

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

Civil Case No's
21/2057 & 17/624 (Consolidated) SC/CIVL

CC 21/2057

BETWEEN: Dunstan Tula representative of Simon Roy
Tula and Family
Claimant

AND: John Godwin and Family
Colton Harry and Family
Hilary Wetak and Family
Maxime Pierre and Family
Philip Tula and Family
Willington Jonas and Family
Charles Norman and Family
John Beret
Lulum Noel
Colton Marry
First Defendants

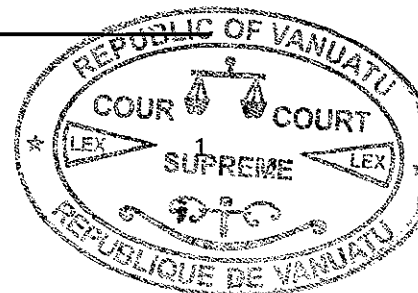
AND: Jeffrey Wenel and Frazer Wemanar
Second Defendants

CC 17/624

BETWEEN: Jeffrey Weul, Mofresher Wemanar, Family
Wemal, Sawon Family, Harold Nais Hopkins,
Keith Sawon, Frank Bollen
Claimants

AND: Rodrick Tula, Danstan Tula, Donald Tula,
Vira Jack, Basil Frank, Joseph Saltons,
Atkin John, Godden Fanai, Patrick Ventul,
Andrea Salvemal, Jonas Philip, Robert
Wengel, Laisa Marau, Timothy Fanai, Marian
Roquailis & Hillary Frazer
First Defendants

JUDGMENT



**AND: Donald Tula, Basil Frank, Joseph Salto,
Atkin John, Jonas Philip, Robert Wengel**
Second Defendants

AND: Jonas Philip
Third Defendant

Date of Trial: 16 October 2024
Before: Justice V.M. Trief
In Attendance: Claimant in CC 21/2057 and First Defendants in CC 17/624 – Mr R. Sugden
First & Second Defendants in CC 21/2057 – Mr P. Fiuka
Claimants in CC 17/624 – Ms J. Kaukare
Second Defendants in CC 17/624 – no appearance (Mr E. Molbaleh)
Third Defendant in CC 17/624 – no appearance (in person)
Date of Decision: 3 October 2025

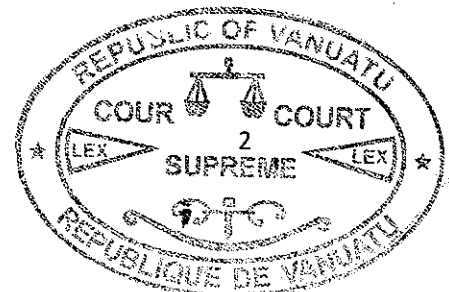
JUDGMENT

A. Introduction

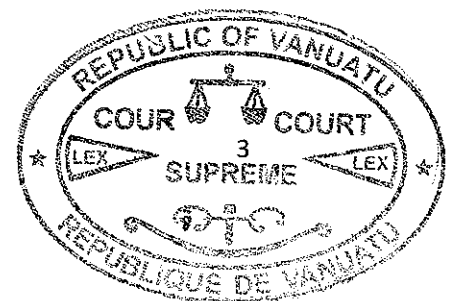
1. Both the Claims in the present matters *Weul v Tula*; Civil Case No. 624 of 2017 ('CC 17/624') and *Tula v Godwin*; Civil Case No. 2057 of 2021 ('CC 21/2057') are made in trespass, seeking eviction orders against the named defendants.
2. Following a Court of Appeal judgment dated 17 February 2023, the matters were consolidated.
3. This is the judgment following trial.

B. Background

4. On 24 November 2005, the Island Court for the Banks and Torres Islands sitting at Lawanda (Legawenda) on the island of Gaua issued orders in Land Case No. 3 of 2000 declaring the custom ownership of land known as Nebeklav (Nabeklav) and Aworor.
5. Families Jeffrey Wenel and Frazier Womanar were declared as the custom owners of Nebeklav land. Family Harold Naes was declared as the custom owner of Aworor land.

