

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

Civil Case No. 25/261 SC/CIVL

**Between: Willie Lava
Port Vila**

Claimant

**And: Saki Saksak
Port Vila**

Defendant

*Date of Decision: 27 August 2025
Before: Justice B. Kanas Joshua
Appearance: Mr Henzler Vira, for the claimant
No appearance for the defendant*

JUDGMENT

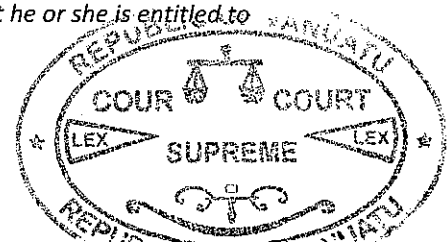
1. Mr Lava ("**the claimant**") bought a property¹ in 2021, with ideas to develop it. He could not pursue these ideas and enjoy the land as Mr Saksak ("**the defendant**") was already living on the property. Attempts were made to move the defendant out from the land but all were futile. The defendant continues to live on the land to the present day.
2. Despite being served directly, the defendant did not make any efforts to attend conferences nor attend trial. No response or defense was filed.
3. On the day of the trial, I applied Rule 12.9 of the Civil Procedure Rules.² The Rule provides for defendants who fail to attend court when trial starts. The court may adjourn the proceedings, or give judgment for the claimant, or ask the claimant to call evidence to establish that he is entitled to judgment against the defendant.³
4. There was only one witness and that was the claimant himself. He was called to give evidence.
5. The issue before the court is whether there is trespass.
6. When the claimant purchased the said land in 2021, the defendant was already living on the land. Trespass is an unlawful act committed against the person or someone's property; especially

¹ Title No. 11/0131/007.

² No. 49 of 2002.

³ Rule 12. 9, Civil Procedure Rules No. 49 of 2002:

- (1) *If a defendant does not attend when the trial starts:*
 - (a) *The court may adjourn the proceeding to a date it fixes; or*
 - (b) *The court may give judgment for the claimant; or*
 - (c) *The claimant, with permission of the court, may call evidence to establish that he or she is entitled to judgment against the defendant.*



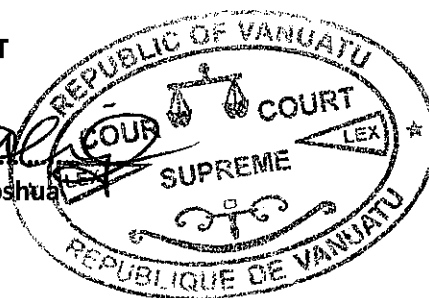
wrongful entry on another's real property.⁴ In the case of *Ifira Land Corporation Limited v. Pastor Job Charley & Ors*⁵, the court held that the claimant had evidence of legal entitlement to the land and that they are the registered lessee of the leasehold title. The defendants continued living on the land, despite being given eviction notices.

7. Similarly, in the current proceeding, evidence shows that the claimant is the registered lessee of leasehold title no. 11/0131/007. By continuing to live on it for 4 years up to the present day, the defendant has unlawfully entered the property. Trespass is established.
8. The claimant has proved their claim and is entitled to the relief sought.
9. Judgment is entered for the claimant and it is ordered that,
 - a. The defendant, and anyone else who are related to the defendant and/or are living with the defendant on the said land, must vacate the land title no. 11/0131/007 within 30 days;
 - b. General damages are to be assessed; and
 - c. The defendant is to pay costs to the claimant, to be agreed or taxed. This is to be paid within 28 days of service of this Judgment on the defendant.
10. In addition, pursuant to Rule 14.37(4) of the Civil Procedure Rules ("**the CPR**")⁶, I schedule an Enforcement conference at **8:30am on 1 December 2025** to ensure the judgment has been executed or for the defendant to explain how he intends to comply with this judgment. For that purpose, this judgment and a summons in Form 27 of the CPR must be personally served on the defendant, and proof of service filed.

Dated at Port Vila on this 27th day of August, 2025

BY THE COURT


Justice B. Kanas Joshua



⁴ Garner, Bryan A. (2014), *Black's Law Dictionary*, Tenth Edition, Thomson Reuters.

⁵ Civil Case No. 23/2193 SC/CIVL (18 October 2024).

⁶ No. 49 of 2002.