

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

**Civil**  
**Case No. 24/2537 SC/CIVL**

**BETWEEN:** Tari Vanua  
Claimant

**AND:** Valuer General's Office  
First Defendant

**AND:** The Republic of Vanuatu  
Second Defendant

**Before:** Justice Oliver A. Saksak

**Counsel:** Marisan P. Manuariki for the Claimant  
Lennon Huri for the Defendant

**Date of Hearing:** 1 October 2025  
**Date of Decision:** 3 December 2025

---

## **JUDGMENT**

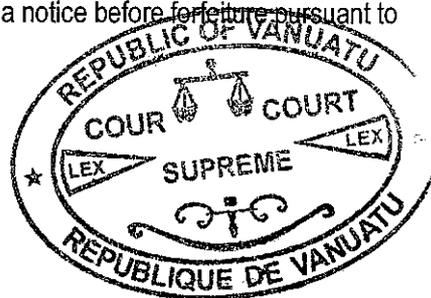
---

### **Introduction**

1. The Claimant challenges the forfeiture of his agricultural lease by the Minister of Lands as the lessor following the determination made by the Valuer General on 30 April 2019.
2. The Claimant alleges the Lessor had acted negligently and fraudulently.
3. He claims an order to declare the forfeiture as a nullity, and for damages.

### **Facts**

4. A rural agriculture lease No. 04/3422/002 (the Lease) was registered in the name of the claimant on 23 November 2000 for a period of 75 years.
5. On 22 January 2019 the Minister as lessor issued a notice before forfeiture pursuant to section 45 of the Land Leases Act [Cap.163].



6. On 27 February 2019 the Minister notified the Claimant through a letter that he had formally forfeited the Lease. On the same date the Minister sent a letter to the Valuer General to enforce and cancel the Lease.
7. On 16 April 2019 the Valuer General issued a notice of hearing in relation to Land Lease Forfeiture Case No. 4 of 2019.
8. On 30 April 2019 the Valuer General heard the parties and subsequently issued a determination on 3 May 2019.
9. On 17 June 2019 the Claimant's lawyer wrote to the Minister recording his grievances about the forfeiture and giving 14 days' notice to the Attorney General of his intention to institute legal action.
10. The following day, 18 June 2019 the Lands Department registered the forfeiture of the Lease.

### The Evidence

11. The Claimant relied on his oral and evidence by sworn statements dated 14 August 2025 (Exhibit C1), 13 June 2025 (Exhibit C2), 24 March 2025 (Exhibit C3) 24 April 2025 (Exhibit C4), and 16 April 2025 (Exhibit C5). He was cross-examined on these statements by Mr Huri.
12. The Defendant relied on the oral and sworn statement of Jimmy Sano dated 15 May 2025 (Exhibit D1). He was cross-examined by Ms Manuariki.

### The Issues

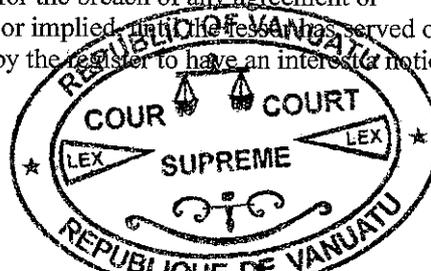
13. The issues are whether the defendants acted negligently and fraudulently in forfeiting the Claimant's Lease?

### Discussion

14. The duty of proof rests on the Claimant to show the Defendants were negligent and dishonest in the forfeiture process. The balance of proof required is on the balance of probabilities.
15. At the hearing Ms Manuariki informed the Court that the Claimant had abandoned his claim for damages but maintained only the relief to declare the forfeiture a nullity.

### The Law

16. Section 45 of the Land Leases Act states:  
 "Notwithstanding anything to the contrary contained in the lease, no lessor shall be entitled to exercise the right of forfeiture for the breach of any agreement or condition in the lease, whether expressed or implied, until the lessor has served on the lessee and every other person shown by the register to have an interest a notice



in writing which-

- (a) shall specify the particular breach complained of; and
- (b) if the breach is capable of remedy, shall require the lessee to remedy the breach within such reasonable period as is specified in the notice; and
- (c) in any case other than non-payment of rent may require the lessee to make compensation in money for the breach;

and the lessee has failed to remedy the breach within a reasonable time thereafter, if it is capable of remedy, and to make reasonable compensation in money if so required.”

