

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

**Civil**  
**Case No. 20/790 SC/CIVL**

**BETWEEN: Eddie Kalowia Taripoamata**  
Claimant

**AND: Chief Edwin Arthur Masewia & Chief  
Kalengoro Steel Masenawota**  
First Defendants

**AND: Republic of Vanuatu**  
Second Defendant

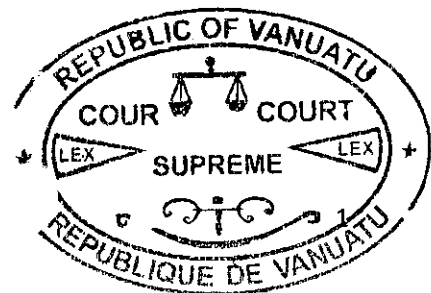
*Date of Hearing:* 1 November 2021  
*Before:* Justice V.M. Trief  
*In Attendance:* Claimant – Mr D. Yawha  
First Defendants – Ms J. La'au  
Second Defendant – Mr S. Aron

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**STRIKE-OUT ORDERS**

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1. The Amended Claim filed on 29 January 2021 is brought under s. 100 of the *Land Leases Act* [CAP. 163] (the 'Act') in relation to leasehold title no. 12/0314/004 between the First Defendants (lessors) and Oa Oa Limited (lessee) (the 'lease'). The following relief is sought:
  - b. *Alternatively, by substituting the Claimant or alternatively, the Minister of Lands, as lessor of the Leasehold Title.*
  - c. *Costs against the Defendants.*
  - d. *Any orders deemed fit or just by the Court.*



2. The Second Defendant filed a Strike-Out Application (the 'Application') and Sworn statements of Humphrey Tamata, Ily Fredy and Paul Gambetta, the Director of Lands. The Claimant filed the Sworn statement of Eddie Kalowia Taripoamata in response.
3. Mr Aron abandoned the ground of the Application in relation to abuse of process – he accepted that JRC 17/912 concerned a different lease.
4. The sole ground of the Application therefore is that the Claimant does not have standing to bring the claim as he is neither the lessor or lessee nor a declared custom owner: *Mataskelekele v Bakokoto* [2020] VUCA 31 at [26].
5. Mr Aron also cited the Chief Justice's decision in *Kalpoi v Kaltabang*; Civil Case No. 17/2053 at [12]-[14]:
  12. *This claim is misconceived. Section 100 of the Land Leases Act is only concerned with the leasehold interest on the basis of fraud or mistake, that is, the interest of the lessee. Section 100 of the Act is not concerned with the interest of a lessor.*
  13. *The decision or failure or refusal of the Third Defendant under attack or challenge was about the interest of the Claimant as lessor. The substance or interest in the leasehold "lease 229" is not affected in the register by the change of the name of the lessor by another lessor.*
  14. *Section 100 is not the appropriate or not correct venue or claim for the refusal for or failing to change the name of the lessor by another lessor. Judicial review type claim may be the appropriate action against the failure or refusal decision of the Director of Land Records to that effect.*
6. It is accepted that the registration of the lease is not challenged. The Claimant does not seek cancellation of the lease or any other relief that would affect the leasehold interest.
7. In the circumstances, I accept that the claim is misconceived and the Claimant's claim must be struck out. I so **order**.
8. It is open to the Claimant to seek a change of name of the lessor by the Director of Lands in exercise of his power under s. 99 of the Act or to pursue another course including judicial review.
9. The Claimant is to pay the Second Defendant's costs of this proceeding summarily fixed at VT100,000 and the First Defendants' costs summarily fixed at VT30,000 within 28 days.

**DATED at Port Vila this 3<sup>rd</sup> day of November 2021  
BY THE COURT**

  
 Justice V.M. Trief

