

BETWEEN: Pearly Garae
Claimant

AND: Ray Ala
Defendant

Date: 21 October 2021
Before: Justice G.A. Andrée Wiltens
Counsel: Ms C. Thyna for the Claimant (not present)
No appearance by or for the Defendant

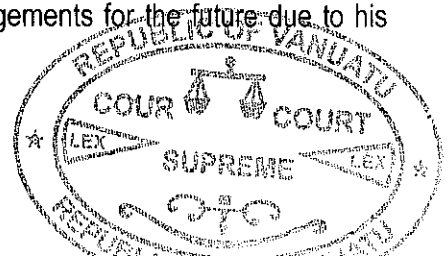
Judgment

A. Introduction

1. This is an application for custody, access and maintenance.
2. The Claim was filed on 8 July 2021. It was served on Mr Ala on the same day.
3. Mr Ala has taken no steps to defend the Claim.

B. Claim

4. Unfortunately, through no fault of her own, Ms Thyna was unavailable to attend the hearing today due to being unable to return from Tongoa. However, her client attended in person.
5. Ms Garae took the oath and confirmed that her sworn statement was all true and correct. She and Mr Ala have two children, Gregan and Jade, both of whom reside primarily with their mother, Ms Garae. She adverted to difficulties relating to the access arrangements she has attempted with Mr Ala and sought Court orders to regularise the arrangements for the future due to his



alleged cavalier and controlling attitude towards Ms Garae. She also related that Mr Ala is providing no financial support for his two children.

6. The Court could have further adjourned the matter, but as there were no steps taken by the defendant, it was preferable to proceed and deal with the application before the Court on the basis of the evidence provided. That would avoid further unnecessary delay.

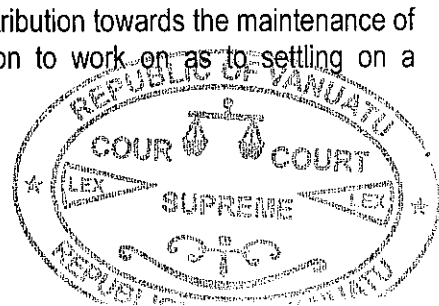
C. Result

7. It was plain from Ms Garae's sworn statement that Mr Ala is acting irresponsibly towards his former partner and their children. He has legal obligations arising from his actions.

8. There was no evidence to the contrary.

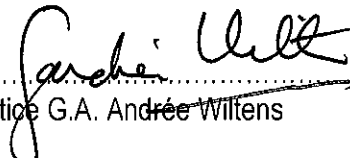
9. The applications are accordingly granted in the following terms:

- Ms Garae is given sole custody of Gregan Garae and Jade Garae;
- Mr Ala is permitted to have access to his two children, with the full agreement of Ms Garae, as follows:
 - Every second week, Mr Ala is permitted weekend access. Ms Garae will drop the children to Mr Ala at 6pm on Friday, and she will return to pick them up again at 6pm on the following Sunday. If Ms Garae is indisposed for any reason the drop offs/pick ups will be done by her mother Janet Garae or her brother Teddy Garae. This access will commence on 29 October 2021.
 - Every school holiday during the school year, Mr Ala is permitted access for a long week (9 days). Ms Garae will drop the children to Mr Ala at 6pm on the Friday the holiday commences, and she will return to pick them up again at 6pm on Sunday next. If Ms Garae is indisposed for any reason the drop offs/pick ups will be done by her mother Janet Garae or her brother Teddy Garae.
 - Over the Christmas holidays, Mr Ala is permitted access. The arrangements will alternate yearly. In the first such holiday at the end of 2021, Ms Garae will drop the children to Mr Ala at 6pm on the Friday the holiday commences, and she will return to pick them up again at 6pm on 26th December. In the next such holiday, Ms Garae will drop the children to Mr Ala on 26th December 2022 at 6pm and she will return to pick them up again at 6pm on 17 January 2023. If Ms Garae is indisposed for any reason the drop offs/pick ups will be done by her mother Janet Garae or her brother Teddy Garae.
- Mr Ala is to play his part in these arrangements by having the children ready to be returned to their mother at the appointed time. If there are difficulties encountered, over and beyond unexpected events, Mr Ala will be in jeopardy should Ms Garae seek to cancel these generous access arrangements,
- Mr Ala is to commence making a financial contribution towards the maintenance of the children. The Court has little information to work on as to settling on a



reasonable amount, save that the Court is aware the children attend school, Ms Garae works for the ANZ Bank and is not seeking maintenance for herself, Mr Ala has other commitments in the form of four children by other mothers to support and he is employed by Air Vanuatu Limited, albeit it in a limited capacity due to the difficulties airlines around the world are facing with Covid-19 and Mr Garae's eye injury also affecting his ability to work. However, a figure of VT 10,000 per month per child is a very conservative amount to impose. Mr Garae is to commence making such maintenance payments to Ms Garae as from 1 November 2021 and monthly thereafter until the children are aged 18 years of age.

Dated at Port Vila this 21st day of October 2021
BY THE COURT


Justice G.A. Andrée Wiltens

