

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

Civil Case No. 02 of 2011

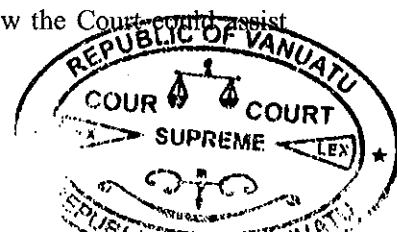
BETWEEN: FAMILY SIL JOHNNY & OTHERS
Claimants

AND: FAMILY ANDRE SAVOIRE AND OTHERS
Defendants

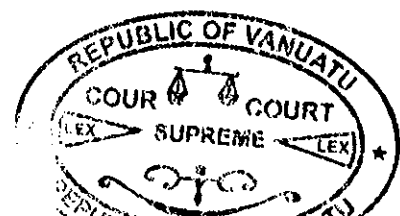
Hearing: 11 August 2011 at Lakatoro
Before: Justice R. L. B. SPEAR
Appearance: Mr T J Botleng for the Claimants

JUDGMENT OF THE COURT
(11 AUGUST 2011)

1. This was the hearing of an Urgent Application for Restraining Orders to issue against the defendants. It was filed today at 4 pm in Lakatoro. It was simply a matter of chance that the Supreme Court was sitting at Lakatoro this week.
2. The application is for a restraining order against the family of Andre Savoire of *Rensaire Plantation* in South East Malekula and one Serge Theuil of *Robaco Plantation* South East Malekula.
3. As it happens, I have some familiarity with the background to the dispute that has arisen because of another Malekula proceeding with which I have been dealing in Port Vila. That other proceeding relates to a claim by Serge Theuil's father against the Claimants Sil Johnny and Adriano Mulonturala, together with others, and which proceeding which is reasonably long standing. Judgment was obtained by Mr Theuil Senior last year and which comprised orders requiring the Claimants and other families to quit his land; the *Robaco Plantation*. The orders were not complied with and warrants for arrest were issued by way of enforcement action on the grounds that there had been non compliance with the eviction orders and a failure to attend enforcement conferences. That proceeding had been waiting for Mr Theuil Senior's lawyer, Mr Stephen Joel, to confirm to the Court who, of the various enforcement debtors in that proceeding, were still trespassing on *Robaco Plantation* and thus how the Court could assist with the enforcement of the judgment.



4. This application for a Restraining Order has arisen because of what has alleged to have occurred yesterday following the untimely death of Mr Theuil Senior. Mr Botleng informs me that there is a belief, espoused by the defendants or some of them, that Mr Theuil Senior's death is as a result of sorcery. In any event, feelings are apparently running very high against the Claimants.
5. The application has been prepared on an urgent basis and there has not been time for it to be supported by sworn statements. However, a large number of people belonging to the First and Second Claimant's families are present in Court and Mr Botleng offered them as being available to give evidence. There simply has not been time to take evidence given that the urgent application was not reached until after 5 pm, darkness of night has now well and truly arrived in this remote and isolated outpost of civilization, and arrangements will have to be made for service of any orders issued. Additionally, the Claimants and their families need to know where they can safely stay tonight.
6. The allegations made against the Defendants in the application for a restraining order are serious in the extreme. They include shots being fired at some of the Claimants and threats to continue violent actions against them tonight. The Police are informed and I understand that Andre Savoire and Jean Claude Savoire are currently in custody here in Lakatoro although they are likely to be released tonight.
7. I am informed by Mr Botleng that the actions of the Defendants have left the Claimants and their families fearful for their lives. Mr Botleng has obtained confirmed from the Claimants that they have completely quit the *Robaco Plantation* and so there is no ongoing trespass issue, just matters of historical concern.
8. I invited Sgt. Kilman together with another police constable who happened to be close by to become involved in this urgent hearing particularly so that I could understand what steps have or might be taken by the Police. Further assistance has been provided by Mr Blessing of the Public Prosecutor's Office particularly to ensure that there was an easy language exchange. I remain grateful to them for their assistance.
9. The Police officers confirm that Andre Savoire and Jean Claude Savoire of the First Defendant (Family Andre Savoire) are currently in custody at Lakatoro as a result of the complaints made by the Claimants in respect of the matters specified in the application for the restraining order.



However, it does not appear as if charges will be laid against them and it is likely that they will soon be released.

10. Mr Botleng has consulted his clients and indicates that they seek what reassurance a restraining order might provide against the following: Andre Savoire; Jean Claude Savoire; Serge Theuil; and, Paul Sheelan - all of whom can be considered care of either *Rensaire Plantation* or *Robaco Plantation* in South East Malekula.
11. In all the circumstances, and appreciating the urgency and the deep feeling that is obviously present at the moment, I am prepared to make the orders sought on the basis that they will be reviewed at 12 midday tomorrow, 12 August 2011. Those 4 individuals, in respect of whom the orders are now made, are required to be present at Court.
12. This decision to issue restraining orders has had to be made on a most urgent basis and without the luxury of time for further inquiry or for reflection but to address what appears to be a potentially explosive situation. What comfort might be gained from such restraining order remains moot. However, at least Andre Savoire and Jean Claude Savoire will be served with the restraining orders tonight if, indeed, they are released tonight then they may be able to convey the Court's concerns to Serge Theuil and Paul Sheelan.
13. Mr Botleng will prepare orders in line with this decision which I will remain at court to sign so that they can be issued tonight.

BY THE COURT

