

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

Civil
Case No. 24/3849 SC/Civil

BETWEEN: Christian Cranois
Claimant

AND: Jacob Garae and Family
First Defendant

AND Dorothy Nanua and Family
Second Defendant

AND: Marie Michael and Family
Third Defendant

Before: Justice Oliver A. Saksak

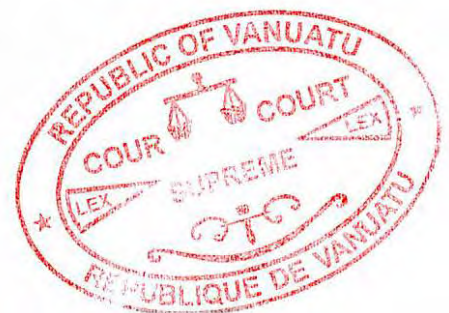
Counsel: Claimant in person- unrepresented
Eric Molbaleh for the Defendants

Date of Hearing: 20,21 and 25 March 2025 and 25 April 2025
Date of Judgment: 28th May 2025

JUDGMENT

Introduction

1. This is a claim seeking eviction orders against the defendants from Lease Title 12/0943/045 (The Lease) and for damages for:
 - a) Overstaying on the Lease at VT 15,000 from 31st October to 6 December 2024,
 - b) VT 15,000 per day from 7th December 2024 to date of eviction order,
 - c) VT 500,000 for stress and anxiety;
 - d) Interest, and
 - e) Costs of the proceeding.
2. The claimant filed his claims on 6th December 2024.



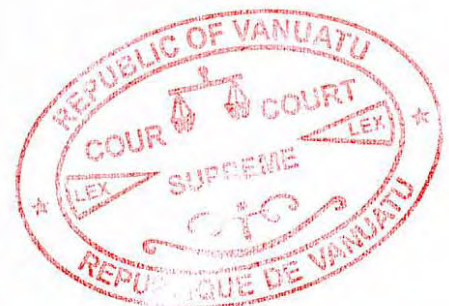
Defence

3. Mr Molbaleh filed a defence on 3rd March 2025 admitting paragraphs 1-4 but denying all the assertions pleaded in paragraphs 5 through to 14 inclusive. The defendants assert in their short defence of 3 paragraphs that they had authorisation from Mrs Collete Prats to reside on the Lease.

The Background Facts

4. The previous proprietor of the Lease was Colette Prats, who on October 2024 executed a Sale and Purchase Agreement with the Claimant. Lease 045 is located at Teouma, South Efate. The sale price was VT 7,000,000. Subsequent to the Agreement, the Claimant and Mrs Prats signed another agreement as to assignment of the squatters on Lease 045 on 25th and 28th February 2025.
5. Earlier, subsequent to the Sale and Purchase Agreement, the Claimant served a 10 days Notice to vacate Lease 045 on the defendant on 31st October 2024. The First and Second defendants did not vacate the Lease. However the Third Defendants did vacate the Lease.
6. On 7th November 2024 Mrs Prats donated a general power of attorney to Loic Bernier of Caillard & Kaddour Real Estate (C& K) in relation to the sale of interest in Lease 045.
7. Certification of the power of attorney was made by Mr Hernandez, a Notary Public on 5th November 2024 before the Mayor of Frejus, France, duly witnessed by Mr Cadeniel.
8. Stamp Duty was paid in the amount of VT 5,000 on 12 December 2024.
9. The power of attorney was registered at Port Vila on 17th February 2025.
10. On 18 February 2025 C&K issued a settlement statement in the total sum of VT 7,546,221 made up of:

a) Principal purchase price-	VT 7,000,000
b) Stamp Duty-	VT 140,000
c) Land Records Fees-	VT 350,000
d) Land Rent 2024-	VT 10,221



e) CK Fees- VT 46,000

11. On 24th February 2025 C & K issued a final settlement sale statement from the claimant to Tropical Properties in relation to the claimant's Lease Titles 12/0943/637 and 12/0943/038 situated at Narpow Point for the price of VT 50 million comprised as follows:-

