



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

Civil
Case No. 24/3391 SC/CIVL

**BETWEEN: Jean Marcel Jacquier, Administrator of
the Estate of Edouard Jean Jacquier and
Josephine Jacquier**

Claimant

**AND: Bertrand Jacquier and Doriane Mahe and
family**

Defendants

Date of Hearing: 8 April 2025
Before: Justice V.M. Trief
In Attendance: Claimant – Mr C. Leo
Defendants – Ms B. Taleo
Date of Decision: 11 April 2025

**DECISION AS TO SHOW CAUSE HEARING AND APPLICATION FOR LEAVE TO
AMEND CLAIM**

A. Introduction

1. On 24 October 2024, the Claimant Jean Marcel Jacquier, the Administrator of the estates of Edouard Jean Jacquier and Josephine Jacquier filed the Claim seeking orders evicting the Defendants Bertrand Jacquier and Doriane Mahe and family from the property which was the subject of the estate of the “late and Josephine Jacquier” [sic]. No leasehold title number was specified in the Claim.
2. On 5 November 2024, the Defendants filed their Defence to the Claim alleging that Josephine Jacquier died having left a will and on 19 May 2004, the Supreme Court appointed Mrs Rita Bill Naviti as the executor of Josephine Jacquier’s will dated 6 March 1999. Further, that the Defendants are rightfully occupying lease title 03/OI/93/007 in accordance with the will. They alleged that even though para. 1 of the will referred to a subdivision proposal, no subdivision has occurred therefore



lease title 007 remains as one title, part of which is owned by Raymond Louise (son of Josephine Jacquier) and the other part of which is under the care of the same Raymond Louis.

3. Also on 24 October 2024, the Claimant filed an Urgent Application seeking eviction orders and other orders.
4. By Orders dated 24 December 2024, I declined and dismissed the Urgent Application for reasons including that it was an abuse of process to seek eviction orders by way of an interlocutory application when eviction orders were part of the ultimate relief sought in the Claim.
5. I determined the costs of the Urgent Application as follows in the Orders dated 24 December 2024 at [10]:
 10. *Costs must follow the event. The Claimant is to pay to the Defendants the costs of the Application fixed summarily at VT20,000 and file Memorandum confirming payment by 4pm on 30 January 2025.*
6. In the Orders dated 24 December 2024 at [15], the Claimant was ordered to file and serve sworn statements in reply by 4pm on 6 March 2024.
7. The matter was next listed for Pre-Trial Conference at 1pm on 7 March 2025.
8. The Claimant did not comply with the Orders dated 24 December 2024.
9. In the Orders dated 7 March 2024 at [2] and [4], I stated the following:
 2. *Since the last Orders dated 24 December 2024, no sworn statements filed by the Claimant...*
 3. *...*
 4. *The Claimant is to file and serve sworn statements in reply by 4pm on 21 March 2025.*
10. At [7] of the Orders dated 7 March 2024, I ordered as follows:
 7. *The Claimant has failed to pay the costs ordered at para. 10 of the Orders dated 24 December 2024. The Defendants are therefore to serve today's Minute and Orders on the Claimant, and file proof of service, **by 4pm on 14 March 2025**. The Claimant is to pay the costs ordered on 24 December 2025 and file memorandum that it has **paid by 4pm on 21 March 2025**. The Claimant is put on notice that failure to do so will result in him being required to show cause why this proceeding should not be struck out for non-compliance with the Court's Orders.*



11. I also ordered the Defendants to serve those Orders on the Claimant and file proof of service.
12. The Defendants served the Orders dated 7 March 2025 on the Claimant and filed proof of service on 12 March 2025.
13. By Orders dated 24 March 2025 at [2], I ordered the following:
 2. *The Claimant has not complied with the order at para. 7 of the Orders dated 7 March 2025 to file memorandum by 4pm on 21 March 2025 confirming that he has paid the costs ordered on 24 December 2024. Accordingly, the Sheriff is requested to serve today's Orders on the Claimant and file proof of service **by 4pm on 31 March 2025**. The Claimant is required to appear **at 8.10am on 8 April 2025**, including by video link to the Luganville Court House, to show cause why this proceeding should not be struck out for non-compliance with the Court's Orders.*
14. The Sheriff served the Orders dated 24 March 2025 on the Claimant and filed proof of service on 28 March 2025.
15. On 31 March 2025, the Claimant filed the following:
 - i) Memorandum stating that on 28 March 2025, he paid to the Defendants the VT20,000 costs ordered. He also apologised for his non-compliance with the Court's Orders;
 - ii) Application for Leave to Amend Claim to plead the will of the deceased (which he had only become aware of in the Defendants' Defence) so that all parties are on an equal footing and to deal with the case fairly; and
 - iii) The Sworn statement of Johnathan Huri Boe in support, with the proposed amended claim attached.
16. At the hearing on 8 April 2025, I heard both counsel as to whether or not the Claimant had shown cause as to why this proceeding should not be struck out for non-compliance with the Court's Orders and also as to the Application for Leave to Amend Claim filed on 31 March 2025 (the 'Application').
17. I will deal first with the Application and then with whether or not the Claimant has shown cause why this proceeding should not be struck out for non-compliance with the Court's Orders.

