

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

**Civil**  
**Case No. 23/882 SC/CIVL**

**BETWEEN: Johnna Tao**  
Claimant

**AND: John Kaluat Kalomtak**  
Defendant

**AND: Patricia Solomon**  
Interested Party

*Date:* 22 September 2025  
*Before:* Justice V.M. Trief  
*Counsel:* Claimant – Mr R. Rongo  
Defendant – in person  
Interested Party – Mr E. Molbaleh

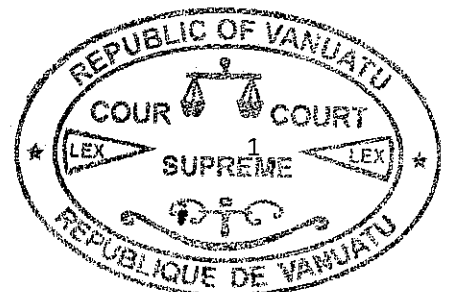
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**DECISION AS TO APPLICATIONS BY THE CLAIMANT AND BY PATRICIA  
SOLOMON**

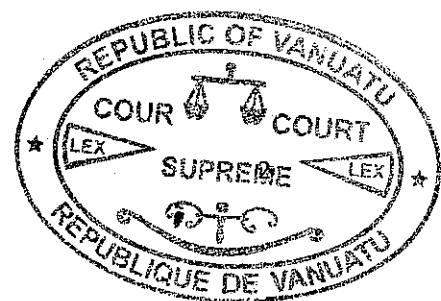
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A. Introduction

1. On 15 August 2025, this matter was settled between the Claimant Johna Tao and the Defendant John Kaluat Kalomtak by way of Consent Orders.
2. On 18 February 2025, the applicant Solomon Patricia filed Urgent Application for Leave to Re-open the Civil Case No. 882 of 2023 ('CC 23/882') (the 'Urgent Application'), and the Sworn statement of Urgency of Eric Molbaleh. On the previous day, she had filed Undertaking as to Damages and Sworn statement of Solomon Patricia in support of the Urgent Application for Leave to Re-open the CC 23/882.



3. A Minute dated 4 March 2025 by Justice MacKenzie in *Solomon v Kaluat*; CC 24/3862 was placed on the Court file for the present proceeding with a direction that the minute be brought to my attention. In the Minute, Justice MacKenzie set out that despite Ms Solomon being in occupation of the land and having paid the First Defendant Mr Kalomtak for the land on which she lives in her permanent house, she was not a party to the Claim in the present proceeding. Further, that both Ms Solomon and the Claimant Johna Tao are occupying the same land and both assert they are legally entitled to. She stated that whilst that will require factual findings, that may conflict with the consent orders in the present proceeding. In that regard, Mr Molbaleh stated that an application to re-open the claim in CC 23/882 had been filed on the basis that Ms Solomon was not a party to that claim.
4. Justice MacKenzie also noted that if CC 23/882 is re-opened it would make sense for the matter to be considered with that claim.
5. I issued Orders dated 14 March 2025 in which I stated that only a party, however, could seek to re-open a matter or to revisit or correct any consent orders made due to error or mistake: *Republic of Vanuatu v Natonga* [2016] VUCA 28; and *Peter v Daniel* [2014] VUSC 218 per Harrop J.
6. I therefore stood down that Application and directed Ms Solomon to file and serve application to be added as a party to the proceeding. She was also to serve the Orders dated 14 March 2025 and file proof of service by 4pm on 28 March 2025.
7. On 3 April 2025, Ms Solomon filed Urgent Application to Join as Party (the 'Joinder Application') and the Sworn statement of Solomon Patricia in support of the Urgent Application to Join as Party in Civil Case No. 882 of 2023.
8. She filed proof of service of the Joinder Application.
9. In the meantime, on 1 April 2025, the Claimant filed Application to Strike out the Interested Party Ms Patricia Solomon who intend to Apply to Join as Party in this Proceedings (the 'Claimant's Application'), and the Sworn statement in support of Johna Tao. Given the Court has not even determined yet Ms Solomon's applications and she has never been joined as an "Interested Party", the Claimant's Application is premature. Further, I decline to exercise any discretion to "strike out" Ms Solomon (although I doubt that is possible when no Order has been made to add her as a party to the proceeding) as her non-compliance with the Orders dated 14 March 2025 is raised as a technical point only to increase the costs incurred by the parties. Accordingly, the Claimant's Application is **declined and dismissed**.

