

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

Civil
Case No. 25/3057 SC/CIVL

**BETWEEN: NATIONAL BANK OF VANUATU
LIMITED**
Claimant

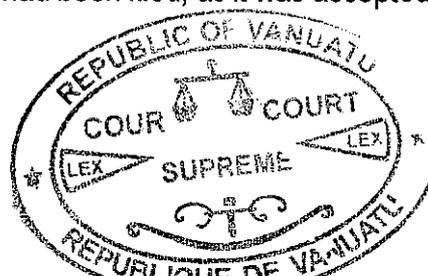
**AND: ARTHUR FAERUA & THE ESTATE
OF JEANETTE FAERUA**
Defendants

Date of Formal Proof Hearing: 24 February 2026
Before: Justice M A MacKenzie
Counsel: Mr C Hurley for the Claimant
Defendants – No appearance by Mr B Livo

DECISION

Introduction

1. The National Bank of Vanuatu Limited (“the National bank”) seeks an order under section 59 of the Land Leases Act for enforcement of a mortgage granted in their favour by the Defendants. The mortgage is currently in default.
2. The mortgage is secured over leasehold title 12/0633/254. The Defendants are the registered proprietor of that leasehold title.
3. The National bank asks the Court for an order that as mortgagee, the National bank be empowered to sell and transfer the property contained in leasehold title 12/0633/254, together with other ancillary orders to effect the sale of the property.
4. The Defendants have taken no steps to defend the claim. Mr Livo filed a notice of beginning to act and a response on 18 November 2025. At a conference on 29 January 2026, the Court recorded that no defence had been filed, as it was accepted that the mortgage is in default.



Procedural timeline

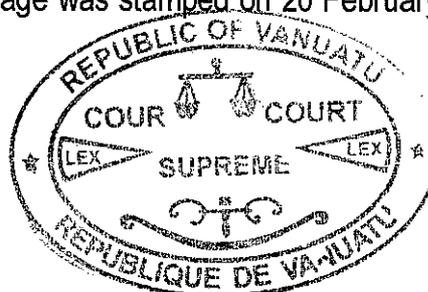
5. On 2 May 2025, the National bank issued a notice of demand for repayment of the balance owing under the mortgage, being VT 10,708,410, as the mortgage was in default. The notice of demand was personally served on Mr Faerua on 6 May 2025, as one of the Defendants and in his capacity as the executor of his late wife's estate.
6. The Defendants failed to comply with the notice of demand. A claim, together with a sworn statement, was then filed on 14 October 2025. It was served on the Defendants on 17 October 2025.
7. At a conference on 29 January 2026, I listed the claim for a formal proof hearing, as no defence had been filed. Mr Livo attended the conference.
8. There was no appearance of either Mr Livo, or Mr Faerua at the formal proof hearing. Mr Livo was contacted by telephone 3 times, without success. He subsequently advised my secretary that he was no longer acting for the Defendants and would be filing a notice of ceasing to act. He has not done so.

Should mortgagee sale orders be granted?

9. What must be established before judgment can be entered in a mortgagee power of sale action was confirmed in *Traverso v ANZ Bank (Vanuatu) Limited* [2013] VUCA 8. What must be established is:
 - i. that the Defendants granted a mortgage of their property to the National bank;
 - ii. that the mortgage is in default;
 - iii. that the notice of demand has been served on the mortgagors;
 - iv. that the notice of demand has not been complied with and the mortgage remains in default.

What does the evidence establish?

10. On 14 October 2025, Pheppie Serel filed a sworn statement in support of the claim. It addresses what needs to be established for mortgagee sale orders to be made.
11. The Defendants granted a mortgage of their leasehold title 12/0633/254 to the National bank in 2012. The mortgage secured borrowings of VT 8,238,000 pursuant to a loan offer dated 5 January 2012. The mortgage was stamped on 20 February 2012 and registered on 15 May 2012.



12. In 2020, the mortgage was varied due to increased borrowings, pursuant to a loan offer dated 1 July 2020. The amount secured under the mortgage was increased from VT 8,238,000 to VT 10,620,000. The variation of mortgage was stamped on 25 August 2020 and registered on 7 September 2020.
13. The loan fell into arrears, as detailed at paragraph 18 of Pheppie Serel's sworn statement. Therefore, the mortgage was in default. This resulted in the National bank issuing a notice of demand dated 2 May 2025 requiring repayment of all monies owing under the mortgage. As noted above, the notice of demand was served on the Defendants on 6 May 2025. The mortgage remains in default because as at 14 October 2025, the total due under the mortgage was VT 10,766,350. It has now risen to VT 11,573,649.
14. Given the matters I have just referred to, the National bank has established all the criteria to enter judgment in their favour, as set out in *Traverso v ANZ Bank*. Accordingly, judgment is entered in the Claimant's favour.

Result

15. Judgment is entered in favour of the Claimant, the National bank.
16. Orders are made pursuant to s 59 of the *Land Leases Act* [CAP 163] granting the mortgagee, the National bank, power of sale orders and related relief, as sought.
17. Mr Hurley has filed draft orders for sealing. Orders are made accordingly.

DATED at Port Vila this 24th day of February 2026
BY THE COURT

.....
Justice M A MacKenzie