17. Section 43 of the Land Lease Act states:

“(1) Subject to the provisions of section 45 and to any provision to the contrary in the lease, the lessor shall have the right to forfeit the lease if the lessee commits any breach of, or omits to perform any agreement or condition on his part expressed or implied in the lease.

(2) The right of forfeiture may be-

- (a) exercised, where neither the lessee nor any person claiming through or under him is in occupation of the land, by entering upon and remaining in possession of the land; or
- (b) enforced by a reference to the Referee.

(3) The right of forfeiture shall be taken to have been waived if-

- (a) the lessor accepts rent which has become due since the breach of the agreement or condition which entitled the lessor to forfeit the lease or has by any other positive act shown an intention to treat the lease as subsisting; and
- (b) the lessor is, or should by reasonable diligence have become, aware of the commission of the breach:

Provided that the acceptance of rent after the lessor has commenced a reference to the Referee under subsection (2) shall not operate as a waiver.”

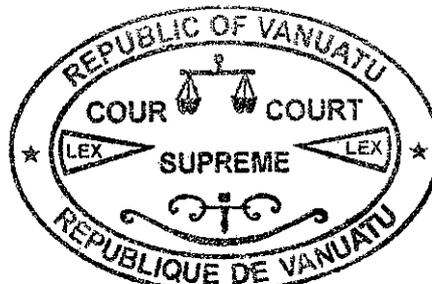
18. The Lease makes provisions for Agreement by the Lessee.

Clause 3 b provides:

“To pay rent

b) To promptly pay the rents hereby reserved or any new rent substituted therefore in accordance with the provisions of the Lease.”

1) “To repair buildings



To repair or replace as required, and keep in good repair all buildings together with all other constructions and fixtures in and upon the demised land or which during the tenancy may be erected or provided thereon.”

### Unpaid Rents

19. The evidence show that the claimant had unpaid rents accumulating from 1/07/2013 to 1/07/2018 in the sum of VT497,970. He was sent an invoice on Friday 22 February 2019. It appears from the evidence that the claimant paid off VT100,000 on 22 February 2019 reducing the amount down to VT377,970.
20. From receipts produced into evidence the claimant paid a further VT10,000 on 5 April 2019 and paid another VT10,000 on 8 May 2019. The balance of unpaid rents appears to be VT357,970. The claimant asserts in his sworn statement that the balance is VT284,975. He has not produced any documentary receipts to substantiate his figure.
21. It was the claimant's evidence also that he entered into an agreement with officers of the Lands Department dated 25 May 2018 to pay by instalments of VT10,000 every month. The agreement is annexed as "TV9" to Exhibit C2. It is signed by the claimant, by Gwen Wells as Enforcement Officer and by Rachel Poki as Secretary Typist.

22. The agreement states:

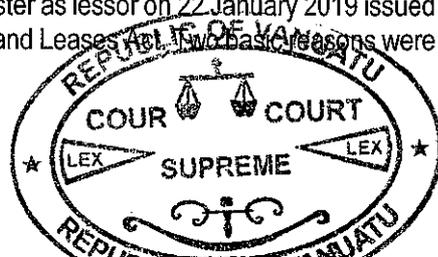
"RE" AGREEMENT FOR INSTALMENT PAYMENTS TOWARDS OUTSTANDING LAND RENT: TITLE 04/3422/002 – 7105245.

I, Tari Vanua who I am applying for Probate to make this agreement on his behalf with the Department of Lands to pay an instalment of VT10,000 every month towards my outstanding land rent for the following title 04/3422/002 commencing on 25 May 2018. If I fail to pay then the Department of Lands reserves the right to forfeit this lease. (My underlining for emphasis)

23. Neither Ms Wells nor Ms Poki gave evidence to rebut the claimant's evidence. Therefore, whether or not the Minister was made aware of the Agreement is not clear to me. But be that as it may, it is clear that the claimant did not pay any instalment on 25 May 2018. He made two payments of VT10,000 on 5 April 2019 and on 8 May 2019, well outside the periods he had agreed to pay instalments. And instalments were to have been made monthly. Unfortunately, the claimant failed his agreement.
24. The claimant's lawyer wrote to the Minister on 17 June 2019 and made reference to the agreement in paragraph 5 of the letter. However, the copy of the agreement was not attached with the letter for easy reference to assist the Minister.

