

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**

(Civil Jurisdiction)

Civil Case No. 104 of 2004

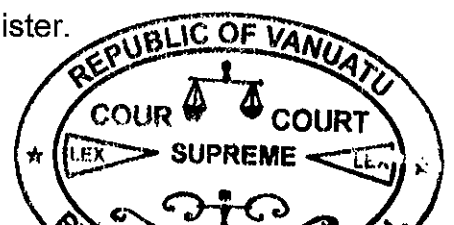
BETWEEN: NATIONAL HOUSING CORPORATION
Appellant

AND: WREATH BULE
Respondent

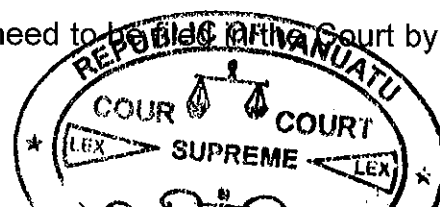
Claimant: Mr. G. Nakou
Defendant: Mr. C. Leo (with Mr. Bule)

ORAL RULING

1. Today is set down to hear the Application filed in the Court on 26th June, 2009 by Mr. Bule for a declaration that the National Housing Corporation should not be able to proceed with a mortgagee sale of the house occupied by Mr. Bule that he has said was contracted to buy from the National Housing Corporation. The reason advanced in the Application is that the Minister of Housing has never issued a direction to the Claimant, the National Housing Corporation, for a mortgagee sale to proceed. Section 3 of the National Housing Corporation Act says "*The Corporation shall be responsible for the execution of the policy of the Government in relation to housing. In the exercise of its functions, powers and duties the corporation shall be subject to the directions given to it by the Minister.*" Section 3 is quite clear the National Housing Corporation is subject to directions from the Minister but it does not say the National Housing Corporation cannot do anything at all on its own accord without a direction given to it by the Minister for Housing.
2. In the Decision of this Court dated 29th May, 2009 the Defendant was given two days in order to look at information that the Claimant said they be able to provide to him, providing a copy of the Minister's direction and if that was still disputed by the Defendant then he could come back to the Court. The Defendant did not come back to Court within that two days. In any event on further reflection I am of the view that section 3 does not require a specific direction given to the National Housing Corporation by the Minister. The National Housing Corporation is bound only by those directions actually given to it by the Minister.



3. The Application for the Defendant filed in the Court on 26th June, 2009 is therefore declined.
4. Today in the course of this hearing a Further Application for Stay has been shown to the Court which was apparently filed in the Court on 26th August, 2009. There does not appear to be a copy of this Further Application for Stay on the Court record. The four grounds advanced in the Further Application for Stay are as follows:
 - 1) The Amended Supreme Court Claim filed by the Claimant's solicitor failed to name proper parties to the action. On viewing the Amended Supreme Court Claim it is difficult to understand what the submission is about as the parties do appear to be appropriately and properly named in the Amended Supreme Court Claim. I note that no Sworn Statement has been filed alongside the Further Application to Stay to provide any further information therefore the Court can only make a decision based on that information and is contained and in the Further Application for Stay.
 - 2) The Defendant says the Loan and Sale Agreement pleaded by the Claimant's solicitors was never signed by the Defendant. A copy of that Loan Agreement has been handed to the Court today and that would appear to be correct. However that does not advance the Defendant's cause. If the Defendant does not rely upon the documents that had been supplied to the Court by the Claimant's solicitor then he has no right or entitlement to the property whatsoever and is simply a trespasser, and the National Housing Corporation would not be required to obtain orders for a mortgagee sale.
 - 3) The Defendant says the mortgage document pleaded by the Claimant's solicitor in the Amended Supreme Court Claim is misconceived and contains irregularities. Once again no information is being provided to the Court as to the alleged misconceptions or irregularities and no Sworn Statements have been filed alongside with Further Application for Stay.
 - 4) Further grounds to be advised by the Defendant. No further grounds have been advanced by the Defendant and therefore the Further Application for Stay filed in Court on 26th August, 2009 is also declined. The Court will therefore make enforcement orders which will need to be made by the Court by



the Claimant. The Claimant also needs to file a new Enforcement Warrant of Possession of Leased Land should it choose to do so.

5. In respect to costs, the Defendant has continued a prolonged, protracted, and hopeless case to try and prevent the mortgagee sale from going ahead and therefore costs must be awarded against the Defendant on a standard basis. Costs will be as agreed or if not agreed then as taxed by the Court.

Dated at Port Vila, this 13th day of October, 2009

BY THE COURT