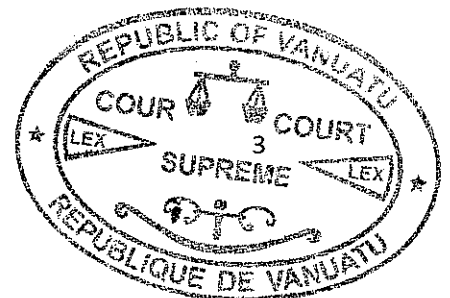


10. For the reasons given, there is **no order** as to the costs of the Claimant's Application.
11. Justice MacKenzie issued the following Minute dated 3 September 2025 in CC 24/3862; *Solomon v Kaluat*, following a conference which both Mr Rongo and Mr Molbaleh attended. This Minute was also directed to be placed on the Court file for the present proceeding:
  1. *Mr Molbaleh advises that there are discussions between counsel with a view to resolve this matter, on the basis that the disputed lease title is divided into two. Ms Solomon would be the proprietor of one half and Mr Tao, the proprietor of the other half. Mr Rongo confirmed that Mr Tao agrees with that proposal.*
  2. *Mr Molbaleh proposed that the way forward would be for Mr Tao to consent to Ms Solomon being added [as] a party in civil case 882/23 and to an order that the case be re-opened. Mr Rongo confirmed Mr Tao would not contest such orders. Assuming case 882/23 was re-opened, then there could be a varied consent order.*
  3. *A copy of this Minute is to be placed on the file of civil case 882/23 for Trief J's information.*
  4. *I list the matter for a **further conference at 8.30am, 4 December 2025**. If resolution is reached, a consent order is to be filed and the conference vacated.*

12. I now determine Ms Solomon's 2 applications.

B. The Joinder Application

13. Ms Solomon is seeking an order that she be joined as a party to the present proceeding on the grounds that she is living on a piece of land that she purchased from Mr Kalomtak. Further, that both she and Mr Tao assert that they purchased that land. Finally, that she is not a party to the present proceeding therefore is affected by the consent orders agreed to by Mr Tao and Mr Kalomtak to resolve the present proceeding.
14. On 22 May 2025, Mr Tao filed submissions in response to the Joinder Application and his Sworn statement in support. He stated that he and Ms Solomon have both purchased the land from Mr Kalomtak, therefore agreeing with Ms Solomon as to that. There were no substantive grounds asserted to oppose the Joinder Application.
15. Ms Solomon's evidence is that she resides on the same land as Mr Tao, which she purchased from Mr Kalomtak. Mr Tao's evidence is that he purchased the same land as Ms Solomon, from the same Mr Kalomtak. I accept, therefore, that the consent orders agreed to by Mr Tao and Mr Kalomtak to resolve the present proceeding directly affect Ms Solomon as those orders relate to land on which she is residing,

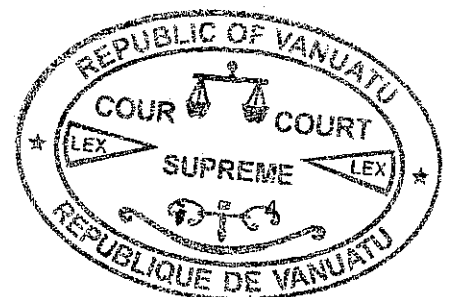


and were intended to deal with the land in a way directly undermining her stated purchase of that land.

16. Accordingly, Ms Solomon's joinder as a party is necessary for the Court to make its decision in the present proceeding fairly and effectively.
17. For the foregoing reasons, the Joinder Application is **granted** and it is ordered that Ms Solomon is joined as a party to the present proceeding, as "Interested Party."
18. The costs of the Joinder Application are reserved.

C. The Urgent Application

19. Ms Solomon is seeking an order that this proceeding be re-opened on the grounds that she was never named as a party, but is directly affected by the consent orders agreed to by Mr Tao and Mr Kalomtak. Further, that Mr Kalomtak sold the same piece of land to both her and Mr Tao, yet only they were party to the present proceeding and have agreed the consent orders to her detriment, as following those consent orders, they have now blocked her access to the main road by erecting a fence across the subject land.
20. No opposition to the Urgent Application has been filed.
21. Indeed, Mr Rongo who is counsel for Mr Tao stated at the conference on 3 September 2025 before Justice MacKenzie that his client Mr Tao would not contest an order that the present case be re-opened: see para. 2 of the Minute dated 3 September 2025 in CC 24/3862.
22. Given that Ms Solomon is directly affected by the consent orders in the present proceeding, and the parties' subsequent actions to erect a fence and block her access to the main road, the present proceeding must be re-opened so that all the parties may be given an opportunity to be heard.
23. For the reasons given, the Urgent Application is **granted** and it is ordered that the present proceeding is re-opened.
24. The costs of the Urgent Application are reserved.



D. Result and Decision

25. The Claimant's Application to Strike out the Interested Party Ms Patricia Solomon who intend to Apply to Join as Party in this Proceedings, filed on 1 April 2025, is **declined and dismissed**.
26. The Interested Party's Urgent Application to Join as Party filed on 3 April 2025 is **granted** and it is ordered that Ms Solomon is joined as a party to the present proceeding, as "Interested Party."
27. The costs of the Joinder Application are reserved.
28. The Interested Party's Urgent Application for Leave to Re-open the Civil Case No. 882 of 2023 filed on 18 February 2025 is **granted** and it is ordered that the present proceeding is **re-opened**.
29. The costs of the Urgent Application are reserved.
30. I refer the parties to the Minute dated 3 September 2025 by Justice MacKenzie in CC 24/3862 and invite the parties to forward varied consent orders **by 4pm on 13 October 2025**.
31. The Interested Party is to serve today's decision on the other parties and file proof of service **by 4pm on 30 September 2025**.
32. Finally, I direct that a copy of today's decision be placed on the Court file for CC 24/3862 and that the decision be brought to the attention of Justice MacKenzie.

**DATED at Port Vila this 22<sup>nd</sup> day of September, 2025  
BY THE COURT**

  
.....  
Justice Viran Molisa Trief