B. Application for Leave to Amend Claim

18. It is alleged in the proposed amended claim that para. 1 of Josephine Jacquier's will stated as follows (in French, but translated in English as follows):



The Title 03/01/93/007

This title is currently the subject of a subdivision proposoal. There will therefore be 2 different titles. A part at the top and a part at the bottom. I bequeath the upper part to my son Raymond Louis born on September 2 1943 and the lower part will remain as a family home under the care of my son Raymond. This part will be my and all my legitimate children and grandchildren.

19. It is further alleged in the proposed amended claim that the administrator of the will failed to carry out Josephine Jacquier's intention to subdivide the property, and it is a wrong construction of the will that Raymond Jacquier is the owner of the lower part of the property hence Raymond had no authority to place the Defendants in the lower part of the property without the consent and authority of all the family members. The relief sought includes that Raymond Jacquier (named as Interested Party in the proposed amended claim) subdivide the property into two separate lease titles, that Raymond Jacquier and the Defendants account to Family Jacquier for all monies obtained from the lower part of the property and that the Defendants be evicted from the lower part of the property.
20. The Claimant is proposing by the proposed amended claim to raise issues about the manner in which the executor of Josephine Jacquier's will executed the will. Accordingly, the claim should be made against the executor of the will. Mr Leo accepted that neither the Defendants nor Raymond Jacquier were the executor of Josephine Jacquier's will.
21. I am not aware of any cause of action known in law for the Claimant to sue persons who are not the executor of a will in relation to the manner in which the executor of the will executed the will. Mr Leo could not assist me as to any cause of action available to the Claimant to sue the Defendants and Raymond Jacquier in relation to his grievance about the manner in which Josephine Jacquier's will was executed.
22. For the foregoing reasons, I fail to see any cause of action disclosed in the proposed amended claim. Accordingly, the Application must be declined and dismissed.

C. Whether or not cause shown

23. On 28 March 2025, the Claimant finally paid the VT20,000 costs ordered on 24 December 2024 and again on 7 March 2025.
24. However, the Claimant did not provide any explanation for why he did not comply with the Order of the Court dated 24 December 2024 to pay the costs by 30 January 2025, nor with the subsequent Order of the Court dated 7 March 2025 to pay those costs by 21 March 2025.



25. The Claimant also has not explained why he did not comply with the Order of the Court dated 7 March 2025 to file and serve sworn statements in reply by 4pm on 21 March 2025.
26. Mr Leo attempted to give evidence from the bar table as to the Claimant's personal circumstances to explain his (the Claimant's) non-compliance with the Orders. I did not allow Mr Leo to do so. After his number of years' experience as a legal practitioner, he should not have to be reminded that a submission can only be made if there is an evidential basis for the submission.
27. As the Claimant has not given any explanation for his non-compliance with the Orders of the Court dated 24 December 2024 and 7 March 2025, I must conclude that the Claimant has not shown cause why this proceeding should not be struck out for non-compliance with the Court's Orders. Accordingly, the proceeding will be struck out.

D. Result and Decision

28. The Claimant's Application for Leave to Amend Claim filed on 31 March 2025 is declined **and dismissed**.
29. The Claimant is to pay to the Defendants the costs of the Application for Leave to Amend Claim summarily fixed in the sum of VT10,000 by 4pm on 12 May 2025.
30. For the reasons given, the Claimant has not shown cause why this proceeding should not be struck out for non-compliance with the Court's Orders. Accordingly, the proceeding is **struck out**.
31. Costs must follow the event. Claimant is to pay to the Defendants the costs of the proceedings (other than the costs set out in para. 29 above) summarily fixed in the sum of VT30,000 **by 4pm on 12 May 2025**.
32. The 26 February 2026 listing is **vacated**.

**DATED at Port Vila this 11th day of April 2025
BY THE COURT**


Justice Viran Molisa Trief

