

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

**Civil  
Case No. 24/1901 SC/CIVL**

**BETWEEN: Eucumbene Holdings Limited  
Claimant**

**AND: Robsen Micha  
First Defendant**

**AND: Willie Jerry Masoelae  
Second Defendant**

**Date of Hearing: 16th day of October, 2024 at 10:30 AM**  
**Date of Judgment: 17th October 2024**  
**Before: Justice Oliver Saksak**  
**In Attendance: Ms Viska Muluane for the Claimant**  
**No appearances for the First and Second  
Defendant**

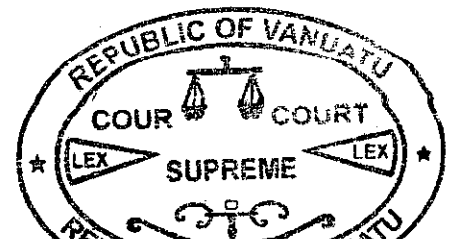
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**JUDGMENT**

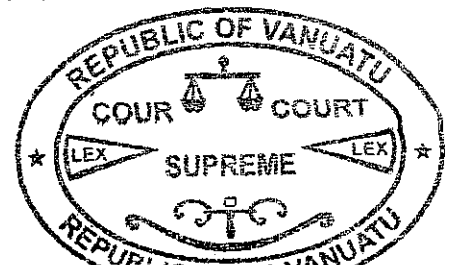
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**Introduction and Background**

1. This is a claim for a declaration that the defendants and their family members are trespassers on the claimant's Leasehold Title No 11/0J14/017 (the Lease), for an eviction order, for damages and costs.
2. The claim was filed on 21<sup>st</sup> June 2024 and served on both defendants on 2<sup>nd</sup> July 2024 by Willie Alick Pakoa. Proof of Service was filed on 9<sup>th</sup> July 2024.
3. Despite service, the defendants have not responded and neither have they filed any defences.
4. Consequently the claimant filed an application to showcase why judgment should not be entered against them and/or for a formal proof hearing, together with a sworn statement filed in support on 6<sup>th</sup> August 2024.
5. The application was adjourned on 8<sup>th</sup> October 2024 and rescheduled to today ( 16/10/2024) because the defendants were not served with the Notice of Hearing dated 2<sup>nd</sup> October 2024.



6. I was informed by Counsel the defendants were served through their chief on their instructions. Unfortunately they did not attend the hearing today.
7. By way of formal proof I heard Ms Muluane in relation to the application and the claim filed on 21<sup>st</sup> June 2024 together with the sworn statements of service by Willie Alick Pakoa and the sworn statement of Herve Michel filed on 6<sup>th</sup> August 2024 in support of the claims of the claimant.
8. The application is properly made pursuant to Rule 9.1 of the Civil Procedure Rules. In the absence of a response and/or a defence and evidence in support, the claims of the claimant stand unchallenged and uncontested.
9. Furthermore the defendants have not attended Court to show cause why judgment should not be entered against them.
10. From the evidence of Herve Michel the Lease was transferred on 29 September 2009 from Jacques Nioteau and Monique Nioteau to the claimant for consideration of VT 33,500,000. The claimant is the registered proprietor of the Lease with indefeasible title. This evidence is not challenged.
11. I am satisfied that the two named defendants have no claim of right to be on the Lease. They are illegally occupying the Lease. They are squatters and trespassers.
12. Ms Muluane referred the Court to the cases of Marianne Loughman v Samuel Toara CC 22/1263 and Yasitu Nalau v Helen Naurai and Jeffery Naurai CC 18/3285. These were cases seeking eviction, damages and costs. I am guided by them and adopt them to grant the reliefs sought by the claimant in this case.
13. Accordingly I allow the application. I enter judgment in favour of the claimant against the two defendants and issue the following-
  - a) A declaration that the First Defendant and the Second Defendant, their family members and dependents are squatters and trespassers on the Claimant's Lease No 11/0514/017.



- b) The First and Second Defendants and their family members are to remove themselves from the Lease within 30 day's from the date hereof ( by 15 November 2024)
- c) The defendants are to be evicted from the Lease after 15 November 2024 if they have not vacated the Lease.
- d) Damages are to be assessed subject to the claimant's further sworn statements specifying the damages incurred by the claimant, within 21 days from the date hereof.
- e) The claimant is entitled to the costs of the application fixed at VT 45,000 to be paid by the defendant within 28 days from the date hereof ( by 13 November 2024).

**DATED at Port Vila this 17th day of October, 2024**

**BY THE COURT**

**Hon. Oliver Saksak**

**Judge**

