

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

Civil
Case No. 20/2502 SC/CIVL

BETWEEN: Peter Orah and Families
Claimants

**AND: Valia Nuguna, Saling Pakoa,
Abel Marcellino, William Jimmy,
Henry Jimmy, Wilsen Jimmy,
Jack Maite Jimmy, Jojo Jimmy,
Willie Tanmanok Jimmy,
Rolland Jimmy**
Defendants

Date of Hearing: 16 March 2022
Before: Justice V.M. Trief
In Attendance: Claimants – Mr E. Molbaleh, by phone link
Defendants – no appearance (Mr F. Tasso)
Date of Decision: 16 March 2022

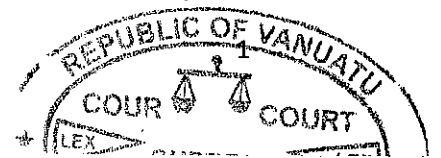
DECISION AS TO APPLICATION FOR SUMMARY JUDGMENT

A. Introduction

1. This is an Application for summary judgment on the basis that the Defendants have no prospect of defending the Claimants' trespass claim.
2. Despite the opportunity given, the Defendants have not filed any submissions in response.
3. I now determine the Application.

B. Background

4. The Claimants alleged in the Claim that they are the declared custom owners of Lamén Bay on the island of Epi. They alleged that the Defendants have trespassed onto Lumuwi land which is a parcel of land inside Lamén Bay area and sought their eviction.
5. The Defendants pleaded in their Defence that the Claimants are not the declared custom owner of Lamén Bay on Epi, that they do not have a green certificate to prove



their custom ownership, that Lumuwi land is not in the Lamen Bay area and deny that they are gardening or have settled at Lumuwi land. Further, that the Claimants have no standing as the Claimant Peter Orah was the spokesperson and representative of the people of Lamen Bay and the declaration was made in favour of the 4 nasara that he represented.

6. The Claimants have filed two sworn statements of Samuel Taritonga attaching a copy of the Certificate of Recorded Interest in Land (commonly known as a 'green certificate') dated 1 December 2021 for Valaque land at Lamen Bay on Epi being a recorded interest in land to Lamuwi, Lokalie, Lour and Uмба nasara of Epi island. Atis Joseph, Joel Mawa and Kalo Thomson Valia by their sworn statements confirmed on behalf of their nasara of Lamuwi, Uмба and Lour that they support the claim to evict the Defendants.
 7. The Certificate of Recorded Interest and the Epi Island Court judgment dated 17 October 2003 on which it is based make it clear that Lumuwi land is part of Valaque land at Lamen Bay, Epi. Peter Orah was the spokesman for the 4 nasara that were declared the custom owners of Valaque land.
 8. I note that the Certificate of Recorded Interest names Sanuel Taritonga and 9 others as the representatives of the 4 nasara custom owners. Peter Orah is not named in the Certificate of Recorded Interest as a representative. Although Atis Joseph, Joel Mawa and Kalo Thomson Valia evidenced their nasara's support for the Claim, they are not themselves representatives that are named on the Certificate of Recorded Interest. Accordingly, the issue of the Claimants' standing to bring this Claim remains a triable issue.
 9. Another triable issue is whether or not the Defendants are gardening or have settled at Lumuwi land.
 10. In the circumstances, I must decline to grant summary judgment.
- C. Result
11. The Application for Summary Judgment is declined and dismissed.
 12. There is no order as to the costs of the Application.
 13. This matter is listed for Conference **at 9am on 30 March 2022** including by phone or video link.

**DATED at Port Vila this 16th day of March 2022
BY THE COURT**


Justice Viran Molisa Trief

