

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

Enforcement
Case No. 20/2696 SC/CIVL

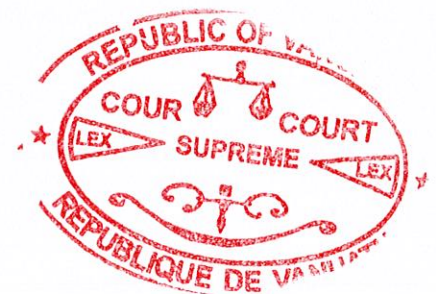
BETWEEN: Aaron Bongmial Hanghangkon
Applicant

AND: Hermon Hanghangkon
Respondent

Coram: *Justice Aru*
Counsel: *Applicant in person*
Mr. D. Yawha for the Respondent

JUDGMENT

1. This is an on-going family dispute between two brothers Aaron Bongmial Hanghangkon (the Applicant) and Hermon Hanghangkon (the Respondent) over leasehold property title No 11/0B22/067 (the lease) located at Namba 2 area.
2. The Property was originally registered in their father's name, late Aaron Hanghangkon. On 15 May 2013 a transfer of the Lease was registered in favour of Aaron Hanghangkon and Hermon Hanghangkon as registered proprietors.
3. On 14 January 2021 Aaron Hanghangkon died.
4. On 11 February 2021 the Lease was registered by transmission of lease to Hermon Hanghangkon as the sole proprietor.
5. The Deputy Master granted administration over the deceased estate to the Applicant by order dated 22 February 2023. When granting administration of the deceased estate to the Applicant the Deputy Master noted in her orders that "*..the Court is satisfied that there are assets other than the Nambatu property forming part of the estate of the deceased and which is under the duty of the Administrator to establish*".
6. The Namba 2 property the subject of this continuing dispute is not part of the estate of the deceased. As the Applicant continued to remain on the lease property at Namba 2, eviction proceedings were later filed (CC 1383 of 2020) to have the Applicant removed from the property. An enforcement warrant was issued on 23 June 2022 to the Sheriff and Police to remove the Applicant.



7. The Applicant applied to stay the enforcement but the application was dismissed on 3 February 2023. The Applicant was ordered to pay costs of VT 5000 within 7 days. Those costs have not been paid and that decision has not been appealed.

Second Application for stay of enforcement

8. This second application was filed on 9 May 2023 with a sworn statement of the Applicant in support. The Applicant was directed to serve Mr Yahwa and I heard the parties on the application on 7 June 2023.
9. Mr Yahwa informed the Court that the enforcement warrant has been executed and the Applicant was removed from the leasehold property at Namba 2 therefore there was nothing to be stayed. Upon enquiry with the Applicant, he confirmed that he has been evicted from the property pursuant to the enforcement warrant.

Result

10. On that basis the application for stay is futile as there is nothing to be stayed. Even if there was, there is no legal basis for a stay. The Applicant confirmed he has been removed from the property. The application is an abuse of process and must therefore be dismissed.
11. The respondent is entitled to costs in the sum of VT 30,000 to be paid within 21 days.

DATED at Port Vila this 9th day of June, 2023

BY THE COURT

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D. Aru
Judge

