

IN THE COURT OF APPEAL OF
THE REPUBLIC OF VANUATU
(Civil Appellate Jurisdiction)

Civil Appeal
Case No. 25/3854 COA/CIVA
[2026] VUCA 8

BETWEEN: ERICK YAKEULA AKE

as Administrator of the Estate of the Late Lari Ake
Yakeula
Appellant

**AND: DOMINIQUE YAKEULA AND DANIELLE
YAKEULA**

Represented by Tom Simon as Administrator of the
Estate of Dominique Yakeula and as Representative
of Danielle Yakeula
Respondents

Date of Hearing: 4 February 2026

Before: Hon. Chief Justice Vincent Lunabek
Hon. Justice Mark O'Regan
Hon. Justice Michael Wigney
Hon. Justice Oliver Saksak
Hon. Justice Viran Molisa Trief
Hon. Justice Maree MacKenzie
Hon. Justice Josaia Naigulevu

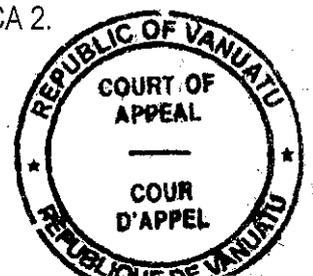
Counsel: Mr Daniel K. Yahwa for the Appellant
Mr Justin Ngwele for the Respondents

Date of Decision: 13 February 2026

JUDGMENT OF THE COURT

Introduction

1. This appeal has a long history. It involves a dispute among siblings about the Estate of their mother. The dispute has already been before this Court in 2017: *Yakeula v Ake* [2017] VUCA 2.

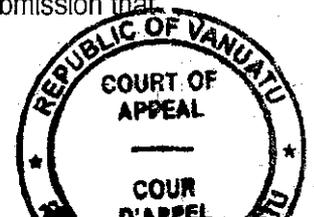


Background

2. This summary of the background is based on that set out in the 2017 Court of Appeal judgment. Following the death of Lari Ake Yakeula in 1997, Danielle Yakeula (Danielle) applied for and was granted Letters of Administration in relation to Lari Ake Yakeula's estate (the estate). In 2012, Erick Yakeula Ake (Erick), apparently unaware that Danielle had been granted Letters of Administration, also applied for a grant of Letters of Administration. The application was opposed, and when the grant in favour of Danielle was discovered, Erick asked the Court to revoke that grant and to appoint him as administrator. In October 2014, the Supreme Court revoked the grant to Danielle and appointed Erick as administrator (*Ake v Yakeula* [2014] VUSC 177). Erick's Letters of Administration were dated 24 October 2014.
3. The only remaining asset of the estate at the time of the appointment was a leasehold property located at Fatumaru Bay in Port Vila. Dominique Yakeula (Dominique) (a sister of Danielle and Erick) and her family lived in that property from the time of her mother's death in 1997. Dominique is now deceased. Danielle also stayed at the property when she visited Port Vila from Noumea, where she lives.
4. After his appointment as administrator, Erick asked Danielle and Dominique to pay rent on the property. They refused and he therefore commenced proceedings to evict them and their families from the property. He also sought damages from them for a loss of rental. He applied for summary judgment and the Supreme Court granted the application on the basis there was no real prospect of the claim being defended (*Ake v Yakeula* [2016] VUSC 162). The Court granted an eviction order against Dominique and Danielle requiring them to vacate the property in 28 days and made an order for damages to be assessed. In its 2017 decision, the Court of Appeal upheld the Supreme Court decision and dismissed the appeal. It noted that this did not finally dispose of the matter because there still remained the order for damages to be assessed. The Court therefore remitted the matter to the Supreme Court for the assessment of damages.
5. We understand that Erick evicted his sisters from the property, then sold the property for VT20 million, and that he is now holding the proceeds of sale pending the resolution of this proceeding.
6. For reasons which are not apparent to us, the matter did not come back before the Supreme Court until 2025, over eight years after the matter was remitted to the Supreme Court by the Court of Appeal.

Supreme Court Decision

7. In the decision under appeal (*Ake v Yakeula* [2025] VUSC 317), the primary Judge found that the only pleaded issue before him was the question of whether Dominique and Danielle were obliged to pay rent for their occupation of the property. He correctly rejected Erick's counsel's submission that

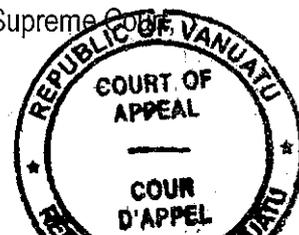


Danielle and Dominique could be liable to the estate in negligence and Erick's claim for amounts Erick had spent out of his own money on behalf of the estate (which, if proven, could be claimed from the estate itself).

8. Erick's claim for rent went from the time of the death of his mother in 1997, that is, he sought to have a retrospective imposition of a rent obligation prior to his own appointment as administrator on 24 October 2014. The primary Judge rejected that claim. He said there was no evidence of any agreement to pay rent whether verbal or written and although rent was demanded by letter in February 2015, Dominique and Danielle responded through their lawyer refusing to pay rent. Eventually this led to the eviction of Dominique and Danielle from the property. The primary Judge dismissed the claim for loss of rental in its entirety.