a) Principal Price-	VT 50,000,000
b) C & K Commission of 4% -	VT 2,000,000
c) plus TVA Commission	VT 300,000
d) Consent Fee-	VT 6,900
e) Land Rents (2024)-	VT 24,214 and VT 21,395
f) Reimbursements Land Rents-	VT 10,880 and VT 9,613
g) Advance to Thomas-	VT 45,000
h) Advance to Claimant (C.Cranois)	VT 2,000,000
i) Discharge of Mortgage-	VT 7,500
j) Payment Payment to Ridgway/ Blake Lawyers-	VT 6,807,167
k) Payment of Loan to Bred Bank-	VT 28,321,717
l) Payment to Colette Prats (for Lease 045)	VT 7,546,221
M) Net Payment to Claimant, C.Cranois-	VT 2,940,379

12. On 25th February 2025 C & K issued a final settlement sale statement confirming that sale of Lease 045 had been completed as follows:-

a) Principal Sale price-	VT 7,000,000
b) Commission C & K-	VT 350,000 plus VT 52,500 (TVA Commission)
c) Consent Fee- Government-	VT 3,450
d) Land Rents (2024)-	VT 90,000
e) Registration of Power of Attorney-	VT 10,000
f) Commissioner of Oaths-	VT 5,175
g) Reimbursement for Land Rents (as Credit)-	VT 10,221
h) Net paid to Colette Prats-	VT 6,498,603
Total	VT 7010,221



13. On the same date, 25th February 2025 Loic Benier of C& K issued a Certificate of Land ownership confirming ownership to Christian Cranois, the claimant in relation to Lease 045.
14. On 18th March 2025 Colette Prats transferred Lease 045 to the claimant for a consideration of VT 7,000,000 before Mrs So'oletaua Motuliki of Geoffrey Gee & Partners, Solicitor-Barrister duly witnessed by Tom Bethuel as Commissioner for Oaths.
15. The transfer was duly registered at the Department of Land Records on 28th March 2025. An Advice of Registration of Dealing was issued by the Department of Land Records on the same date.

The Claims

16. Based on these facts, the claimant now asserts that he is the legal proprietor of Lease 045 and that the First and Second Defendants are trespassers and squatters on his Lease as from 31st October 2024 or 7 December 2024, and that he is entitled to have the defendants evicted from his lease, and that they should pay damages for overstaying on his lease.

The Evidence

17. At trial the claimant relied on the oral evidence of Thomas Masson and his sworn statement dated 10 March 2025 (Exhibit C1). The claimant himself gave evidence and tendered his sworn statements dated 10 December 2024 (Exhibit C2), 3rd March 2025 (Exhibit C5) and of 10 March 2025 (Exhibit C6) by Eric Laroche.
18. The defendants gave oral and documentary evidence by Jacob Garae and tendered his sworn statements dated 10 December 2024 (Exhibit D1) and 28 February 2025 (Exhibit D2). Dorothy Nanua gave oral and documentary evidence by her sworn statement dated 10 December 2024 (Exhibit D3) and 24 February 2025 (Exhibit D4). Ben Nanua gave oral and documentary evidence by sworn statements dated 24 February 2025 (Exhibit D5), 12 March 2025 (Exhibit D6 and 28 February 2025 (Exhibit D7).