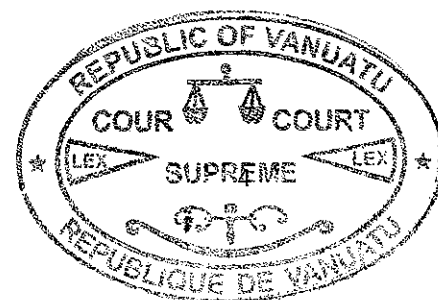


6. At the same time, the family Simeon Roy Tula were identified as not owning either Nebeklav or Aworor. That same family, though, were acknowledged in the Island Court Declaration C as having a right to work on part of Nebeklav land. That right, as recorded by the Island Court, came from the decision of family Jeffrey Wenel to give it to them. The area within which the family could work was set out in the same declaration (which I will refer to as the 'Declaration C land').
7. Declaration C by the Banks and Torres Island Court was in the following terms:
 - (c) *se famili Simeon Roy olgeta ino kastom ona long graon Nabeklav mo Aworor be raet we olgeta igat hemia hemi wan raet we famili Jeffrey ikvim long olgeta. Forom resen ia kot istap deklarem se graon we istat lo Lembal kam kasem drae krik blong Lear iblong famili Simeon Roy mo olgeta igat raet blo wok ko antap long hil kasem kros baondri we family Jeffrey italem*
8. Jeffrey Wenel and Frezier Womanar are named as Second Defendants in CC 21/2057.
9. Nebeklav land includes Lembal land, pursuant to the Torres Island Court's decision dated 24 November 2005 in Land Case No. 3 of 2000.
10. Tula therefore is not a declared custom owner of Lembal custom land but has declared rights of use of Lembal land.
11. Appeals to both the Supreme Court and the Court of Appeal were unsuccessful: Land Appeal Case No. 2 of 2007 in the Supreme Court, Tula v Mofreser [2010] VUSC 76 (judgment dated 14 June 2010), then Civil Appeal Case No. 17 of 2010 in the Court of Appeal, Tula v Weul [2010] VUCA 42 (judgment dated 3 December 2010).
12. On 15 March 2017, the Claimants in CC 17/624 Jeffrey Weul, Mofresher Wemanar, Family Wemal, Sawon Family, Harold Nais Hopkins, Keith Sawon and Frank Bollen filed the Claim that matter seeking the eviction of the Defendants from Abeklau Aworwor custom land on East Gaua island, an order for mesne profits and costs.
13. The Defendants in CC 17/624 are Rodrick Tula, Danstan Tula, Donald Tula, Vira Jack, Basil Frank, Joseph Saltons, Atkin John, Godden Fanai, Patrick Ventul, Andrea Salvemal, Jonas Philip, Robert Wengel, Laisa Marau, Timothy Fanai, Marian Roquailis and Hillary Frazer.
14. By a decision dated 10 October 2018 in CC 17/624, the Supreme Court determined the Claim in that matter. It ordered that the Defendants in that matter, which includes the present Claimant in CC 21/2017 Dunstan Tula, vacate the custom land known as Nebeklav Aworwor on East Gaua, adjourned the assessment of mesne profits to a date to be fixed, and costs.

