall require the lessee to remedy the breach within such reasonable period as is specified in the notice; and*
- (c) *in any case other than non-payment of rent may require the lessee to make compensation in money for the breach;*

*and the lessee has failed to remedy the breach within a reasonable time thereafter, if it is capable of remedy, and to make reasonable compensation in money if so required.*

(my emphasis)

59. Subsection 43(1) of the Act provides that a lessor shall have the right to forfeit the lease if the lessee commits a breach of or omits to perform any agreement or

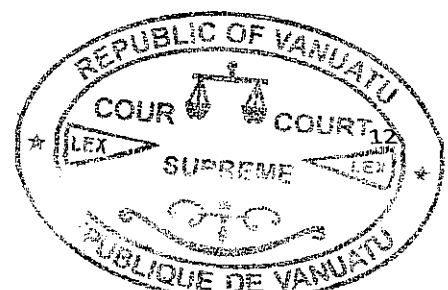


condition on his part expressed or implied in the lease. Where the lessee is in occupation of the leased land, the right of forfeiture may be enforced by reference to the Valuer General pursuant to para. 43(2)(b) of the Act.

60. Section 45 of the Act provides that no lessor can exercise the right of forfeiture unless he has first served on the lessee and every other person shown by the register to have an interest a written notice specifying the particular breach complained of and the lessee has failed to remedy the breach within a reasonable time after that or to make reasonable compensation in money if so required.
61. There is no evidence that the State has given Mr Nelson any written notice of his alleged breaches of the lease and requiring him to remedy the breaches complained of. The State cannot enforce its right of forfeiture by a reference to the Valuer General unless it has first given the lessor such written notice.
62. Instead of undertaking the forfeiture process prescribed in ss 43 and 45 of the Act, the State filed its Counter Claim seeking the cancellation of the lease and/or a declaration that the lessee has breached the lease. There is no cause of action disclosed in the Counter Claim. It will be struck out.

F. Result and Decision

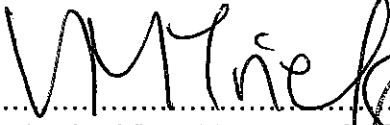
63. The First Defendant's Application to Strike out the Claim filed on 15 June 2022 is **declined and dismissed**.
64. The First Defendant's Counter Claim is **dismissed**.
65. The Second Defendant's Counter Claim is **struck out**.
66. Judgment is entered for the Claimant and it is ordered that the First Defendant is to vacate leasehold title no. 03/OH72/015 situated in Luganville on Santo island.
67. However, the eviction order in the preceding paragraph is **stayed** pending either Mr Remy's removal of all his property from the land or the determination and payment of compensation by the Claimant to the First Defendant for his house and other developments within leasehold title no. 03/OH72/015 as the Set-Off sought by the First Defendant is **granted**.
68. Accordingly, the Claimant is to serve this Judgment on the First Defendant and file proof of service **by 4pm on 11 September 2024**.
69. The First Defendant has 3 months from the date of service of this judgment on him to either remove all his property from the land or if Mr Remy will vacate the land



leaving behind developments that he has made on it, to undertake valuation of his properties, developments and houses within leasehold title no. 03/OH72/015 and negotiate with the Claimant the amount of compensation that the Claimant is to pay to him.

70. The parties are to inform the Court **by 4pm on 11 December 2024** if Mr Remy will vacate the land removing all his property from it, or that Mr Remy will vacate the land leaving behind developments that he has made on it but that they have not agreed the quantum of compensation.
71. If no agreement has been reached by the Claimant and the First Defendant, the Court will then make orders for the filing and service of evidence and submissions as to the quantum of compensation for the Claimant to pay to the First Defendant.
72. Costs must follow the event. The Second Defendant is to pay within 28 days: (i) the Claimant's costs fixed at VT100,000; and (ii) the First Defendant's costs fixed at VT100,000.
73. The Claimant and the First Defendant have each succeeded on an aspect of their case hence costs other than those ordered in the preceding paragraph are to lie where they fall.

**DATED at Port Vila this 30<sup>th</sup> day of August 2024  
BY THE COURT**

  
.....  
Justice Viran Molisa Trief

