

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

Civil Case No. 20/2062 SC/CIVL

BETWEEN: APMA FINANCIAL INVESTMENT CENTRE  
Claimant

AND: MANSEN LEONG  
Defendant

**Date of Hearing :** 2<sup>nd</sup> December 2020  
**Date of Decision:** 17<sup>th</sup> December 2020  
**Before:** Justice Oliver.A.Saksak  
**In Attendance:** Mr Godden Avock for the Claimant  
No appearance for the Defendant

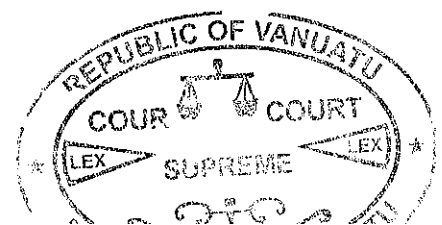
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JUDGMENT

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**Background Facts**

1. The claimant and the defendant (now deceased) entered into a loan agreement on 30<sup>th</sup> November 2016 whereby a loan of VT 10,620,000 was made to the defendant.
2. Interest at the rate of 30% was agreed and charged on the principal loan.
3. Repayments were to be fully made by 30<sup>th</sup> November 2021. There were to be 60 consecutive monthly instalments of VT 177,000.
4. A special arrangement was made by letter on 28<sup>th</sup> November 2016 that as at 9<sup>th</sup> December 2016 a partial payment of VT 620,000 would be made and that VT 500,000 would be made in the ensuing month.
5. A late payment fee of VT 1,000 was charged each month where payments were not made on the due dates.
6. The defendant put up security for the loan facility on leasehold title 03/0173/049 in a Third Party mortgage located at Side River Area, Luganville, Santo, and Guarantee Deposit of VT 4, 200,000.
7. The defendant made payments under the agreement but only up to 10<sup>th</sup> December 2018. He failed to make repayments in March 2018 through August 2018, October to November 2018 and January to February 2019.



8. The Loan has now been reduced to VT 9,209,000.
9. Lease Title 03/0173/049 was transferred on 4<sup>th</sup> March 2013 from Gerard Koroka to Siu Leong as the current proprietor. Siu Kuen is, I the surviving wife of the defendant.
10. The defendant is now deceased. He has no defence to this claim.

### **Discussion**

11. The Loan Agreement is duly signed by the defendant and duly witnessed. Security for the loan is clearly provided under the Loan Agreement.
12. The default clause in the Agreement states:  
*" if the borrower ( defendant) defaults in the performance of any obligations under this Agreement, the harder may declare the principal owing under this Agreement at the time to be immediately due and payable."*
13. There clearly has been defaults in repayments. But the problem goes further in that the defendant has passed away. However he provided security for the loan over Lease Title 03/0173/049.

### **Result**

14. It is now open to the claimant to call upon the security to settle the loan of the defendant.
15. I therefore enter judgment in favour of the claimant for the sum of VT 9, 209,000 together with interest at the reduced rate of 10% per annum from the date of filing of the claim to the date of payment. They could have filed their claim in May or June 2018 when defaults in payments were made in March 2018 but did not do so until almost 2 years later in November 2020.
16. I also award costs in favour of the claimant being standard costs of the proceeding to be recovered against the estate of the deceased.

**DATED at Port Vila this 17<sup>th</sup> day of December 2020**

**BY THE COURT**

  
**OLIVER.A.SAKSAK**  
Judge