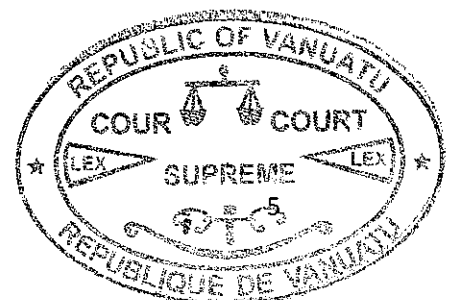


15. On 25 June 2021, the Claimant in CC 21/2057 Dunstan Tula representing Simeon Roy Tula and Family ('Tula') filed the Claim in that matter seeking the eviction of the First Defendants from Lembal custom land at south Gaua island in Torba province.
16. The First Defendants in CC 21/2057 are John Godwin and Family, Colton Harry and Family, Hilary Wetak and Family, Maxime Pierre and Family, Philip Tula and Family, Wellington Jonas and Family, Charles Norman and Family, John Beret, Lulum Noel and Colton Marry.
17. In filing its Claim in CC 21/2057, Tula is seeking to enforce its rights of use of Lembal land, or in other words the Declaration C land, declared by the Banks and Torres Island Court in its favour.
18. On 8 September 2022, Tula's previous counsel Mr Vohor filed Notice of Ceasing to Act.
19. Tula then retained new counsel Mr Sugden (Notice of Beginning to Act filed on 22 September 2022).
20. On 21 September 2022, Tula filed a Notice of Appeal and an application for leave to appeal out of time in Civil Appeal Case No. 2626 of 2022 ('CAC 22/2626') against the Supreme Court judgment dated 10 October 2018 in CC 17/624.
21. By judgment dated 17 February 2023 in *Tula v Weul* [2023] VUCA 7, the Court of Appeal allowed Tula's appeal against the 10 October 2018 decision in CC 17/624 and ordered as follows:
 - a) It set aside the eviction order and made the following order in its place, at [21]:
 21. *The order of eviction from the customary lands belonging to the Respondents is set aside and in its place an order evicting the Appellants and the First and Second Interested parties from the customary lands belonging to the Respondents save from that in Declaration C on which the Appellants have acknowledged rights to work as declared in the Island Court decision of November 2005. That area is described in the declaration of the Island Court at paragraph C as "graon we istat long Lembal kam kasem drae krik blong Lear iblong famili Simeon Roy mo olqeta igat raet blong wok ko antap long hil kasem baondri we famili Jeffrey italem." We understand that to mean the land starting at Lembal leading to the Lear dry creek that family Simeon Roy and the others have the right to work going upward until reaching the boundary as set by family Jeffrey.*

[emphasis added]
 - b) It set aside the order for mesne profits;



- c) It remitted the matter to the Supreme Court for an assessment of the mesne profits, if any, resulting from the trespass by the Appellants [the First Defendants in CC 17/624] and the First and Second Interested Parties [the Second and Third Defendants in CC 17/624] on the customary land of the Respondents other than the Declaration C land;
 - d) It set aside the order for costs of the action and ordered that there be no order as to the costs of the proceedings at first instance; and
 - e) Ordered the Appellants to pay to the Respondents the costs of the appeal of VT50,000.
22. It is indisputable from the Court of Appeal decision in Tula v Weul [2023] VUCA 7 that the Defendants in CC 17/624, including Dunstan Tula (therefore including Tula, the Claimant in CC 21/2057) are entitled to occupy and use only Lembal custom land (in other words, the Declaration C land), but not any portion beyond that within Nebeklav custom land.
23. Tula's case is that the First Defendants' occupation of Lembal custom land is preventing it from enjoying its use rights to that custom land, hence its Claim filed in CC 21/2057 seeking an order evicting the First Defendants from that land.
24. On 27 March 2023, Tula filed an Amended Claim in CC 21/21057.
25. On 30 May 2023, CC 17/624 and CC 21/2057 were consolidated.
- C. Pleadings in CC 17/624 in relation to mesne profits
26. This Court is tasked in this matter with assessing the mesne profits, if any, resulting from the trespass by the First-Third Defendants in CC 17/624 on the customary land of the Respondents other than the Declaration C land.
27. The following is pleaded in the Claim filed in CC 17/624:
- 3. *The Defendants are illegally occupying the land, at which the Claimant is the legal customary owner given the Supreme Court judgment on the 3rd of December, 2010.*
 - ...
 - 5. *The Defendants have vacated the Land but have now re-entered and occupied the Land which does not legally belong to them.*
 - 6. *As a result of the action of the Defendants the Claimant suffers loss and had been deprived the use and enjoyment of his property.*
28. The relief sought was an order for mesne profits to be assessed.



