

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

Civil
Case No. 19/2263 SC/CIVL

BETWEEN: Yang Huanduo
Claimant

**AND: George Navau Ieru and Family, Markson
George and Family, Lesbeth Markson
and Family**
Defendants

Date of Trial: 10 June 2020
Before: Justice V.M. Trief
In Attendance: Claimant – Mr W. Kapalu
Defendants – Mr J. Boe
Date of Decision: 10 June 2020

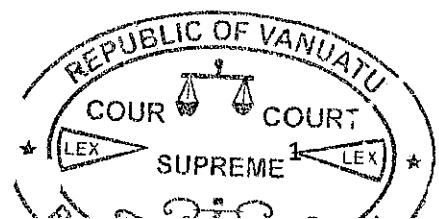
JUDGMENT

A. Introduction

1. The Claim seeks eviction of the Defendants from lease title no. 12/0944/007. This is defended on the basis of rights under s. 17(g) of the *Land Leases Act* (the 'Act').

B. Evidence

2. Mr Hong Zhang produced in evidence a copy of the Lands Registry Advice of Registration of a Dealing recording that on 2 May 2019, the Director of Land Records registered the Transfer of Lease title no. 12/0944/007 from Sultana Consultancy Limited to the Claimant Yang Huanduo. Also produced into evidence is Mr Kapalu's letter dated 10 June 2019 giving the Defendants notice to vacate the land.
3. Mr Kapalu stated that the Defendants responded to the notice by letter from their former counsel Mr Timakata. Mr Boe was unaware of this as he has not been given the full file for this matter.



4. Mr George Navau deposed that he worked for Peter Colmar from 1987 to 1999 in the poultry farm located on the land. Mr Colmar stopped the poultry business in 1999, but told him to stay on the land and look after the property until he returned to start the business up again. Mr Navau stated that Mr Colmar has not returned to restart the business nor to pay him for looking after the property. Mr Navau has also been given notices to quit from Master Than Dick (Gilbert Dinh) and Madame Odette Gauchet.

C. Discussion

5. The Defendants' case is that pursuant to s. 17(g) of the Act, the Claimant holds the lease subject to the overriding rights of the Defendants, being persons in actual occupation of the land. They assert that their right to occupy the land is from Mr Colmar's request to look after the property, and that they have done so without any payment of their entitlements.
6. However, there is no evidence that Mr Colmar's employer obligations have transferred to the Claimant. Mr Colmar is not a party to the present case therefore the Court in this case cannot determine the Defendants' claim for employment entitlements. This must be sought directly against Mr Colmar. The Claimant is a bona fide purchaser of the lease who has not inherited any employer obligations from Mr Colmar. In the circumstances, s. 17(g) of the Act does not apply such that the Claimant holds the lease subject to any rights of the Defendants.
7. There is clear evidence of the Claimant's legal entitlement to the land. She is the registered proprietor of lease title no. 12/0944/007.
8. The Defendants occupy the land, and despite being given notice to quit, have not vacated the property.
9. The Claimant has proved her Claim and is entitled to the relief sought.

D. Decision

10. Judgment is entered for the Claimant.
11. The Defendants are to vacate lease title no. 12/0944/007 within 28 days from the date of service of this decision.
12. The Claimant is entitled to her costs on the standard basis to be agreed between counsel, or taxed by the Master. Once settled, the costs are to be paid within 21 days.

**DATED at Port Vila this 10th day of June 2020
BY THE COURT**

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Viran Molisa Trief
Judge