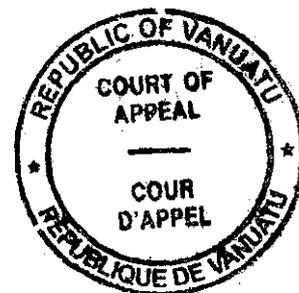
The Appeal

9. In this Court, Mr Yahwa sought to expand the scope of the appeal to include amounts paid by Erick to meet obligations of the estate and accusations that, during her time as administrator, Danielle had improperly benefited herself and Dominique. These are not matters that have any relevance to the question of whether Dominique and Danielle were obliged to pay rent for their occupation of the property, which is the only live issue in the proceeding.
10. In his written submissions in this Court, Mr Yahwa put Erick's claim for damages for loss of rent on two alternative bases.
11. The first invoked a market valuation of the fair rental value of the property undertaken at Erick's instigation in February 2015. This assessed a fair market rental of VT71,740 per month. He claimed the respondents should be liable for that monthly amount from "at least 24 October 2014 until the present or until they vacate the property". It is hard to understand how that claim could be sustained given the respondents vacated the property years ago and it has now been sold. Mr Yahwa did not tell us when the respondents vacated the property.
12. The second used as the monthly figure the sum of VT 40,000, being the amount of rent Erick demanded from Danielle and Dominique in his formal demand for rent back in 2015. He claimed they were liable for an amount equal to VT40,000 per month for the time they unlawfully occupied the property, which he said was from 1997. The total claim was VT8,640,000, which assumes there were 216 months (18 years) of occupation for which rent should be paid. Presumably this was the period from 1997 until 2015, but, if so, it means there is no claim for the period between 2015 and the date on which Danielle and Dominique ceased to occupy the property.
13. Mr Yahwa did not explain why the period for one claim began in 2014 and the period for the other began in 1997.
14. These two alternative bases for Erick's claim can be contrasted with his claim in the Supreme Court.



where a third basis for the claim was put forward in Mr Yahwa's written submission to that Court. The amount claimed in the Supreme Court was "Rental arrears of 70,000 Vatu per Month from February 2015 till December 2023 totalling 105 months and 30 days i.e.7,490,000 Vatu." (If this claim had been calculated on the basis of VT40,000 per month, it would have been about VT4,250,000). Again, it is unclear how the claim could have extended to 2023 when the Court of Appeal decision confirming the eviction order was delivered in April 2017 and the judgment records that Dominique had died before the Court of Appeal heard the appeal. And it also seems the claim morphed into a wider claim before the Supreme Court because it was dealt with in that court as a claim for the period commencing in 1997.

15. We agree with the primary Judge that there is no basis for Erick to claim, on behalf of the estate, rent for the period between 1997 and the date of his appointment as administrator. During that period Danielle as administrator allowed Dominique (and Danielle herself to some extent) to occupy the property on a rent-free basis. Thus, Dominique was entitled to occupy the property (i.e. she was not a trespasser) and had no obligation to pay rent for doing so. That disposes of the claim for rent in the period prior to the appointment of Erick as administrator.
16. Erick demanded payment of rent on 21 April 2015, but the lawyer for Dominique and Danielle responded on 22 April 2015 indicating that they did not agree to pay rent. It was after this that Erick commenced the eviction proceedings. Erick had demanded that Danielle and Dominique vacate the premises because of their refusal to pay rental. That occurred on 26 June 2015. As they refused to leave the property, Erick then commenced the eviction proceedings referred to above on 21 August 2015.
17. As Danielle and Dominique continued to occupy the property without paying rent in circumstances where they were told to vacate if rent was not to be paid, they became trespassers on the property and therefore liable for damages for trespass equivalent to the rental that would have been payable as demanded by Erick (namely VT40,000 per month) for the period commencing on the date on which they were told to vacate and ending on the date of their ultimate eviction. This was not the way Mr Yahwa articulated Erick's claim, but he did express the claim as a claim for damages equal to the rent that should have been paid and we are satisfied that the respondents were on notice of the substance of the claim. It is not clear to us when the eviction occurred. The 2017 Court of Appeal decision confirmed Erick's entitlement to evict (in his capacity as administrator of the estate) but we do not know when enforcement of that judgment occurred. Doing the best we can with the information before us, we consider the fair outcome is to award damages to the estate calculated on the basis of the rental that would have been charged from June 2015 until April 2017, when the 2017 Court of Appeal judgment confirming the eviction order was delivered. The damages are therefore an amount equal to rent of VT40,000 per month for 22 months, giving a total of VT880,000.



Result

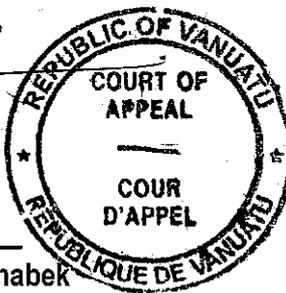
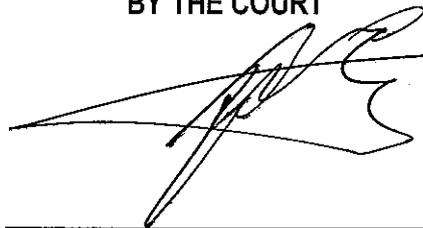
18. We allow the appeal in part. We award damages of VT880,000 to Erick as administrator of the estate. In all other respects, the appeal is dismissed.

Costs

19. The appeal was only partially successful and the main part of the claim, dating back to 1997, was rejected. As each party has therefore had some success, we make no award of costs.
20. The primary Judge did not address costs in the Supreme Court and we were asked to assess costs in that court as well. We consider the same position should apply: we make no award of costs in the Supreme Court either.

DATED at Port Vila, this 13th day of February 2026.

BY THE COURT



Honourable Chief Justice Vincent Lunabek