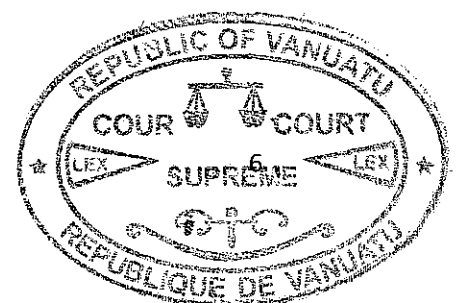
29. The First and Second Defendants disputed the Claim in their Defences filed on 24 October 2017 and 19 July 2017 respectively. They denied that the Claimants are entitled to mesne profits.
30. At the commencement of trial on 16 October 2024, Mr Sugden applied on behalf of the First Defendants for leave to amend their Defence filed on 24 October 2017 by adding a new para. 9. This was not opposed by Ms Kaukare for the Claimants. Accordingly, I granted leave for the amendment sought and ordered that the following para. 9 was added to that Defence:

9. *The First Defendants state that any mesne profits claimed against them in respect of any period of occupation that occurred more than 6 years before 15 March 2017 (the date the Claim was filed) is barred by the Limitation Act.*

31. The issues between the parties for the Court to determine include whether the Claimants have proved a claim for mesne profits on the part of the custom land outside of the Declaration C land which belongs to families Jeffrey Weul and Frezier Womanar and if so, what mesne profits they are entitled to.

D. Consideration of CC 17/624 issues

32. The first issue for the Court to determine is whether the Claimants have proved a claim for mesne profits on the part of the custom land outside of the Declaration C land which belongs to families Jeffrey Weul and Frezier Womanar. If proved, the second issue then is what mesne profits the Claimants are entitled to.
33. The Claimants' evidence is that set out in the Sworn statements of Harold Naise filed on 4 April 2018 [**Exhibit C1**] and Herve Hopkins filed on 27 September 2017 [**Exhibit C2**].
34. However, neither sworn statement contains any evidence as to mesne profits in relation to occupation of land outside of the Declaration C land.
35. Mr Sugden submitted for the First Defendants that in order for the Claimants to succeed on a claim for mesne profits, they needed to amend the Claim to allege in respect of each of the three Defendants separately, the land outside the Declaration C land that he or she was occupying, the particulars of its location and area, the alleged use of that land, over what period of time and the market rate for rent of land in the relevant areas during the alleged periods of occupation. They then needed to file evidence to prove these matters. However, they did neither. I agree.
36. I consider that the Claim as pleaded does not set out a properly pleaded claim for mesne profits.



37. Even if the Claimants had properly pleaded a claim for mesne profits, they have not adduced any evidence to prove entitlement to mesne profits.

38. For the foregoing reasons, I assess the Claimants' claim for mesne profits as **nil**.

E. Pleadings in CC 21/2057

39. By the Claim, Tula is seeking the eviction of the First Defendants from Lembal custom land at south Gaua island in Torba province.

40. In doing so, Tula is seeking to enforce its rights of use of Lembal land declared by the Banks and Torres Island Court in its favour.

41. On 27 March 2023, Tula filed an Amended Claim alleging the following:

1. *The Claimant and his family are the holders of rights given in custom over that part of Nebeklav custom land known as Lembal ("the land") the boundaries of which are set out in the decision dated 24 November 2005 of the Banks/Torres Island Court.*

PARTICULARS

- (i) *The Claimant and his family claim through Simeon Roy.*
- (ii) *The boundaries of the land and the rights given over that land were:*

"Forom risen ia Kot istap deklarem se graon we istat lo Lembal kam kasem drae krik long Lear iblong family Simeon Roy mo olgeta igat raet blo wok ko antap long hil kasem kros baondri we family Jeffrey italem"

2. *The First Defendants have, since November 2005, been occupying and using the land thereby preventing the Claimant and his family from enjoying the rights that they have given over the land without the Consent of the Claimant to do so.*

PARTICULARS

The First Defendants have erected permanent buildings, planted coconut and other fruit trees and made gardens, and are grazing livestock on the land.

