

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

**Civil  
Case No. 23/957 SC/CIVL**

**BETWEEN: NAZARIO VISESIO JOSEPH  
FIAKAIFONU as Trustee for the  
Wallis and Futuna Community**

Claimant

**AND: YVA ANNA SUTA, JOSEPH  
SUTA, STEVEN MASSENG  
MALOP, SAM NAUSIEN, ROSE  
NAUSIEN**

First Defendants

**AND: REPUBLIC OF VANUATU**

Second Defendant

**Before: Justice Oliver A. Saksak**

**Counsel: Ms Viska Muluane for the Claimant  
Mr. Kent Ture Tari for the First Defendants  
Mr. Freddie Bong for the Second Defendant**

**Date of Hearing: 19<sup>th</sup> March 2025**

**Date of Judgment: 25<sup>th</sup> March 2025**

---

**JUDGMENT**

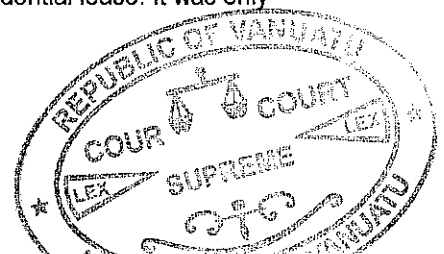
---

Introduction

1. This is a claim for eviction order against the First named defendants from Leasehold Title 12/0742/013 (Lease 013) situated at Forari, East Efate.

Facts

2. The Claimant is one of the only surviving trustees for the Wallis and Futuna Community. The other trustees are Muliakaaka Visesio, Tui Soana (deceased) and Motuku Sosue (deceased).
3. They are the registered proprietors of Lease 013. The Wallis and Futuna Community is Charitable Association.
4. Lease 013 is a 75 years lease from 30 July 1980 and is a residential lease. It was only registered on 5 February 1995.



### Allegations/Claims

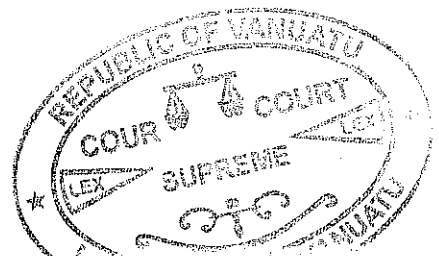
5. The Claimant alleges that the named defendants are not members of the Association as prior to 5 February 1995 they were residing outside Vanuatu.
6. Defendant Iva Anna Suta and her defacto partner Steeven have resided on Lease 013 since 2011, Josepho Suta has resided on the property since September 2022 and Helena Takula has resided on the lease from end of 2022.
7. Defendants Sam Nusien and Rose Nusien are friends and also reside on the property.
8. None of these named defendants have rights or are authorized to be on the property and are trespassers.
9. They were served with notices to quit on 10 June 2015 and again on 29 May 2023 and a letter written to Yva Anna Suta on 29 May 2015 demanding them to vacate Lease 013 but they have all refused to vacate lease.

### Defence

10. The First Defendants filed an initial defence and counter claim on 18 July 2023 and an amended defence on 2 April 2024 alleging that the Claimant is not one of the lessees of the lease, that he is not the same person as Fiakaifonu Nazario, and that Lease 013 was fraudulently obtained.
11. The Second Defendant filed a defence on 12 February 2024 asserting the Claimant has no standing.
12. In relation to the counter-claim alleging fraud and/or mistake, the Second Defendant asserts that Lease 013 was registered in good faith and in any event, the Lease has been rectified on 16 November 2023 by Consent Order as a result of an honest mistake or error made initially to the original lease.

