

BETWEEN: ADLF LIMITED  
Claimants

AND: VANUATU PALM OIL LIMITED  
First Defendant

AND: LEITAU HARRY  
Second Defendant

AND: REPUBLIC OF VANUATU  
Third Defendant

**Date of Hearing:** 8<sup>TH</sup> October 2024  
**Date of Judgment:** 29<sup>th</sup> January 2025  
**Before:** Justice Oliver Saksak  
**Counsel:** Mr James Tari for the Claimant  
Mr Edwin Macreveh for the First Defendant  
Mr Roger Rongo for the Second Defendant  
Attorney General for the Third Defendant

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## JUDGMENT

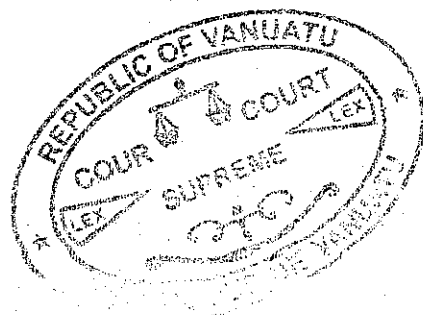
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### Introduction

1. This is a claim seeking rectification of the lease register by cancelling Lease 12/0912/312 now registered in the First Defendant's name.

### Background

2. The Lease is a rural residential lease first registered on 28<sup>th</sup> January 2001 in the name of Leitau Harry, Second Defendant as lessee and the Minister of Land as the Lessor.
3. On 26<sup>th</sup> May 2009 the Second Defendant transferred the Lease to ADLF, the Claimant.
4. ADLF was a registered company on 24<sup>th</sup> September 2007 until it was struck off on 20<sup>th</sup> April 2010.
5. On 4<sup>th</sup> June 2012 Leitau Harry transferred the Lease to Vanuatu Palm Oil Limited, the First Defendant for a consideration of VT 5,000,000.



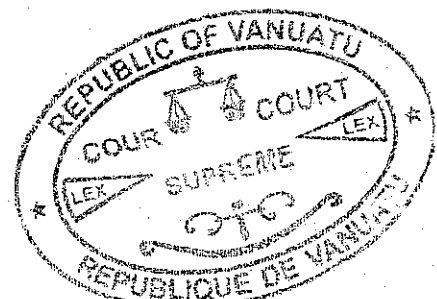
6. On 7<sup>th</sup> July 2016 ADLF, Claimant was re registered and issued with a Certificate of Incorporation dated 2<sup>nd</sup> September 2024. Reference is made to annexure " GW1" to the sworn statement of Gordon Willie filed on 3<sup>rd</sup> September 2024 in support of the Third Defendant's defence.
7. The Claimant alleges fraud and mistake committed by the Second Defendant, First Defendant and agents of the Third Defendant.

### **Burden of Poof and Evidence**

8. The Claimant has the burden of proof to prove fraud and/or mistake by the defendants.
9. The claimant however did not on 8<sup>th</sup> October 2024 dispute the facts. They filed evidence from only one witness, Jean Paul Virelala on 27<sup>th</sup> September 2024.
10. Mr Virelala's evidence is irrelevant because facts were agreed by the Claimant. The Claimant however raised only one legal issue for consideration by the Court. The issue is whether when a company is deregistered other persons can sign on the company's behalf?

### **Discussion**

11. In his written submissions Mr Tari referred to sections 60, 61 and 62 of the Land Leases Act.
12. Of relevance is section 60 (2) which states-  
*" The transfer shall be completed by registration of the transferee as proprietor of the lease or mortgage and by filing the instrument"* my emphasis
13. Section 60 of the Act provides for transfer of a registered, lease. And section 61 provides for restriction on transfers of leases. Section 62 provides for matters implied in the transfer.
14. Section 60 (2) is conclusive. Once a transfer is registered the transfer is completed and it is the end of the matter, unless fraud and/or mistake is alleged and proved. In this case it is alleged but the claimant not having disputed the facts, they have in essence conceded there was no fraud and/or mistake.
15. The reality is that ADLF was struck off from 20 April 2010. It was only registered again on 7<sup>th</sup> July 2016. For some 6 years it was a non- existent company.
16. When on 4<sup>th</sup> June 2012 when the Second Defendant transferred the Lease to Vanuatu Palm Oli Ltd, and upon its registration, transfer was validly and legally made, title had validly and legally passed from the



Second Defendant to the First Defendant. It does not matter the Claimant was registered again some 4 years later, they cannot now go back and claim that they are still legally entitled to Lease 12/0912/312.

17. Mr Tari referred also to sections 335 and 336 of the Companies Act, however those provisions do not assist his client's claim.

### **Conclusion and Result**

18. I therefore reject Mr Tari's submissions and accept the submissions by the First, Second and Third Defendants instead.
19. Accordingly the Claimant fails in its claim against the defendants. The claim is therefore dismissed.
20. The claimant has put the defendants to unnecessary costs. The defendants are entitled to their costs of the proceeding on the standard basis as agreed or taxed.

**DATED at Port Vila this 29<sup>th</sup> day January 2025**

**BY THE COURT**

**Hon. Oliver Saksak**  
**Judge**

