

BETWEEN: Vanuatu Agricultural Research and Technical
Centre

Claimant

AND: John Tari Molbarav, Kerry Tari Molbarav, Moli
Molbarav, Taputai Molbarav and Family Molbarav

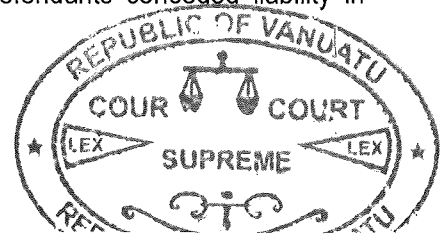
Defendants

Date of hearing: 31 July 2019
By: Justice G.A. Andrée Wiltens
Counsel: Mrs M-N Ferrieux Patterson for the Claimants
Mr J. Tari for the Defendants
Decision: 15 August 2019

JUDGMENT

A. Introduction

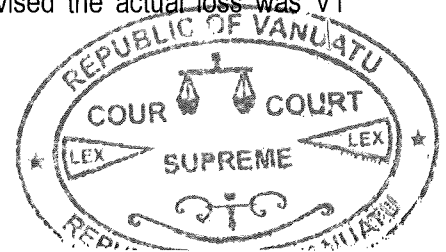
1. The Vanuatu Agricultural Research and Technical Centre ("VARTC") has operated on two plots of land in the Saraoutu area in Santo for over 50 years. The land comprises lease title no. 04/2641/002 and survey plan 04/2641/019.
2. For a number of years, prior to a restraining order being issued to prevent it in 2018, the defendants have occupied and damaged parts of that land. The claim by VARTC incorporates allegations of trespass, damage caused to the land, animals and horticulture, threats towards VARTC staff, and disturbances to VARTC work. VARTC has had to employ additional security and also seeks to recover the cost of that. There are 27 items of claim.
3. At trial, after the evidence-in-chief of the second witness for the Claimant, a discussion between counsel resulted in significant concessions. The defendants conceded liability in



respect of 26 of the heads of claim, asked the Court to ascertain the appropriate quantum in respect of each item, and sought to be able to pay the damages awarded over a 12 month period. On that basis the claim was settled, with costs to be taxed.

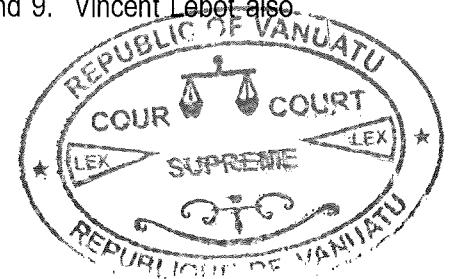
B. Quantum

4. As none of the evidence of the claimant's witnesses is challenged in any way as to quantum, I will simply set out what is claimed and state whether the claim is proved, entirely or in part, or not at all. I note that the evidence in the sworn statements indicates the present claims are quite significantly higher than what was claimed in the Claim, but there has been no application to amend the claim. The most that can therefore be ordered in respect of each item is that which is claimed in the Supreme Court Claim filed on 2 October 2016.
5. Item 1 in the Claim is for VT 640 for the costs of fence repairs. Evidence as to this was given by Rufino Pedro and Vincent Lebot. The amount is accepted.
6. Item 2 is for VT 13,240 for the cost of repairing a cement gate. Evidence as to this was given by Rufino Pedro and Vincent Lebot. The amount is accepted.
7. Item 3 is for VT 89,610 for the cost of damage to coconut paddocks. Evidence as to this was given by Rufino Pedro, including photos of the damage. Vincent Lebot also gave evidence relating to this. The amount is accepted.
8. Item 4 is for VT 1,500 for the cost of replacing a padlock. Vincent Lebot gave evidence relating to this. There is a receipt produced. The amount claimed is accepted.
9. Item 5 is for VT 6,890 for the cost of replacing padlock and chain. Vincent Lebot gave evidence relating to this. There is a receipt produced. The amount claimed is accepted.
10. Item 6 is for VT 64,944 for the cost of replacement coconut trees, included labour. Evidence as to this was given by Rufino Pedro and Vincent Lebot. The amount is accepted.
11. Item 7 is for VT 11,212 for the cost of repairing the rehabilitation of the Blue Hole. Evidence as to this was given by Rufino Pedro, Vincent Lebot and Tiata Sileye. The amount is accepted.
12. Item 8 is is for VT 7,240 for the cost of replacing another padlock and chain. Vincent Lebot gave evidence relating to this and advising the actual loss was higher than that claimed. There is a receipt produced. The amount originally claimed is accepted.
13. Item 9 is for VT 30,951 for the loss of income due to cultivation on lease 04/2641/002. I can find no evidence relating to this claimed loss. The amount is therefore not accepted.
14. Item 10 is for VT 120,000 for damage to 2 pregnant cows. I can find no evidence relating to this claimed loss. The amount is therefore not accepted.
15. Item 11 is for VT 9,252,900 for copra sold since 2012. Evidence as to this was given by Muriel Degobert. In her calculations at "MD5" the amount was reduced to VT 6,949,461. Vincent Lebot gave evidence regarding this which I preferred. He advised the actual loss was VT



7,358,128 and VT 309,509. I accept the loss is actually VT 7,667,637, somewhat less than originally claimed.