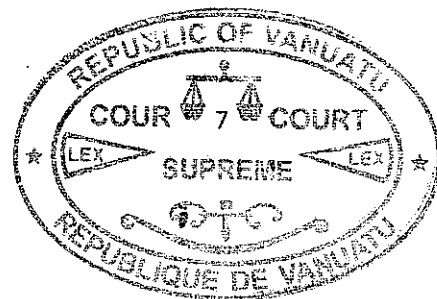
3. *On or about 2 March 2021 the Claimant gave notice to the First Defendants to cease their activities particularized above so as to cease interfering with the rights of the Claimant and his family over the land.*

PARTICULARS

Solicitor's letter giving notice dated 02/03/2021.

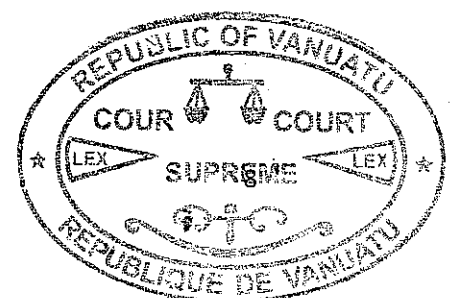
4. *The First Defendants have not complied with the notice and continue to prevent the Claimant and his family from enjoying their lawful rights over the land.*

42. The relief sought is an order that the First Defendants remove the buildings they have erected on the land and cease coming onto the land save with Tula's permission, that the First Defendants shall have 3 months to remove their buildings and harvest their



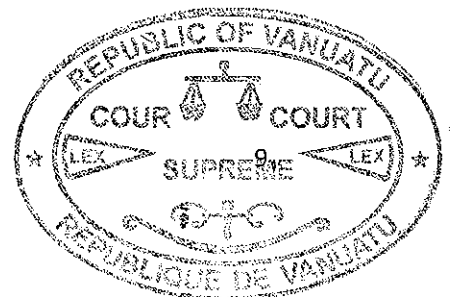
gardens and fruit trees but shall only come onto the land during that 3 months for these purposes and no other, damages for the interference with Tula's rights over the land, and costs.

43. On 12 April 2023, the First and Second Defendants filed Defence to the Amended Claim.
44. The first matter they alleged concerns the boundaries of the Declaration C land, that it has an estimated area of 100 metres by 110 metres. However, as the Court of Appeal stated in *Tula v Weul* [2023] VUCA 7 at [13], if this is an issue as to what the boundaries of the Declaration C land are, that can only be determined by the Island Court. Neither this Court nor the Court of Appeal have any jurisdiction to determine that question. Accordingly, I have no further regard to this issue.
45. A further matter alleged in the Defence is that it is Tula who are not residing within Lembal land but are trespassing onto Nebeklav land owned by the Second Defendants pursuant to the Banks/Torres Island Court decision dated 24 November 2005. As already set out above, this was the subject of a Supreme Court decision dated 10 October 2018 in CC 17/624 and the Court of Appeal's decision in CAC 22/2626. The Court of Appeal made an order evicting Tula from the customary lands belonging to families Jeffrey Wenel and Frezier Womanar, save from the Declaration C land. That having been determined, I have no further regard to this issue.
46. That being the result of the proceeding in the Court of Appeal, it is indisputable that the Defendants in that matter, including Dunstan Tula, are entitled to occupy and use only Lembal custom land (in other words, the Declaration C land), but not any portion beyond that within Nebeklav custom land.
47. Finally, the First Defendants alleged in the Defence that they are occupying land within Nebeklav land given to them by the Second Defendants since the 1970s and those portions of land are outside Lembal land. They asserted that they have rights of use over the portion of lands given to them by the Second Defendants.
48. However, this Court has no jurisdiction to determine if the Second Defendants in the 1970s gave the First Defendants rights over land within Nebeklav land, but outside of Lembal land.
49. Accordingly, the sole issue between the parties for the Court to determine is whether or not the First Defendants are occupying land within Lembal custom land (in other words, the Declaration C land). If yes, then the Court must determine whether or not the First Defendants have been given notice to vacate the land and whether or not they have complied with such notice.

