

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

Judicial Review
Case No. 24/1044 SC/JUDR

BETWEEN: **Family Moltarusa Wells represented
by Tom Moltarusa, Thompson Wells,
Patrick Wells, Tommy Wells, Ken
Wells, Julian Wells, Robert Toka &
Robert Sale**

Claimants

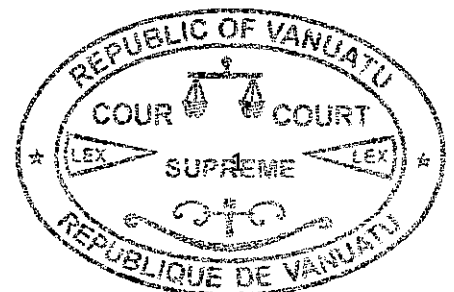
AND: **John Nalwang - National Coordinator
of Land Dispute Management**

Defendant

Date of Rule 17.8 Conference: 26 June 2024
Before: Justice V.M. Trief
In Attendance: Claimants – Mr A. Bai
Defendant – Mrs N. Robert

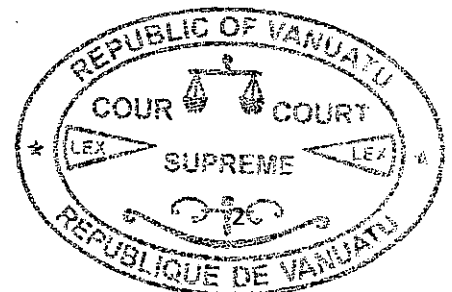
DECISION AS TO RULE 17.8 MATTERS

1. The Defendant accepts that the Claimants are directly affected by the decision, that there has been no undue delay in making the claim, and that there is no other remedy that resolves the matter fully. I am satisfied as to those matters: rule 17.8(3)(b)-(d) of the *Civil Procedure Rules* ('CPR').
2. The Claim filed on 4 April 2024 will proceed to hearing or not depending on whether or not the Claimants have an arguable case: rule 17.8(3)(a), CPR.
3. By the Claim, the Claimants are seeking orders to compel the Defendant National Coordinator of the Custom Land Management Office ('CLMO') to issue to them a Certificate of Recorded Interest in Land (colloquially known as a 'green certificate')




on the grounds that they have a recorded interest in land namely the Bombua, Palekula and Belbarav custom lands on South East Santo pursuant to the Supenatavuitano Island Land Tribunal decision dated 12 August 2024 [Annexure "JW1", Sworn statement of Julian Wells filed on 4 April 2024] which has never been appealed or challenged and is binding in law. Further, that the Defendant informed the Claimants that he would issue them a green certificate but has not done so.

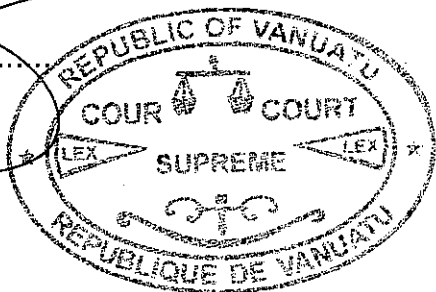
4. Copies of the following were adduced into evidence:
 - a. The Claimants' request dated 14 July 2023 to the National Coordinator for a green certificate in respect of Bombua, Palekula and Belbarav custom lands [Annexure "JW4", Sworn statement of Julian Wells];
 - b. The unsigned green certificate dated 24 November 2023 in respect of Bombua, Palekula and Belbarav custom lands [Annexure "JW9", Sworn statement of Julian Wells]; and
 - c. The Claimants' letter dated 4 December 2023 to the Attorney General for issuance of a green certificate in respect of Bombua, Palekula and Belbarav custom lands [Annexure "JW10", Sworn statement of Julian Wells].
5. The Claim is disputed: Defence filed on 15 May 2024. The Claimants filed a Reply to Defence on 6 June 2024.
6. Defendant's counsel Mrs Robert submitted that the Claimants are seeking a green certificate in respect of Bombua, Palekula and Belbarav custom lands however the Supenatavuitano Island Land Tribunal decision is in respect of only one of those custom lands (Bombua) as the other two are subject to pending Court proceedings.
7. I agree with Mrs Robert's submission. At p. 3 of its 12 August 2004 decision, the Supenatavuitano Island Land Tribunal expressly acknowledged that there were pending Island Court and Supreme Court proceedings in respect of Palekula (Penkula) and Belbarav (Pelparav) custom lands therefore it declared the custom ownership of Bombua custom land only [Annexure "JW1", Sworn statement of Julian Wells].
8. However, the Claimants in their request to the Defendant and communications to him since have sought a green certificate in respect of all 3 custom lands namely Bombua, Palekula and Belbarav.
9. In addition, the unsigned green certificate names all 3 custom lands namely Bombua, Palekula and Belbarav [Annexure "JW9", Sworn statement of Julian Wells].



10. It is clearly erroneous for any green certificate to be issued in respect of all 3 custom lands namely Bombua, Palekula and Belbarav based on the 12 August 2004 decision of the Supenatavuitano Island Land Tribunal as that decision did not make any custom ownership declaration in relation to the Palekula and Belbarav custom lands.
11. In the circumstances, it would be a grave error for the Defendant to issue any green certificate in the terms of the unsigned certificate dated 24 November 2023 [Annexure "JW9", Sworn statement of Julian Wells].
12. The present situation arose as a result of the Claimants' request to the National Coordinator seeking the issuance of a green certificate in respect of all 3 custom lands namely Bombua, Palekula and Belbarav based on the 12 August 2004 decision of the Supenatavuitano Island Land Tribunal. However, as already stated, that decision did not declare the custom ownership of all 3 of those custom lands. With respect, the Claimants' request was misconceived.
13. For the reasons given, I am satisfied that the Claimants do not have an arguable case. Accordingly, I decline to hear the Claim and strike it out.

**DATED at Port Vila this 26th day of June 2024
BY THE COURT**


Justice V.M. Trief



The seal of the Supreme Court of Vanuatu is circular. The outer ring contains the text "REPUBLIC OF VANUATU" at the top and "REPUBLIQUE DE VANUATU" at the bottom. Inside the ring, the words "COUR" and "COURT" are positioned on either side of a central emblem featuring a scale of justice. Below the emblem, the word "SUPREME" is written in a larger font. Two small triangles containing the word "LEX" are located on the left and right sides of the seal.