Claimant's Application to re-open the case for further evidence

19. At the close of the evidence for both the claimant and the defendants and during the period allowed to the claimant to file written and closing submissions, the claimant filed an application on 3rd April 2025 seeking an order to reopen the case. The purpose was for the claimant to present further evidence in relation to the transfer and registration of Lease 045.
20. The application was filed pursuant to Rule 12.10 of the Civil Procedure Rules which states:
- "Re-opening a proceeding 12.10***
The court may by order allow a party to re-open a proceeding after trial but before judgment if the court is satisfied that it is necessary to do so in order for substantial justice to be done."
21. The Claimant filed two sworn statements in support of his application dated 2 April 2025 and 25th April 2025.
22. The application was first heard on 25th April 2025 where after hearing the claimant and Mr Molbaleh, the claimant opted to withdraw the application. Mr Molbaleh sought costs at VT 250,000 which the Court allowed.
23. However at a further hearing held on 2nd May 2025 after the claimant had presumably sought some legal advice, he retrieved his decision of 2nd April and applied to the Court for orders to proceed on with his claim to give judgment, and considering his request to re-open the proceeding to allow additional evidence, which he did not have at the time of trial.
24. Mr Molbaleh was heard in opposition to the application. However I allowed the application and granted the orders sought, and vacating the orders of 2nd April 2025. I was satisfied that it was necessary to re-open the proceeding and allow further evidence to be produced by the claimant in order to do substantial justice to the case.
25. Having done so, the two further sworn statements of the claimant filed in support of his application together with their annexures dated 2nd April and 25th April 2025 were allowed into evidence to be part of the claimant's evidence in support of his claims.



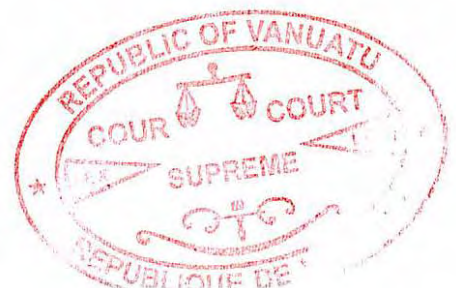
26. The documents annexed to the sworn statement of the claimant dated 2nd April 2025 are a copy of the transfer of Lease 045 from Collette Prats to Christian Cranois, the claimant (Annexure “ CC-ARO-01”) duly executed before a Commissioner of Oaths and witnessed by Barrister and Solicitor of Geoffrey Gee & Partners dated 18th March 2025 and duly registered by the Director of Land Records on 28 March 2025. This includes the Advice of Registration which confirms the transfer.
27. The documents annexed to the second sworn statement dated 25th April 2025 are Annexure “ CC – 2nd ARO” which is Advice of Registration of a Dealing in relation to Lease 045 registered in favour of Colette Prats giving a power of attorney to Loic Bernier on 7th November 2024 duly registered in the Department of Lands on 17th February 2025. This annexure includes a Certificate of Verification dated 5th November 2024 before a Notary Public.
28. Those documents are public documents therefore there was no need for any further hearing before they could be admitted as part of the evidence in support of the claimant's claims.

The Issues

29. From the pleadings and evidence, I deduce that the issues for determination are:
- a) Is the claimant the registered proprietor of Lease 045?
 - b) Is he entitled to an eviction order against the First and Second Defendants?
 - c) Is he entitled to damages against the defendants?
 - d) Do they have any monetary claims or otherwise against the claimant?
 - e) Do they have any authorisation by the claimant and/or Collette Prats to live on the land comprised in Lease 045?
 - f) Are they trespassers and squatters?

Submissions

30. The claimant filed written submissions of 32 pages after trial on 28 March 2025. He later filed written submissions on 28 April 2025 in support of his application for an order to re-open the proceeding of 5 pages.