### The Notice of Forfeiture

25. The Notice was accordingly issued by the Minister as lessor on 22 January 2019 issued in accordance with sections 45 and 43 of the Land Lease Act. Two basic reasons were



given, failure to pay yearly land rents as agreed, and failure to repair buildings and to replant trees and coconuts on the land.

26. The end of the Notice states:

“NOW THEREFORE TAKE NOTICE that I, ALFRED MAOH, Minister responsible for Lands as lessor, hereby require you to provide a written statement justifying the said breaches on or before 4.30pm of the 20<sup>th</sup> February 2019.” (Emphasis added)

27. The claimant responded by handwritten letter on 12 February 2019 making explanations and giving reasons. The last paragraph mentions the agreement for monthly instalments with a plea to the Minister to consider. Again, the copy of the agreement was not attached for easy reference.

28. The claimant wrote almost an identified letter to the Valuer General which he annexes as TV 5 to Exhibit C1. It is however undated.

29. One of the reasons given was the period of his sickness for 2 ½ years from 2012 – 2014. No medical reports or certificates were provided to substantiate or confirm the assertion.

30. Despite the letter and explanations given, the Minister as lessor forfeited the Lease and notify the claimant of same by letter dated 27 February 2019. The reason being that the claimant had failed to remedy the breaches within the period of time specified.

31. By the same letter the Minister advised the claimant of his right to seek relief under section 46 of the Land Leases Act.

32. The claimant wrote an undated letter to the Valuer General referred to in paragraph 28. It is not clear whether the claimant was exercising his right under section 46 of the Act.

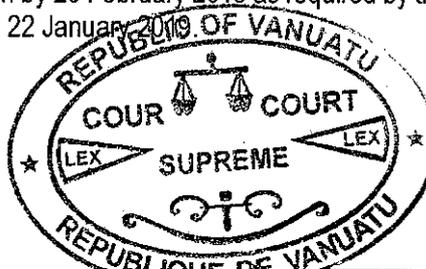
33. The Valuer General heard the parties on 30 April 2019 and issued a Determination on 3 May 2019. The Valuer General found amongst others, that the claimant had failed to settle rents from 2013 the balance of which was VT377,970 as at 30 April 2019. He concluded that:

“The Lease is forfeited.”

### Findings

34. Applying the law to the facts, I find as follows: -

- (a) The claimant failed his obligations to pay yearly rents from 2013 to 2018.
- (b) He failed to fulfill his obligations under the Lease.
- (c) He failed to fulfill his part of the agreement to pay monthly instalments from 25 May 2018 he had agreed to with Ms Gwen Wells on that date.
- (d) He failed to remedy the breach by 20 February 2019 as required by the Minister by the Notice of Forfeiture dated 22 January 2019.



- (e) The Minister as lessor of the Lease had correctly exercised his right of forfeiture under section 43 of the Act.
- (f) The Minister as lessor of the Lease had correctly issued a Notice of Forfeiture under section 45 of the Act.
- (g) The claimant had exercised his right under section 46 of the Act by writing to the Valuer General.
- (h) The Valuer General held a hearing on 30 April 2019 and made a lawful determination on 3 May 2019 confirming the failures to pay annual rents and enforcing the forfeiture of Lease 002.
- (i) The claimant has not demonstrated any negligence on the part of the Defendants. And neither has the claimant demonstrated any fraudulent acts by the Defendants.

### **Result**

- 35. The claimant is unsuccessful in his claims. They are dismissed with costs.
- 36. The Defendants are entitled to their costs of the proceeding on the standard basis as agreed or be taxed.

**DATED at Port Vila this 3<sup>rd</sup> day of December, 2025.**

**BY THE COURT**

Hon. Justice Oliver A. 