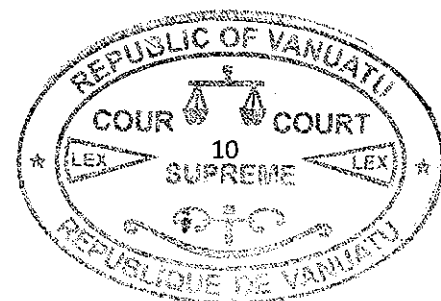


F. Consideration of CC 21/2057 issue

50. The Court needs to determine whether or not the First Defendants are occupying land within Lembal custom land (that is, the Declaration C land).
51. Tula relied on its evidence in the sworn statements of the following:
- (i) Dunstan Tula filed on 5 June 2023 [**Exhibit C1**] and 21 December 2023 [**Exhibit C2**];
 - (ii) Basil Frank filed on 5 June 2023 [**Exhibit C3**];
 - (iii) Daniel Roy filed on 5 June 2023 [**Exhibit C4**];
 - (iv) Paul Wyn Tula [**Exhibit C5**];
 - (v) Manaseh Weler [**Exhibit C6**];
 - (vi) Opres Philip [**Exhibit C7**]; and
 - (vii) Gedion Wesur [**Exhibit C8**].
52. No notice was given to cross-examine Tula's witnesses hence Dunstan Tula was the only Claimant's witness who was cross-examined. The rest of Tula's evidence is unchallenged.
53. The only evidence for the Defendants was the Sworn statement of Rogartson Aris filed on 26 May 2023. However, having heard the objections as to the admissibility of that sworn statement and having heard Mr Fiuka's submissions in response, I struck out that sworn statement in its entirety. The Defendants, therefore, did not have any evidence to prove their Defence.
54. One of the attachments to that Sworn statement of Mr Aris was the map in **Attachment "RA1"**. The objection to that attachment was that it is hearsay and wrong to assert in the present proceeding that there was a map in the Island Court decision when the Island Court decision must speak for itself. I accepted that submission and struck out the map in **Attachment "RA1"** for hearsay.
55. In closing submissions, Mr Fiuka referred to the map in **Attachment "HN3"** to the Sworn statement of Harold Naise filed on 4 April 2018 [**Exhibit C1** in CC 17/624].
56. However, the map in **Attachment "HN3"** is the same map as in **Attachment "RA1"** to the Sworn statement of Rogartson Aris filed on 26 May 2023, which was struck out.

