IN THE SUPREME COURT OF

THE REPUBLIC OF VANUATU

(Civil Jurisdiction)

Enforcement

Case No. 22/1911 SC/CIVL

BETWEEN: **Yvonne Bidal (Briat Yvonne)**

Judgment Creditor

AND: **Isabelle Waale & families, friends & associates**

Judgment Debtors

Date: 20 October 2022

Before: Justice V.M. Trief

Counsel: Judgment Creditor – Ms M. Vire

Judgment Debtors – Mr R. Willie

DECISION AS TO URGENT APPLICATION TO STAY ORDER

A. Introduction

1. The Judgment Creditor Yvonne Bidal (also known as Briat Yvone) commenced Civil Case No. 2727 of 2019 ('CC 19/2727') for the eviction of the Judgment Debtors Isabelle Waale and family, friends and associates ('Ms Waale and family') from leasehold title no. 03/OI71/021 at Luganville, Santo (the 'subject lease').

2. On 29 June 2021, judgment was entered for Ms Bidal with an order for Ms Waale and family to vacate the subject lease within 2 months from the date of service of the judgment. That has not been complied with. The matter was referred for enforcement.

3. On 14 September 2022, Ms Waale and family filed Urgent Application to Stay Order seeking an order staying the enforcement of CC 19/2727 (the 'Application') together with the supporting Sworn statement of Isabelle Waale.

4. Proof of service was filed on 21 September 2022.

5. Despite opportunity given, Ms Bidal has not filed submissions in response.

6. I now determine the Application.

B. The Application

7. The Application is made on the following grounds:

   a. That Ms Waale and family have commenced a new case against Ms Bidal (*Waale v Bidal;* Civil Case No. 2354 of 2022) ('CC 22/2354') for compensation for works carried out on the subject lease;

   b. That the outcome of CC 22/2354 will have a great impact on the judgment in CC 19/27272 which the Claimant has sought enforcement of;

   c. That Ms Bidal will only be successful in enforcing the judgment in CC 19/2727 if Ms Waale and family do not succeed in their Claim in CC 22/2354; and

   d. That it would be unjust and unfair to Ms Waale and family if the judgment in CC 19/2727 is enforced while CC 22/2354 is still pending determination.

C. Discussion

8. The judgment and order in CC 19/2727 are for Ms Waale and family to vacate the subject lease.

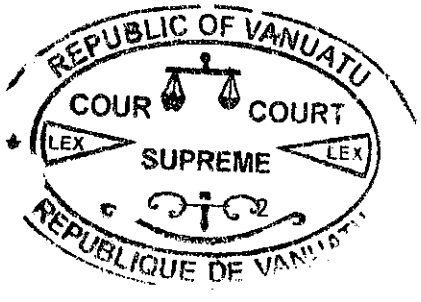
9. By their Claim in CC 22/2354, Ms Waale and family are seeking payment of compensation for works carried out on the subject lease.

10. The vacation of the subject lease and compensation for works allegedly carried out on that property are two separate matters.

11. Ms Waale and family have been found by the judgment in CC 19/2727 to not have any established right or interest to occupy the land. If Ms Bidal must compensate Ms Waale and family, she must do so regardless of whether or not they live on her property. With respect, I do not see how an order for compensation in Ms Waale and family's favour can prevent their eviction from Ms Bidal's property.

12. For the reasons given, I consider that the grounds of the Application that the outcome of CC 22/2354 will have a great impact on the judgment in CC 19/27272 and that Ms Bidal will only be successful in enforcing the judgment in CC 19/2727 if Ms Waale and family do not succeed in their Claim in CC 22/2354 lack legal merit.

13. For the same reasons, I consider that it would not be unjust and unfair to Ms Waale and family to enforce the judgment in CC 19/2727 whilst CC 22/2354 is extant.



D. Result and Decision

14. For the reasons given, the Judgment Debtors' Urgent Application to Stay Order is **declined and dismissed.**

15. The Judgment Creditor is invited to file proof of service of the Judgment dated 29 June 2021 and to apply for an enforcement warrant.

DATED at Port Vila this 20th day of October 2022
BY THE COURT

.....
Justice Viran Molisa Trief