16. Item 12 is for VT 3,000,000 for estimated value of 100 cubic metres of natapoa melectree timber sold since 2012. Evidence as to this was given by Muriel Degobert and Vincent Lebot. The amount is accepted.
17. Item 13 is for VT 7,500 for dry coconuts stolen by Sachari Sen if sold @ VT 15 per coconut. Evidence was given about this by Tiata Sileye. The amount is accepted.
18. Item 13A is for VT 2,537,500 for loss of Dr Roger Malapa's salary. There is evidence as to this from Muriel Degobert at "MD4" and Marguerite Cevuard, who both state the amount is in fact VT 3,130,116, somewhat higher than the loss claimed. Vincent Lebot had a slighter lesser amount. The amount originally claimed is therefore accepted.
19. Item 14 is for VT 747,500 for loss or revenue for 11.5 working days. There is evidence as to this from Muriel Degobert at "MD2". The amount is accepted.
20. Item 15 is for VT 6,600 for the cost of security on 1/9/2016. There is evidence as to this from Muriel Degobert, with receipts produced at "MD2", page 2.1 and 2.2. Vincent Lebot also gave evidence relating to this. The amount is accepted.
21. Item 16 is for VT 75,000 for the cost of security for 24/8/2016 to 7/9/2016. There is evidence as to this from Muriel Degobert, with a receipt produced at "MD2", page 4. Vincent Lebot also gave evidence relating to this. The amount is accepted.
22. Item 17 is for VT 216,000 for the cost of security for 9 members of the Mobile Force from 15/9/2016 to 26/9/2016. There is evidence as to this from Muriel Degobert, with receipts produced at "MD2", pages 2.1 and 2.2. Vincent Lebot also gave evidence relating to this. The amount is accepted.
23. Item 18 is for VT 148,000 for the cost of security for 9 members of the Mobile Force from 8/9/2016 to 13/9/2016. There is evidence as to this from Muriel Degobert, with receipts produced at "MD2", pages 6.1 and 6.2. Vincent Lebot also gave evidence relating to this. The amount is accepted.
24. Item 19 is for VT 72,000 for the cost of security for 17 members of the Mobile Force from 27/9/2016 to 30/9/2016. There is evidence as to this from Muriel Degobert, with receipts produced at "MD2", pages 8.1 and 8.2. Vincent Lebot also gave evidence relating to this. The amount is accepted.
25. Item 20 is for VT 126,000 for lodgement of VMF for 30 nights, 7 pax @ VT1,500 each. Muriel Degobert gives evidence as to this, with her calculations at "MD1". Vincent Lebot also gave evidence relating to this. The amount is accepted.
26. Item 21 is for VT 27,175 for Local Market - to feed the VMF. There is evidence as to this from Muriel Degobert, with receipts produced at "MD2", pages 5.1, 5.2 and 9. Vincent Lebot also gave evidence relating to this. The amount is accepted.

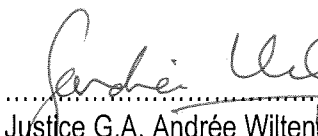


27. Item 22 is for VT 44,850 for the cost of fuel, 15 litres per day @ VT 130 per litre. Muriel Degobert gives evidence as to this. Vincent Lebot also gave evidence relating to this. The amount is accepted.
28. Item 23 is for VT 30,000 for travelling expenses from Vila to Santo to meet lawyer. Muriel Degobert gives evidence as to this. The amount is accepted, as the receipt produced is for a larger sum.
29. Liability for Item 24 was not accepted by the Defendants, and this aspect of the claim was abandoned.
30. Item 25 is for VT 400,000 for the cost of extraction of sand on the land (from 24 - 26 August 2016). There is evidence as to this from Muriel Degobert, with calculations at "MD3" for a larger amount, and from Pedro Relmal. Vincent Lebot also gave evidence relating to this. The amount originally claimed is accepted.
31. Item 26 is for VT 4,100,000 for the loss of extraction of ground and loss for the rebuild of the road on the lease in October 2013. The only evidence I can see relating directly to this item is from Pedro Relmal, and his estimate of the loss is VT 700,000. That lesser amount is accordingly accepted.

C. Result

32. By my calculations, adding up the items at the accepted amounts, there will be judgment in favour of VARTC in the sum of VT 13,001,038.
33. I accept I may well have missed items of loss in working through the sworn statements which comprise the evidence, and I invite both counsel to correct me if they find errors in my calculations within 10 working days from the date of this judgment
34. As agreed between the parties the defendants will have 12 months to pay that amount in equal monthly instalments, which payments are to be paid on the first working day of each month, commencing on 2 September 2019.
35. Costs are due to VARTC. They are to be taxed.

**Dated at Port Vila this 15th day of August 2019
BY THE COURT**


Justice G.A. Andrée Wiltens