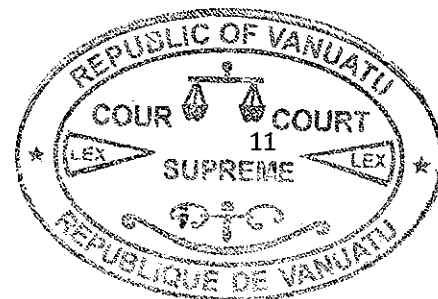


57. Accordingly, the Defendants may not refer to the **Attachment "HN3"** map. I therefore have no further regard to the map in **Attachment "HN3"** or to Mr Fiuka's submissions referring to that map.
58. Mr Fiuka also referred to passages from the evidence of witnesses at the trial in the Island Court as recorded in the Island Court judgment and asserted that these passages were findings of the Island Court that somehow lead to the conclusion that Tula is making the same claim in the present proceeding as it did in the Island Court, and that this, in turn enables the Court to conclude that the Defendants are not occupying land within the Declaration C land.
59. However, the recordings of the evidence given by witnesses are not findings. There is no merit in that submission.
60. In addition, Tula was claiming in the Island Court custom ownership of Nebeklav custom land. That is a totally different claim in this proceeding against the First Defendants of wrongful interference with its rights declared by the Island Court over the part of Nebeklav land determined by the Island Court as set out in its Declaration C. There is no merit in this submission either.
61. Finally, none of this was put to Tula's witness Dunstan Tula in cross-examination.
62. For the foregoing reasons, I wholly reject those submissions by Mr Fiuka.
63. Although Tula's evidence is unchallenged, it must prove its case on the balance of probabilities. That is, that it is more likely than not that the matters it has alleged in the Claim occurred.
64. As already stated, Tula is seeking to enforce its use rights over Lembal land, which the Banks and Torres Island Court described as follows in Declaration C of its decision:
- (c) *... Forom resen ia kot istap deklarem se graon we istat lo Lembal kam kasem drae krik blong Lear iblong famili Simeon Roy mo olgeta igat raet blo wok ko antap long hil kasem kros baondri we family Jeffrey italem.*
65. Tula is accusing the First Defendants of interfering with their custom rights over the Declaration C land by occupying and themselves working the land.
66. Mr Dunstan Tula was cross-examined. One of his sworn statements, **Exhibit C1**, had a map attached to it as "**Attachment B.**" In cross-examination, Mr Tula confirmed that he drew that map.
67. Mr Tula stated in para. 6 of that sworn statement that he had on the map shown the positions of the First Defendants' houses on the land over which his family has the rights



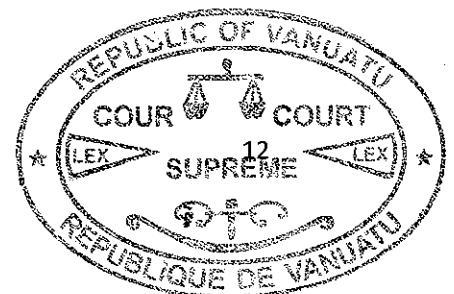
recorded by the Island Court decision. Mr Tula's statement in his para. 6 was not challenged in cross-examination.

68. In addition, as part of Mr Fiuka's question about the map, Mr Fiuka stated, "your map in your sworn statement shows the boundary of Lembal land." This statement by the Defendants' counsel is an admission that the map shows the boundary of Lembal land and binds the Defendants: *The Actaeon (1853) 1Ecc&Ad 176* – referred to in "Cross on Evidence", 2nd Australia Ed., para. 18.108.
69. The map shows the names of the following First Defendants at different points within Lembal land:
- a) John Godwin;
 - b) Colton Harry;
 - c) Hilary;
 - d) Maxime Pierre;
 - e) Philip Tula; and
 - f) Wellington Jonas.
70. In addition, other parts of Tula's evidence prove the following:
- a) Basil Frank's evidence is that he knows the boundaries of Nebeklav land and the Declaration C land given to Simeon Roy Tula from helping Simeon Roy from the early 1960s to clear the land, plant his tress and gardens, and build his house. Further, that he knows that John Godwin and family, Colton Harry and family, Hilary Wetak and family, Maxime Pierre and family, Philip Tula and family are all living in houses built on the land given to Simeon Roy. He also stated that they have also cut down some of Simeon Roy's fruit trees and have put in their place their own gardens and trees [**Exhibit C3**];
 - b) Paul Wyn Tula's evidence is that he is the Claimant's brother and a son of Simeon Roy Tula. He stated that he was the family spokesman at the trial in Land Case No. 3 of 2000 in the Banks/Torres Island Court in 2005, in which the Island Court viewed Tula's fruit trees and gardens in the area over which their rights extend. Finally, he stated that his father brought in people to help him farm the land and some of them built houses. However, eventually some of them began to cause trouble, cutting down fruit trees and claiming the right to farm the land for themselves. He stated that the First Defendants are some of the people who caused trouble and all of them have houses and work on the land that his father was given the right to be on and work [**Exhibit C5**];



