



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

Civil
Case No. 21/3273 SC/CIVL

BETWEEN: FAMILY NALAU NIATNGEL, FAMILY
MOUKAIH, FAMILY HIWA APENG,
FAMILY NAUKA NIIMISA AND FAMILY
IALULU REPRESENTED BY STEVE DAN
Claimant

AND: TOM HIWA
First Defendant

AND: REPUBLIC OF VANUATU
Second Defendant

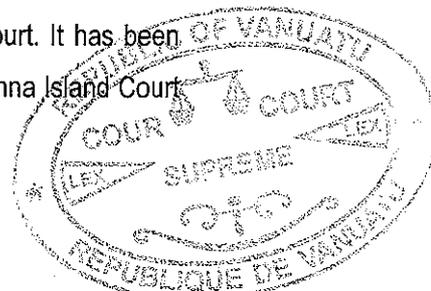
Before: *Justice Oliver.A.Saksak*

In Attendance: *Mrs Mary Grace Nari for the Claimants*
Mr Philip Fiuka for the First Defendant
Attorney General for the Second Defendant

Date of Hearing: *30th June 2025*
Date of Judgment: *10th February 2026*

RESERVED JUDGMENT

1. This is a claim made pursuant to section 100 of the Land Leases Act [Cap 163] challenging the First Defendant's lease title 14/2412/016 (Lease 016) on the basis of fraud and/or mistake.
2. This judgment is made on the papers after a trial hearing scheduled for 1st July 2025 did not proceed due to Mr Fiuka being unable to attend Court on that date.
3. The First Defendant filed a defence on 17th May 2022 denying the assertions made by the claimant. No counterclaim pleading limitation of time was made. And no new evidence was filed by him in response to the sworn statement of Sebastien Harry dated 4th August 2022.
4. The Second Defendant maintained its original position of neutrality and informed they would abide by orders of the Court.
5. This case has a history of its own. It has its genesis in the Tanna Island Court. It has been appealed to the Supreme Court once and referred back for rehearing. The Tanna Island Court



has made another decision which has again been appealed and the appeal is still pending a hearing and determination by Supreme Court.

6. As things stand, the claimants' positions as to custom ownership are unconfirmed. That means their standing as to ownership is still uncertain to entitle them to bring a claim for fraud and/or mistake under section 100 of the Land Leases Act.
7. The claimants had filed similar proceeding in respect to Lease 14/2412/015. The claimants filed a first proceeding in 2021 in CC 21/3273 claiming fraud or mistake. This case was dismissed because fraud or mistake was not established by the claimants.
8. The claimants have come back this third time. However their claim must fail. Firstly they are not the declared custom owners as yet to entitle them to bring a section 100 claim. Secondly, they have not identified their respective positions within the sketch plan of the First Defendant's lease 016. Thirdly the claimants have not identified where the two plots they assert the First Defendant allotted to the late Harry Iauko, then a Minister to influence him to grant Lease 016 in his favour. Unless and until they do that, the evidence of Sebastien Harry has no relevance and is of no assistance to the claimants.
9. The claimants are unsuccessful in their claims and it is dismissed.
10. The claimants have put the Defendants to unnecessary costs. I order that the claimants pay the First and Second Defendant's costs on the standard basis to be agreed or taxed by the Master.

DATED at Port Vila this 10th day of February 2026

BY THE COURT


Hon. Justice Oliver A Saksak