31. In summary the claimant argued and submitted that on the balance of probabilities he has shown by credible evidence that he is now the registered proprietor of Lease 045 and that he is entitled to an eviction order. Against the assertions made by the defendants, they have no claims against him or against Collette Prats in the absence of any evidence showing they had permission or authority given by Colette Prats to remain on the property. Further he argued that having overstayed beyond the period given in the notice to vacate, that he is entitled to damages against the defendants as claimed. He further submitted the evidence by the defendants was not reliable and were inconsistent.
32. The claimant relied on section 15 of the Land Leases Act [Cap 163] and on the case law of Manaon v Pakoa [2018] VUCA 5 to support his asserted rights as a proprietor under section 15 of the Act because he had purchased the Lease for a valuation consideration of VT 7,000,000.
33. The claimant also made references to Solomon v Turquoise Ltd CC 163/2006 and 29/2007 and William v William [2004]VUSC 129 in relation to burden of proof a lease is challenged on the basis of fraud and mistake or that rights under section 17 (g) of the Land Leases Act subsist. These two cases are however irrelevant and not worthy of application simply because the defendants in their very short defence, did not plead fraud and/or mistake and they did not plead any section 17 (g) rights.
34. Mr Molebleh filed written submissions after trial on 24 March 2025 containing 7 pages attaching a copy of CC 163/2006 Solomon v Turquoise Ltd [2008] VUSC 64 to submit that the claimant had not discharged the onus of proof that was on him on the balance of probabilities that Lease 045 was registered in his name, that Colette Prats had been paid VT 7,000,000 for Lease 045, that the sale of Lease 045 was done without Collette Prat's consent and that there were irregularities in the documents purported to be agreements executed by Colette Prats and the claimant, including the power of attorney and the lease transfer. Finally it was submitted that the claimant had no standing to bring this proceeding against the defendants.
35. Mr Molbaleh filed a reply to the claimant's written submissions after trial on 7th April 2025 maintaining their earlier submissions, and opposing the claimant's application to reopen the proceeding to introduce further evidence.



Discussion

36. In order for the claimant to succeed in his claims, he had to show by relevant and admissible evidence on the balance of probabilities that-

- a) He purchased Lease 045 as a bona fide purchaser with valuable consideration.
- b) There was a transfer of the Lease duly executed and witnessed by an authorised person as defined in the Act.
- c) The transfer of Lease 045 has been duly registered and entered in the records at the Lands Record Registry.
- d) The defendants are residing on the Lease without authority from the previous proprietor, Colette Prats.
- e) The claimant served a notice on the defendant to vacate the land and that they have failed to do so.

37. From the overwhelming evidence produced by the claimant and his witnesses, I am satisfied on the required standard of proof that-

- a) The claimant purchased as a bonafide purchaser of Lease 045 for valuable consideration of VT 7,000,000. See the evidence of the claimant by sworn statement dated 3rd March 2025, Exhibit C5. That evidence was confirmed and corroborated by the evidence of Thomas Masson in the sworn statement dated 10 March 2025, Exhibit C1.
- b) That Lease 045 was duly transferred from Colette Prats to the claimant. See Annexure "TST-0S1 to Exhibit C5. The sale of Lease 045 was duly made pursuant to the lawful Power of Attorney given by Colette Prats to Loic Bernier of C & K Real Estate Ltd duly executed in accordance with sections 77, 78, 79, 80, 82 and 83 of the Land Leases Act. See Annexure "CC-2-01" to the claimant's sworn statement dated 10 December 2024, Exhibit C2.
- c) That Lease 045 was duly executed under a Power of Attorney given by Colette Prats to the claimant on 17 January 2025 to do all things necessary in relation to the Lease, including taking eviction proceedings or action against squatters and their families unlawfully



occupying the Lease. See Annexure CC- "UIA-01" to the sworn statement dated 28 January 2025, Exhibit C3.

- d) Further to the Power of Attorney dated 17 January 2025 the claimant and Collete Prats executed an Agreement as to assignment of squatters on Lease 045 dated 25 February 2025. See Annexure "TST-04" to the sworn statement dated Exhibit C5.
 - e) The Agreement dated 25 February 2025 was taken to Collette Prats and presented personally for her signature by Eric Laroche who deposed to his sworn statement dated 10 March 2025, Exhibit C6, Annexure "EL-O1".
 - f) Lease 045 has been duly registered in the Land Records Office on 28 March 2025 and duly entered in the Register. See Annexure "CC-ARO-01" to the further sworn statement of the claimant dated 2nd April 2025 filed in support of his application for an order to re-open the proceeding after trial.
38. Having made those findings from the evidence of the claimant and his witnesses who were reliable and credible witnesses, I answer the issues-
- a) Is the claimant the registered proprietor of Lease 045? The answer is "Yes".
 - b) Is he entitled to an eviction order against the First and Second Defendants? The answer is "Yes".
39. The third Issue: Is the claimant entitled to damages for loss, overstaying and anxiety?
40. The claimant asserts that the defendants were served a 10 days notice letter on 31st October 2024 to vacate Lease 045. I find no formal evidence of any proper notice to quit or vacate, issued to the First and Second Defendants. The letter referred to can be seen in the sworn statement of Sherwin Ngwele dated 6th December 2024. That statement is not evidence before this Court. Even if it was, it falls short of being a proper notice to vacate the Lease. It is not specifically addressed or issued to the First and Second Defendants as it should have. It is a letter not a Notice to Quit. It is not evidence in support of the claimant's claims for damages, loss or anxiety.
41. Further, in October 2024 Lease 045 was not yet purchased by the claimant and or transferred into his name as the registered proprietor.



