

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

**Civil**  
**Case No. 19/2830 SC/CIVL**

**BETWEEN: Milai (Vanuatu) Limited**  
Claimant

**AND: Petro Tanga, George Tanga, David  
Tanga, Samuel Tanga, Manuel Tanga**  
First Defendants

**AND: Simeon Aru, Vale Tamtam, Jerry  
Tamtam, Omas Willie Hungai, Tony  
Betual**  
Second Defendants

*Date of Trial:* 9 February 2022  
*Before:* Justice V.M. Trief  
*In Attendance:* Claimant – Mr A. Bal  
First Defendants – Mr J. Seresere  
Second Defendants – no appearance (in person)  
*Date of Decision:* 14 June 2022

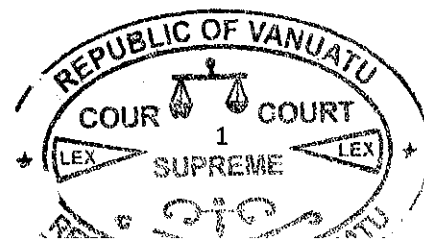
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**JUDGMENT**

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A. Introduction

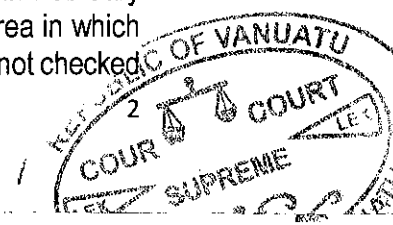
1. The Claim seeks eviction of the Defendants from lease title number 04/2942/002 and that they be permanently restrained from entering onto that lease title and lease title numbers 04/2944/005 and 04/2941/009. Damages are also sought.
2. This is defended on the basis that the leases are over the First Defendants Petro Tanga and others' ('Messrs Tanga') custom land known as Artacha. The Defendants' Counter-Claim seeks orders for the forfeiture of lease title numbers 04/2942/002, 04/2944/005 and 04/3013/004 and VT20,000,000 damages for defamation 'outlined in the Claim'.



3. The Second Defendants Simeon Aru, Vale Tamtam, Jerry Tamtam, Omas Willie Hungai, Tony Betual were authorised by Messrs Tanga to occupy the land.

B. Evidence

4. Mr Changhoon Lee produced in evidence copies of the registered leases of lease title numbers 04/2942/002 (the '002 lease'), 04/2944/005 (the '005 lease') and 04/2941/009 (the '009 lease'), all registered on 4 June 2014 [**Annexures "CL1"- "CL3" of "Exhibit C5"**].
5. Messrs Tanga's family (Vomule & Sons) were the lessors of the 002 lease when it was registered. However, by judgment dated 6 March 2015 in *Stephen v Santo/Malo Joint Area Land Tribunal*, Civil Case No. 107 of 2011, the Supreme Court quashed the decisions of the Santo/Malo Joint Area Land Tribunal and Santo/Malo Island Land Tribunal in relation to Artache and Nasulnun custom lands at South Santo.
6. On 1 April 2016, the Supreme Court in *Stephen v Kwirinavanua*, Judicial Review Case No. 16 of 2015 ordered the Custom Land Management Office to provide a Certificate of a Recorded Interest in Land to Mr Stephen's family in respect of Nasulnun and Artacha custom lands, effectively cancelling the Certificate of a Recorded Interest in Land for Messrs Tanga's family [copy of judgment at **Annexure "CL5" of "Exhibit C5"**].
7. Also produced into evidence was a copy of the Lands Registry Advice of Registration of a Dealing recording that on 20 September 2021, the Director of Land Records registered the Rectification of Name of Lessor of the 002 lease to Dule Salathiel represented by Rosanie Stephen, Bill Stephen, Steve Smith Stephen, Francois Stephen, Samson Taly Stephen and Amos Mele Stephen pursuant to a Certificate of Recorded Interest in Land dated 13 April 2016 [**Annexure "CL2" of "Exhibit C1"**].
8. Mr Lee deposed that Messrs Tanga reside illegally within lease 002 without the Claimant Milai (Vanuatu) Limited's ('Milai') consent, have planted gardens there, sold off areas within lease 002 without Milai's consent, chased out Milai's workers and otherwise disturbed Milai's use of the land. Their residing and gardening on the land is confirmed by Cabinet Topographique & Foncier Ltd's (CTF) surveyor's report dated 22 March 2021 [**Annexure "CL16" of "Exhibit C5"**].
9. Mr Benjamin Lolomae is employed by Milai as a Stockman. He deposed that he has had multiple experiences with Messrs Tanga. He deposed that in April or May 2017, the Defendants Samuel Tanga and David Tanga told him and other Milai workers to leave the area immediately or their truck would be burnt. In March 2020 and again in April 2020, the Defendant George Tanga told him and other workers to remove Milai's cattle immediately from the 005 lease. They always work in fear on Milai's leases because they have always been threatened by Messrs Tanga [**"Exhibit C2"**].
10. Mr Johnny Kawas is employed by Milai as a Farm Supervisor. He also deposed that he has had multiple experiences with Messrs Tanga. He deposed that in February 2017, Mr George Tanga told him and other Milai workers to leave the area in which they were doing fencing work or he would go and get his gun. They have not checked

