

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

Civil
Case No. 22/3034 SC/CIVL

BETWEEN: Harry Tele Rambay trading as Rambay
& Associates
Claimant

AND: Chief David Alikau and Chief Kartakau
Mara'ata representing Tasiriki
Community of Tasiriki Village, Moso
Island
First Defendants

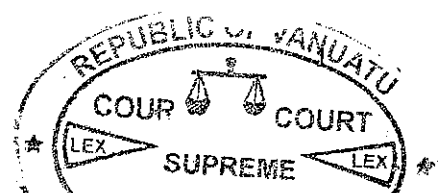
AND: Kami Kalsef representing Tasiriki
Council of Chiefs of Tasiriki Village,
Moso Island
Second Defendant

Date: 11 September 2023
Before: Justice V.M. Trief
Counsel: Claimant – Mr P. Fiuka
First Defendants – Mr N. Morrison
Second Defendant – Mr C. Leo

**DECISION AS TO CLAIMANT'S APPLICATION FOR SUMMARY JUDGMENT
AGAINST THE SECOND DEFENDANT**

A. Introduction

1. By the Claim, the Claimant Harry Tele Rambay trading as Rambay & Associates is suing the First Defendants Chief David Alikau and Chief Kartakau Mara'ata representing the Tasiriki Community of Tasiriki Village, Moso Island at North West Efate and the Second Defendant Kami Kalsef representing Tasiriki Council of Chiefs of the same village for refund of moneys paid on their behalf to Michael Leiper and Wendy Moss (the 'Purchasers') in respect of a failed land transaction over the sale and purchase of leases 12/0242/015 (lot 10) and 12/0244/016 (lot 11) located at Emotu subdivision on Moso Island.



2. This is the decision as to Mr Rambay's application for summary judgment against the Second Defendant.

B. The Application and Submissions

3. On 13 July 2023, Mr Rambay filed Application for Summary Judgment against the Second Defendant on the ground that his Defence has no prospects of success (the 'Application').
4. By Memorandum filed on 25 July 2023, Mr Morrison noted that the Application is made only against the Second Defendant. Further, he invited the Claimant to withdraw the Claim against the First Defendant as he submitted it is hopeless and misconceived.
5. Despite opportunity given, the Second Defendant has not filed any submissions in response.
6. On 4 September 2023, the Claimant filed submissions in reply. Mr Fiuka submitted that the Second Defendant's Defence filed on 27 March 2023 agreed with the whole of the Claim therefore summary judgment ought to be entered against the Second Defendant.

C. Consideration

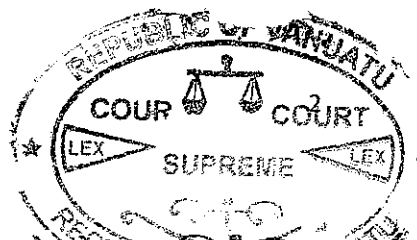
7. The Second Defendant's Defence is in the following terms:

DEFENCE OF THE SECOND DEFENDANT

1. *Admits paragraph 1 to 3 of the Claim.*
2. *Admits paragraph 4 to 10 of the Claim.*
3. *Admits paragraph 11 to 30 of the Claim.*
4. *Further to paragraph 1 to 3 above, I wish to say that I witnessed the Claimant handing over VT650,000 to Chief David Alikau, VT400,000 to Kalsef Marata and I received VT1,327,462 for the community and on behalf of the community from the Claimant.*
8. By that Defence, the Second Defendant agreed with the whole of the Claim. Accordingly, its defence has no prospects of success and the Application must be granted.

D. Result and Decision

9. The Claimant's Application for Summary Judgment against the Second Defendant filed on 13 July 2023 is **granted** and it is ordered that **judgment** is entered against the Second Defendant for an amount to be determined.



10. As previously ordered, this matter is listed for Pre-Trial Conference at 1pm on 19 September 2023.

DATED at Port Vila this 11th day of September 2023
BY THE COURT


Justice Viran Molisa Trief