42. Any proper Notice to Quit should and could only have been issued after 25th February 2025 or 18 March 2025 and not earlier. No such notice was issued.
43. Further, there was no medical evidence produced by the claimant showing proof of anxiety and mental stress.
44. For those reasons, I answer the issue of whether the claimant is entitled to damages as "No". That part of the claimant's claim is therefore dismissed.
45. I now turn to the issues in relation to the Defendants. First it was clear from the evidence that the Third Defendants Marie Micheal and Family have vacated Lease 045 and therefore they are hereby removed from the proceeding. That leaves only Jacob Garae & Family as First Defendants and Dorothy Nanua & Family as Second Defendants.
46. The fourth issue is whether the First and Second Defendants have any monetary claims against the claimant? The obvious answer is "No". In their evidence they conceded they have no claim against the claimant. Their claim appears to be against Colette Prats who is not a party to this proceeding. That evidence is inconsistent with the evidence by sworn statement of Jacob Garae dated 10 December 2024 made in support of the defence and counter-claim.
47. First, the defence filed on 3rd March 2025 is a bare defence without any counter-claim. It is a very short defence of 3 paragraphs. It does not plead any previous employment of Mr Garae by the claimant. It does not plead non-payments of severance, VNPF contributions or any monthly salaries. The same can be said of the sworn statements of Dorothy Nanua, Exhibit D3 and of Ben Nanua, Exhibit D5. These are evidence without proper pleadings and which is highly improper to do. Furthermore Mr Garae's claims relate to severance for the years 2009 to 2011 which in my view may be time-barred. However this is not an issue I should be concerned with in this proceeding.
48. I find therefore that the defendants have no monetary claims against the claimant.




49. Fifthly, whether the defendants have any authorisation from the claimant or Collette Prats to remain in occupation of Lease 045? The Defendants asserted in the defence filed that they had an oral agreement. As they asserted, the onus is on them to prove on the balance of probabilities.
50. Collette Prats was and is not a party to this proceedings, therefore this claim is misconceived and without any basis. It cannot be determined by the Court at this point.
51. The sixth and final issue is whether the First and Second Defendants are trespassers and squatters on Lease 045? The obvious answer is "yes". The Power of Attorney granted to the claimant on 17 January 2025 and the Agreement dated 25th February 2025 are documents between Colette Prats and the claimant recording their stance on the continued occupation of Lease 045 by the First and Second Defendants who according to them, are illegal occupants. As at 17 January 2025 or 25 January 2025 the First and Second Defendant are trespassers and squatters on the Lease.

The Result

52. The claimant is therefore successful in his claim but only in part. His claim in relation to an order for eviction is allowed. And his claims in relation to damages are declined and dismissed.
53. The formal orders are-
- a) The First and Second Defendants, by themselves, their family members and relatives be hereby required to remove themselves and all their personal belongings and possessions from Lease 045 within a period of 14 days from the date hereof, on or before 11 June 2025.
 - b) An enforcement warrant will be issued on 11 June 2025 for the removal of any defendants who do not comply with the order in (a) above)
 - c) In the circumstances of this case, there will be no orders as to costs. Each party will bear their own costs.

**DATED at Port Vila this 28th day of May 2025
BY THE COURT**


Hon. Oliver A Saksak
Judge