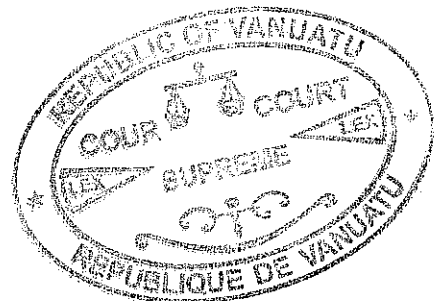
### Evidence

13. At the formal proof hearing on 19 March 2025 the Claimant relied on evidence by sworn statements Walter Reynol dated 5/2/24, by Teny Maufana dated 5/2/24, by Nazario Visesio Joseph Fiakaifonu dated 15/2/24 and 18/2/24 and by Nazario Pascal dated 18/2/24.
14. For the First Defendants, they relied on the evidence by sworn statement by Sowany Joseph dated 2/1/23.
15. And for the Second Defendant, they relied on the evidence of Gordon Willie filed 27/11/23.



## Discussion

16. At an earlier conference hearing on 19 February 2025 Mr Tari informed the Court that the First Defendants did not take issue with the Claimant's identity which required further evidence from the Civil Status Office. As such the First Defendants withdrew their counter-claims.
17. At the formal proof hearing Mr Tari hesitated to make a concession but preferred a formal ruling based on the evidence by the Claimant and his witnesses and the Defendant's evidence.
18. Mr Bong for the Republic in the formal proof of hearing informed the Court that the Republic would simply abide by Court Orders, save as to costs.
19. With the withdrawal of the First Defendants' counter-claim and their acceptance that Nazario Visasio Joseph Fiakaifonu is the same person as Nazario Fiakaifonu is the same person as Nazario Fiakaifonu, their defence falls away.
20. The real issues in the claim are (a) whether the First Defendants are entitled to reside and use land within Lease 013 and (b) whether they are members of the Wallis and Futuna Community?
21. The First Defendants focused on the identity of the Claimant but this is now a non-issue. The raised in the counter-claim fraud and/or mistake but this has been withdrawn.
22. They relied on the evidence of Sowany Joseph but that evidence goes to the issue of fraud which is n longer an issue due to the withdrawal by the First Defendants.
23. Against the evidence of the Claimant and his witnesses, the First Defendants have no evidence in rebuttal.
24. In CC No. 61 of 2008: *Sosue & Soana v Horizon Development Ltd & Others* the Chief Justice at [24] said: "Those from Wallis and Futuna who prior to 1995 went to live outside Vanuatu and indeed those who left Vanuatu subsequently and are not members of the Association have no legal rights with respect to the Forari land. The lessors and custom owners are the Euplon Trust. The lessees are the Association when is the Wallis and Futuna islanders who live in Vanuatu and are members of the Association. Those Wallis and Futuna islanders living outside of Vanuatu including New Caledonia therefore have no rights to the Forari Land."
25. That is the basis of the Claimant's proceeding. As the Trustee, the Claimant is entitled to bring this proceeding seeking eviction orders.



26. The First Defendants have no evidence that (a) they are members of the Association and are contributing financially or actively to its livelihood, and (b) that they were residing in Vanuatu or Forari prior to or before 5<sup>th</sup> February 1995.

Findings


27. I therefore find that the First named defendants are squatters and trespassers on Lease 013 belonging to the Wallis and Futuna Community or Association whose trustees are the Claimant and Visesio Muliakaaka who are the only two surviving trustees today.

Result

28. The Claimant is therefore successful in his claims against the First Defendants and is entitled to an order of eviction against all the named Defendants, their relatives and family members.
29. The First Defendants, their relatives and family members residing on Lease 013 and hereby ordered to remove themselves and all their personal properties from the Lease within 30 days from the date of this Order (by 25 April 2025).
30. In the event the Defendants and their family members and relatives have not complied with the above Order by the specified date, an Enforcement Warrant will be issued authorizing the Sheriff and the Police to evict the defendants without any further notice.
31. The Claimants is entitled to his costs of and incidental to the proceeding on the standard basis as agreed, or taxed.

**DATED at Port Vila this 25<sup>th</sup> day of March, 2025.**

**BY THE COURT**

  
.....  
**Hon. Justice Oliver A. Saksak**

