

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

Civil
Case No. 24/1886 SC/CIVL

BETWEEN: Robinet Vira

Claimant

AND: Tavui Ruja Virae & Pierrot Virae

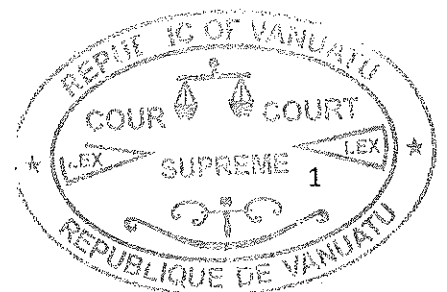
Defendants

Date of Hearing: 3 March 2025
Before: Justice V.M. Trief
In Attendance: Claimant – Mr R. Willie
Defendants – no appearance (in person)
Date of Decision: 6 March 2025

JUDGMENT

A. Introduction

1. The Claimant Robinet Vira filed the Claim on 20 June 2024 seeking a permanent restraining order against the Defendants Tavui Ruja Virae and Pierrot Virae in respect of the southern part of Visulepusa Plantation and the northern part of Lalovukaka, and damages and costs. The following filed sworn statements for the Claimant: Robinet Virae [**Exhibit C1**], Paulo Zebedee [**Exhibit C2**], Seteo Pierre [**Exhibit C3**], Aman Leo [**Exhibit C4**] and the Further sworn statement of Robinet Vira [**Exhibit C5**].
2. Despite the Claim being served on the Defendants as well as the Orders giving notice of today's hearing, no defences have been filed. No one appeared for the Defendants. Accordingly, this matter proceeded to formal proof of the Claim.



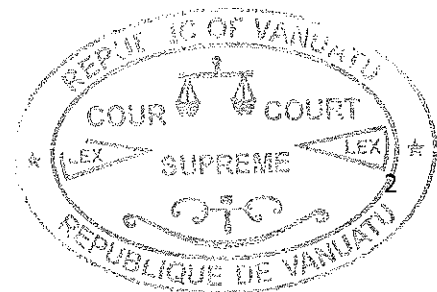
3. Mr Willie stated that the Defendant Tavui Ruja Virae passed away in November 2024 and that the Claimant would discontinue the Claim against him. No notice of discontinuance has been filed but I can proceed with judgment in any event.

B. The Claim

4. It is alleged that the Magistrates' Court in its decision dated 21 October 2011 in Civil Case No. 50 of 2010 stated that "*Visulepusa*" plantation belongs to Family Virae through "Vevahirihusi". Her only two sons were the Claimant's late father Palo Virae (deceased) and the Defendant Pierrot Virae. However, Pierrot Virae without the Claimant or the Claimant's father's consent in 2013, 2019 and 2020 allowed certain third parties to reside in the northern part of the Visulepusa plantation. Further, that on 21 May 2022, a round table meeting of the parties with the Police resulted in an agreement to divide the Visulepusa and the Lakovukaka plantations into Pierrot Virae having the northern part of the plantations and the Claimant and the Claimant's father having the southern part of the plantations. However, Pierrot Virae has breached the agreement by entering into an agreement with CCECC over part of the land in the southern part of the Visulepusa plantation and in April 2024, allowing a third party to live on the southern part of the Visulepusa plantation.

C. Consideration

5. It is not pleaded that the subject land is leasehold property. I assume therefore that it is custom land. Custom ownership has not been pleaded. However, the cause of action of trespass is, after all, not about ownership but about possession: Warput v Santo Veneers Ltd [2004] VUCA 18 at p. 3.
6. That said, the Claimant has not pleaded that he is in possession of the southern part of the Visulepusa and the Lakovukaka plantations. Instead, he has relied on the Magistrates' Court decision dated 21 October 2011 in Civil Case No. 50 of 2010 stated that "*Visulepusa*" plantation belongs to Family Virae through "Vevahirihusi" [**Exhibit C1**]. Alternatively, he relied on the oral agreement reached at the parties' round table meeting with the Police on 21 May 2022.
7. In relying on the Magistrates' Court decision, the Claimant's complaint seems to be that the Defendants have not complied with that decision. The redress for that is to seek enforcement in the he Magistrates' Court of its decision dated 21 October 2011. It is misconceived to file the present new proceedings in the Supreme Court.
8. As to the oral agreement reached at the round table meeting with the Police, the Court has insufficient information to conclude that the agreement is binding and enforceable between the parties.



9. For the foregoing reasons, there is no reasonable cause of action disclosed in the Claim and it must be dismissed.

D. Result and Decision

10. The Claim is dismissed.

11. Costs are to lie where they fall.

DATED at Luganville this 6th day of March 2025
BY THE COURT

VM Trief
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Justice Viran Molisa Trief