- c) Manaseh Weler's evidence is that he has spent a lot of time during his life at the land known as Lembal and knows it well. He stated that he has frequently seen the houses and gardens of John Godwin and family, Colton Harry and family, Hilary Wetak and family, Philip Tula and family, Wellington Jonas and family, John Bevet, Lulum Noel and Colton Harry which are all located on Lembal land. He stated that he has observed problems between these people and Dunstan Tula's family for many years [Exhibit C6];
- d) Opres Philip's evidence is that he has personally witnessed the people who Dunstan Tula wishes to be ordered to stay out of Lembal land causing damage to Dunstan's family's trees and gardens for many years until today. He also stated that they all have houses on Lembal land [Exhibit C7]; and
- e) Gedion Wesur's evidence is that Dunstan Tula and his family have their house and gardens on Lembal land. Also, that all of the First Defendants live and have their gardens on Lembal land [Exhibit C8].

71. Having considered Tula's evidence, including the admissions made, I find that the First Defendants were and are living and working on the Declaration C land including erecting houses, and planting trees and gardens. I find that by doing so, the First Defendants have been preventing Tula from enjoying the rights that they have over Lembal land without Tula's consent. That is, that the First Defendants have been wrongfully interfering with Tula's rights declared by the Island Court over the part of Nebeklav land determined by the Island Court as set out in its Declaration C.
72. I also find that the First Defendants came onto the Declaration C land initially at Simeon Roy Tula's invitation but that the invitation and permission to stay there was withdrawn – Mr Dunstan Tula attached copies of two notices to vacate the land dated 22 March 2022 and 7 April 2022 [Exhibit C1 – Attachment "A"].
73. This was supported by Mr Paul Wyn Tula's evidence that his father Simeon Roy tried unsuccessfully in 2002 to bar the First Defendants from the land [Exhibit C5].
74. A notice to the First Defendants to cease their activities on the Declaration C land was pleaded at para. 3 of the Amended Claim. This was particularized as the solicitor's letter dated 2 March 2021. No solicitor's letter is in evidence, but I accept and find that Tula has given notice to the First Defendants to vacate the land as set out in Exhibits C1 and C5.
75. Despite this, the First Defendants have not left and continue to live on the land.
76. For the reasons given, Tula has proved the Amended Claim and is entitled to the relief sought.



G. Result and Decision

77. Judgment is entered for the Claimant, and it is ordered as follows:

- a) That the First Defendants, their families and/or agents are to vacate Lembal land, as described in Declaration C of the Banks and Torres Island Court decision dated 24 November 2005, including removing their houses, buildings and fencing that they have erected on the land as well as their livestock, personal properties and garden crops leaving the land vacant, **within 3 months from the date of service of this Judgment;**
- b) That the First Defendants, their families and/or agents are to cease coming onto Lembal land, as described in Declaration C of the Banks and Torres Island Court decision dated 24 November 2005, save with the permission of the Claimant;
- c) That the First Defendants have 3 months from the date of service of this Judgment to remove their houses, buildings and fencing that they have erected on the land as well as their livestock, personal properties and harvest their gardens and fruit trees but shall only come onto the land during those 3 months for those purposes and no other;
- d) That damages for the interference with the Claimant's rights over the land are to be assessed on a date to be fixed; and
- e) That costs shall follow the event. The First Defendants jointly and severally are to pay to the Claimant costs as agreed or taxed by the Master.

H. Enforcement

78. Pursuant to rule 14.37(3) of the *Civil Procedure Rules* ('CPR'), I now schedule an Enforcement Conference at **1pm on 30 January 2026** to ensure the judgment has been executed or for the First Defendants to explain how it is intended to comply with this judgment. For that purpose, this judgment and a summons in Form 27 of the CPR must be personally served on each Defendant (particularly given Mr Sugden filed Notice of Ceasing to Act on 10 March 2025) and proof of service filed.

**DATED at Port Vila this 3rd day of October, 2025
BY THE COURT**


Justice Viran Molisa Trief

