

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

Civil
Case No. 20/2849 SC/Cvl

BETWEEN: ANZ Bank (Vanuatu) Limited
Claimant

AND: Harold Moli
Defendant

Date: 28 January 2021
By: Justice G.A. Andrée Wiltens
Counsel: Mr G. Blake for the Claimant
No appearance by or for the Defendant

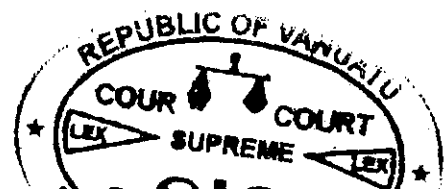
Judgment

A. Introduction

1. This is an application to enforce a defaulting mortgage.

B. Background

2. The application was filed on 16 October 2020 and served on Mr Moli on 10 November 2020.
3. To date, there has been no step taken by Mr Moli to defend the matter. Accordingly an Application for Judgment was filed on 25 January 2021.
4. The ANZ Bank (Vanuatu) Limited ("ANZ") advanced funds to Mr Moli in March 2006 secured by way of registered mortgage over Mr Moli's Leasehold Title 11/OF31/061.
5. In July 2011 certain amendments were made by agreement between the parties which were recorded as a Variation of Mortgage. The amendments comprised additional funds being advanced by ANZ.



6. More recently, Mr Moli has defaulted in making the repayments due, resulting in a letter of demand dated 23 June 2020 seeking full repayment of all the sums due to ANZ. Despite service of the letter of demand, Mr Moli has not made alternative arrangements or settled his debt to ANZ.
7. The debt, as set out in the Claim, was VT 12,492,249 as at 23 June 2020; with interest continuing to accrue at the agreed rate thereafter.

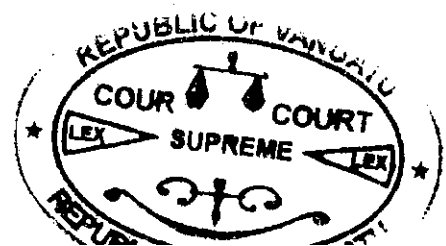
C. Discussion

8. No defence has been presented. Indeed it is difficult to conjure up what a defence might comprise. There is no reason to not grant the orders sought.
9. There is no doubt the Supreme Court has the necessary jurisdiction to make the orders sought in these circumstances.

D. Result

10. The following orders are accordingly made:

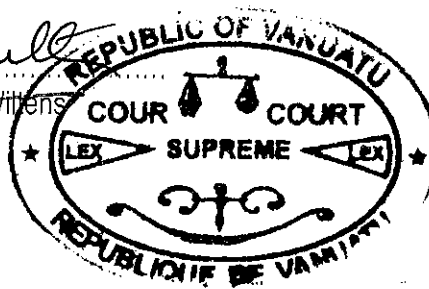
- (i) ANZ, as mortgagee, is empowered to sell and transfer the property contained and described in Leasehold Title 11/OF31/061 ("the property") by such means and in such manner as ANZ shall deem fit;
- (ii) Pending such sale and transfer, ANZ as mortgagee, or any agent or agents duly authorised by ANZ in writing, is empowered to enter on the property and act in all respects in the place and on behalf of the proprietor of the property, and to apply in reduction of the money due and owing to ANZ all and any rent received in respect of the property;
- (iii) The purchase money to arise from the sale and transfer of the property and the money received (if any) by ANZ pending such sale and transfer shall be applied:
 - Firstly, in payment of the expenses occasioned by the sale and transfer or going into and remaining in possession (as the case may be), including the costs of this application;
 - Secondly, in payment of the money then due and owing to ANZ as mortgagee;
 - Thirdly, in payment of subsequent registered mortgages or encumbrances (if any) in order of their priority; and
 - Fourthly, the surplus (if any) shall be paid into this Honourable Court pending further order.



- (iv) Mr Moli is to pay the costs of and incidental to this suit, which I set at VT 70,000. They are to be paid within 21 days from the date of this decision.

Dated at Port Vila this 28th day of January 2021
BY THE COURT

Gendrei Ull
Justice G.A. Andrée-Witens

The seal of the Republic of Vanuatu Supreme Court is circular. It features a central scale of justice. Above the scale, the words "REPUBLIC OF VANUATU" are written in an arc. Below the scale, the words "COUR SUPREME COURT" are written in an arc. On either side of the scale, the word "LEX" is written in a small box. At the bottom of the seal, the words "REPUBLIQUE DE VANUATU" are written in an arc. There are two stars on either side of the bottom arc.