

( Probate Division )

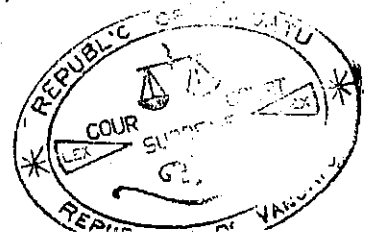
**IN THE MATTER** of an application for  
**LETTERS OF ADMINISTRATION** in the  
Estate of **RAYMOND VINCENT GARRIDO**  
and **ALEXANDRINE CELESTINE LOUIS  
FRANCOIS GUIBAUD**

Coram. Mr. Justice Lunabek  
Mr. John Malcolm for the Applicant  
Mr. Silas Hakwa for the Respondent

**JUDGEMENT**

This is an application for a Declaration on Originating Summons under Order 58 Rule 1 of the Western Pacific (High Court) Rules. The application was made on the part of the Estate herein for the following Orders and Declaration:

- a) That Orders for Letters of Administration dated 8 May 1996 in Civil Case No. 14 of 1996 are lawful and valid Orders.
- b) That Orders of Letters of Administration dated 13 September 1995 are wholly invalid in so far any reference or representation is made in respect to Title 11/OB 33/016.
- c) That Title 11/OB 33/016 is the property of the Estate of RAYMOND VINCENT GARRIDO and ALEXANDRINE CELESTINE LOUIS FRANCOISE GUIBAUD.
- d) That the said Estate referred and averred in Order (c) hereof shall be dealt with in Law by the Administrator of the Estate namely DANIELLE ROLY GARRIDO.
- e) That JUANITA ELSIE GARRIDO is not authorised in Law or fact in any way interfere with resolution of the said Estate referred and averred to in paragraph (d) hereof.



The grounds of the application are contained in:

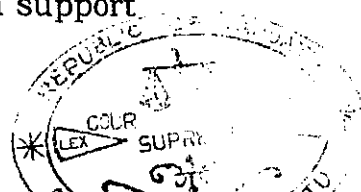
- 1) Order 58 Rule 1
- 2) Affidavit of Geoffrey Robert Gee sworn and filed thereto.

I propose to relate parts of the said Affidavits to the extent of their relevancy in order to follow the practical difficulty encountered in this matter.

Prior to his demise on 5 September, 1985, Mr Raymond Vincent Garrido owned a property Title 11/OB 33/016. On or about 11th September, 1989 the Supreme Court of Vanuatu made lawful and valid orders as to distribution of the Estate of Raymond Vincent Garrido. His son Roger Alfred Garrido was to administer the Estate on behalf of the beneficiaries. From such time Roger Alfred Garrido did administer the Estate. He and his wife Juanita Elsie Garrido lived on the property Title 11/OB 33/016 without charge. The said property was never divested from the Estate. It is understood that she and her children remain on the property. On or about 1 September, 1992 the said Roger Alfred Garrido died. On 7th August 1992 Letters of Administration were granted in respect to the said Roger Alfred Garrido's estate to his wife Juanita Elsie Garrido on property 11/OF 23/016 and 11/OE 53/007.

On or about 14 December 1994, Mrs Juanita Elsie Garrido did applied for Letters of Administration in the Estate of Raymond Vincent Garrido, her father in law. Her application was failed as the effect would be to appoint her as Administrator of her deceased husband's father's Estate without Notice having been given to the beneficiaries under the father's Estate. The deceased husband, Roger Alfred Garrido was Administrator of his father's estate and so become Administrator in about 1985. Mrs Juanita Elsie Garrido's application must be made within the fathers in law estate and the Court will only grant letters in the event of consent being obtained. But as at that time nobody else who has any interest in the estate is located in the jurisdiction, an interim order was made appointing Mrs Juanita Elsie Garrido as Administrator of her father in laws estate and such appointment was expired on February 28, 1995.

On 13th September 1995, Mrs Juanita Elsie Garrido applied again for Letters of Administration in the Estate of Roger Alfred Garrido who died intestate with this specific mention : "for the purposes of these orders shall include all that land comprised in leasehold Title number 11/OB 33/016". It was put on behalf of Mrs Juanita Elsie Garrido, before the Chief Registrar in chambers that Mrs Juanita Garrido has tried as best as she can to obtain the views and/or consent of the beneficiaries who all reside overseas but she had not had any response from any of them (See Paragraph 6 of her Affidavit in support



of Application for Letters of Administration). It was also confirmed that she wishes to seek certain Orders to sell leasehold Property Title number 11/OB 33/016 and distribute the proceeds of such sale between all the beneficiaries. The learned Chief Registrar (as he then was) thought the application a reasonable one under the circumstances for the purpose of administering and of preserving the property and thus, granted the administration to Mrs Juanita Elsie Garrido as requested.

On the 8th May, 1996, However, another application for Letters of Administrations on the same property Title number 11/OB 33/016 was made by Mrs Danielle Roly Garrido the daughter of Raymond Vincent Garrido with the consent of over 90% of the beneficiaries (See Affidavit of Geoffrey Robert Gee in Annexed and Marked "F" pursuant to Powers of Attorney granted by all other beneficiaries of Raymond Garrido). Letters of Administration were then signed and granting Danielle Roly Garrido administrator of the Estate.

So that the position in relation to property Title 11/OB 33/ 016 is that we now have two (2) Letters of Administration on that same property.

The purpose of this application is for this Court to declare which order is to be declared nul and void and which one is to be preferred.

The only issue in this case is who will be the Administrator of the Estate in the circumstances of this case?

It is submitted on behalf of Mrs Juanita Elsie Garrido that if the majority of the beneficiaries want the property to be sold and the proceeds of the sale be distributed between them, it is not necessary to have another Administrator of the said Estate and it is further submitted that because she is one of the beneficiaries and the only one within the jurisdiction, she should be granted Letters of Administration.

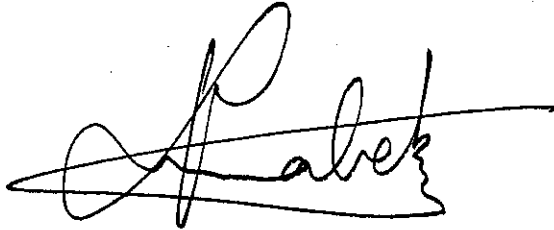
It is submitted for the Applicant, Mrs Danielle Roly Garrido that her father's Estate property Title No. 11/OB 33/016 is currently subject to an agreement of sale. The property is valued at \$US 250, 000 (the equivalent of Vatu 25, 000, 000). Mrs Danielle Roly Garrido represents 93% of the other beneficiaries of the Estate and that Mrs Juanita Elsie Garrido is a minority beneficiary who is entitled only to 7%. It is also submitted for the applicant in this case that Mrs Juanita Elsie Garrido wants to live free of charge on the property and that this is not fair for the proper administration of the estate.

Having considered all the Affidavits and documents in support submitted by both parties, it transpires therefrom that there is animosity between members of the class entitled to the Administration of the property but no specific ground of objection to the applicants.

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can be alleged, it is the practice to prefer the applicant with the largest interest or who is supported by the majority of interest. But this rule is one of practice and not of law. In this case I intent to follow that rule of practice and on that basis I, therefore, grant the orders and declarations sought in the originating summons dated 20th June 1996 and I make no order as to costs.

**DATED AT PORT VILA this 2nd Day of August 1996.**



**LUNABEK VINCENT J.**  
**Judge**

