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

CIVIL CASE No.23 OF 2009

BETWEEN:

ANZ BANK (VANUATU) LIMITED

Claimant

AND:

JEAN PAUL VIRELALA

First Defendant

AND:

RANCH DE LA FALAISE LIMITED

Second Defendant

Mr Mark Hurley for the Claimant Mr George Boar for the Defendant

JUDGMENT

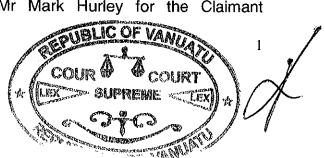
This is an application by the First and Second Defendants to suspend orders of the Court made on July 2009 and July 2010.

On 16th July 20009 and 2 July 2010, the Supreme Court issued Orders, among other matters, empowering the Claimant Bank (Mortgagee) to sell and transfer the Leasehold properties contained and described in Title numbers 11/OH22/059, 11/OH22/060, 11/OG31/001, 12/0643/009, 12/0643/001, 03/0103/004. Three of the leasehold title properties referred to above are sold and three are still unsold.

The first and second Defendants apply for orders to suspend the Court Orders made by the Supreme Court on 16 July 2009 and 2 July 2010.

The Applicants advance as the basis of their application the fact that they file civil proceedings in the Supreme Court and if they are successful, they could repay the loans and interests they owe to the Claimant Bank and for this to happen, the execution of the orders made in July 2009 and 2010 must be suspended.

I hear submissions from Mr Boar on behalf of the First and Second Defendants/Applicants and submissions from Mr Mark Hurley for the Claimant



Bank/Respondent. There is power to stay the enforcement of the Judgment. However, the applicants fail to show the circumstances upon which a stay order could have been made. The application is made on the basis of hope and expectation of success in the civil claims filed by the First and Second Defendants which are now pending before the Supreme Court but they are unrelated to the present case (CC 23 of 2009).

The application is grounded on uncertainty. It lacks legal merit. It is so dismissed. The Court makes the following Orders:

<u>ORDER</u>

- The Application to suspend Orders issued in Civil Case No.23 of 2009 filed on 23 July 2010, is dismissed.
- 2. The Respondent ANZ Bank (Bank) Limited is entitled to her costs to be agreed or determined by the Court.

DATED at Port-Vila this 26th day of July 2010

BY THE COURT

COURSUPREME

Vincent LUNABER

Chief Justice