

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

Civil
Case No. 21/1737 SC/Civil

BETWEEN: Family Kaukare
Claimant

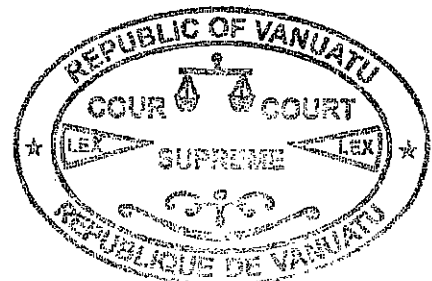
AND: Willie Lop and Family
Defendant

Date: 19 November 2021
Before: Justice G.A. Andrée Wilens
Counsel: Mr F. Loughman for the Claimant
Ms C. Thyna for the Defendant (absent)

Judgment

A. Background

1. This Claim for eviction from custom land known as Iamanou-Mene in south-west Tanna was filed on 31 May 2021. Ms C. Thyna filed a Notice of Commencing to Act on 2 June 2021, clearly evidencing service of the Claim on the Defendants.
2. A First Conference was scheduled for 22 July 2021. Ms Thyna did not appear, and had not filed anything further in the meantime. The Court directed that a Defence was to be filed and served by 5 August 2021; and a further conference was scheduled for 26 August 2021.
3. On 26 August 2021, at the second conference, again Ms Thyna did not appear. The Court directed that a Defence be filed and served by 17 September 2021, and if that was not done indicated that no further pleadings by the Defendants would be accepted after that date. A trial was scheduled for 23 November 2021.



4. On 1 October 2021, as no steps had been taken by Ms Thyna/the Defendants, a Minute was issued vacating the scheduled trial on 23 November 2021 and setting the matter down for formal proof at 8am on 19 November 2021.

B. Evidence

5. Mr Yawha confirmed the accuracy of his sworn statement which had been filed on 2 July 2021.

6. He asserts his family is the declared custom owner of this land as evidenced by a Green Certificate dated 21 May 2018.

7. He asserted further that a 3-months notice to quit the land was served on the Defendants on 21 February 2021, but confirmed the Defendants have not vacated the land.

8. The Defendants, according to Mr Yawha, are there without permission.

9. There is no opposition.

C. Result

10. I accept Mr Yawha's evidence completely. Accordingly, eviction is ordered within 28 days.

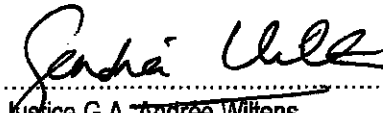
11. Mr Loughman is to draft the Orders for execution by the Court.

12. Mr Yawha withdrew the application for mesne profits. There is accordingly no order in relation to that aspect.

13. The Claimant is entitled to costs, which are set at VT 45,000. They are to be paid by the Defendants within 21 days.

Dated at Port Vila this 19th day of November 2021

BY THE COURT


Justice G.A. Andrée Wilfens