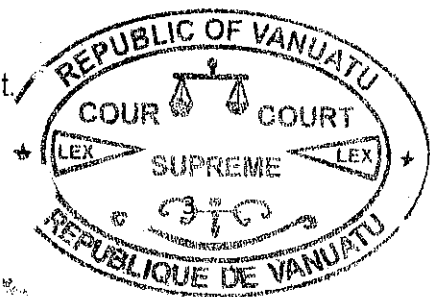


or fixed the fence since 2017 due to the threats by the First Defendants Manuel Tanga and George Tanga. On 3 April 2020, he and others went to move cattle from one paddock to another due to Tropical Cyclone Harold approaching. Mr George Tanga told them to move out of the area without delay or he would kill the cattle. This was at the area of the 005 lease. They always work in fear on Milai's leases because they have always been threatened by Messrs Tanga ["Exhibit C3"].

11. Mr Bob Hopa is employed by Milai as a Farm Supervisor. He deposed that he has had many experiences with Messrs Tanga. In August 2013, he and other workers had to jump out of their vehicle and run about 5 kilometres through thick bush back to Milai's office, chased by the First Defendant Petro Tanga and family members in a green Toyota double cabin truck. In 2016, after dropping off workers to move cattle from one paddock to another, he was approached by the Second Defendant Mr Hungai to tell the workers to leave the paddock because the land-owner Mr Petro Tanga was on his way. They always work in fear on Milai's leases because they have always been threatened by Messrs Tanga ["Exhibit C4"].
12. Copies of the notices to vacate the land addressed to each Defendant were produced in evidence [Annexures "CL6"- "CL15" of "Exhibit C5"]. The Defendants continue to occupy the land.
13. Mr Pedro Tanga gave evidence as to matters relating to the intended forfeiture of the 002 lease and that Messrs Tanga had commenced Civil Case No. 1168 of 2021 alleging fraud by Bill Stephen to get the custom ownership declaration in his favour. He denied that Messrs Tanga have received any notices to vacate the land ["Exhibit D1"].
14. The Sworn statement of Joylee Seresere was also tendered into evidence for the Defendants ["Exhibit D2"]. It gives evidence of non-contentious matters including that the Defendants only became aware in November 2021 of the 8 October 2015 cancellation of their Certificate of a Recorded Interest in Land. I decline to rule that this evidence is inadmissible.

C. Discussion

15. There is clear evidence of Milai's legal entitlement to the land. It is the registered proprietor of the 002, 005 and 009 leases.
16. The Defendants occupy the leased land, and despite being given notice to quit, have not vacated the land. Even if the Defendants had not received the notices to quit, they have since received them and had ample notice throughout the course of this proceeding.
17. Milai's workers have received multiple threats from Messrs Tanga, disturbing Milai's use of the leased land.
18. The Claimant has proved its Claim and is entitled to the relief sought.



19. Mr Lolomae, Mr Kawas and Mr Hopa's evidence was relied on to prove damage suffered. It is evidence of pain and suffering by Milai employees as a result of the threats by Messrs Tanga. Accordingly, general damages are awarded of VT300,000.
20. The evidence shows that Dule Salathiel are the custom owners of Artacha land which has been reflected in the Rectification of the Name of Lessor of the 002 lease which was registered on 20 September 2021. The Defendants have therefore failed to prove their defence based on custom ownership.
21. By way of the Counter-Claim, the Defendants sought orders for the forfeiture of the subject leases. Only a lessor may forfeit a lease. The Defendants are not the lessor of any of the subject leases. Damages were also sought for defamation. There is no cause of action in defamation pleaded. The Counter-Claim must be declined and dismissed.

D. Decision and Result

22. Judgment is entered for the Claimant.
23. The Counter-Claim is declined and dismissed.
24. The Defendants are to vacate lease title number 04/2942/002 within 3 months from the date of service of this decision.
25. The Defendants are permanently restrained from further entering onto lease title numbers 04/2942/002, 04/2944/005 and 04/2941/009 until further Order of the Court.
26. The Defendants are to pay the Claimant VT300,000 general damages.
27. The Claimant is entitled to its costs as agreed or taxed by the Master. Once settled, the costs are to be paid within 28 days.

E. Enforcement

28. Pursuant to Rule 14.37(1), I now schedule a Conference **at 8.15am on 17 August 2022**, including by video link to the Luganville Court House, to ensure the judgment has been complied with or for the Defendants to explain how it is intended to comply with this judgment. For that purpose, this judgment must be personally served on the Defendants.

DATED at Port Vila this 14<sup>th</sup> day of June 2022  
BY THE COURT

*VM Trief*  
Justice Viran Molisa Trief

