

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

Civil
Case No. 21/2673 CVL

BETWEEN: **The Palms Limited**
 Claimant

AND: **Smith Lauto**
 First Defendant
Dominick Kapalu
 Second Defendant

Date: 19 January 2022
Before: Justice G.A. Andrée Wiltens
Counsel: Mr D. Yawha for the Claimant
 Mr L. Malantugun for the First Defendant
 No appearance by of for the Second Defendant

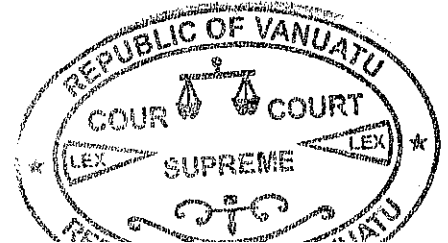
Judgment

A. Background

1. During Mr Yawha's opening it became obvious that the wrong Claimant was named. Mr Yawha sought to amend the Claimant to be Mr Cyrille Mainguy, not his company which was incorporated many years later than the events in question. Although Mr Malantugun opposed the amendment, he was unable to point to any prejudice to his client or his case. Accordingly, the name of the Claimant was amended.

B. Evidence in Support

2. Mr Mainguy and Mr Bernard Lauto were called for the Claimant. They were cross-examined, but to no great effect.



3. Their evidence was that Mr B. Lauto, as lessee, had sold 2 lots of land to Mr Mainguy, and had received payment in full. Proof of the contract and the receipts for all the payments were produced. This evidence was not challenged.
4. However, when Mr Mainguy attempted to register the transfer of ownership, Mr S. Lauto's consent was required as in the meantime he had taken over as lessor of the titles by Supreme Court order. Mr S. Lauto had declined to co-operate and accordingly this litigation was commenced.

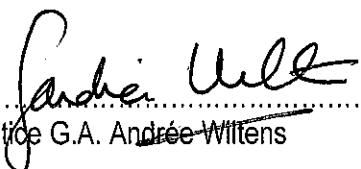
C. Contrary Evidence

5. Mr S. Lauto also gave evidence. In the course of that, he accepted that Mr Mainguy had entered into a valid contract to purchase the 2 lots of land; and that the full purchase price had been paid.
6. He agreed that in those circumstances it was fair that Mr Mainguy be the registered proprietor. He accepted further that he was now the appropriate person to execute the consent to the two transfers of ownership of the titles.
7. He agreed that he would sign such documents.

D. Result

8. Accordingly, by consent, I granted judgment in favour of Mr Mainguy and ordered Mr S. Lauto to sign Consent to Transfer Leasehold Title Nos 12/0912/533 and 12/0912/539 in favour of Mr Mainguy, when such are presented to him for that purpose.
9. It was agreed by counsel that costs should lie where they fall.

Dated at Port Vila this 19th day of January 2022
BY THE COURT


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Justice G.A. Andrée Wiltens

