

**BETWEEN:** Port Vila Municipality  
Claimant

**AND:** Sandy Pakatoa  
Defendant

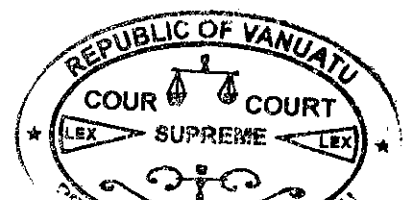
*Date:* Wednesday, 16 May 2018  
*By:* Justice G.A. Andrée Wiltens  
*Counsel:* Mr L Napuati for the Claimant  
No counsel for the Defendant

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**Judgment**

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1. The Statement of Claim and accompanying sworn statement of H Kaltapu were served by Mr Napuati on 20 March 2018. He went to the property in question and explained in detail the Claim and sworn statement to Mr Pakoa's son Charley Pakoa; so that Charley Pakoa could pass on the information to the defendant. It was done in this manner, with Charley Pakoa's co-operation, due to the defendant's elderly age and his failing health. Both documents were left with the son to pass on to the defendant.
2. Although this does not equate to personal service, as required by Rule 5.8, I am satisfied that what was done achieved the purpose of putting the defendant on notice – it was effective service. I say this as there is a further sworn statement by H Kaltapu wherein he advises the defendant and his immediate family, having been made aware of this action, agreed to vacate the land in three months. Mr Kaltapu went to the property on 9 April 2018 to confirm that agreement and to settle the matter amicably, and he was then told the family had changed their minds. Mr Kaltapu advises that the claim was fully understood



3. At no time has the defendant taken any steps to defend this action.
4. An application for Judgment by Default was filed on 18 April 2018. It was served that day on Ms Angela Pakoa, the defendant's daughter. Again, while not strictly complying with personal service, the same reasons for dealing with a family member applied. I accept that was appropriate and amounts to effective service.
5. The defendant has taken no steps to resist this application.
6. The Claim originally sought a number of orders:
  - a. Eviction of the Defendant from lease title No. 11/OJ23/045;
  - b. Damages in the sum of VT 1.2 million; and
  - c. Costs and disbursements.
7. The Claimant now only seeks judgment by default in relation to an order for eviction. The claims for damages and costs are thrown away.
8. I note that the Claimant has a valid lease, and that a provision of the lease requires the Claimant to construct a clinic for the medical needs of the community. This is not a case of a rapacious land proprietor seeking to extort. The reason for this action is to comply with the terms of the lease, and for the benefit of the Tagabe community.
9. Accordingly, I am prepared to grant judgment by default and order the eviction of the defendant from the property.

Dated at Port Vila this 16<sup>th</sup> day of May 2018

BY THE COURT

  
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Justice G.A. Andrée Wiltens

