

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

Civil  
Case No. 18/2022 CVL/Civil

**BETWEEN:** ANZ Bank (Vanuatu) Limited  
Claimant

**AND:** Wilson Dudley  
First Defendant  
Wilson and Nancy Garae  
Second Defendants

*Date:* 26 May 2020  
*Before:* Justice G.A. Andrée Wiltens  
*In Attendance:* Ms L. Matariki for the Claimant  
Mr J. Vohor for the Defendants

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**JUDGMENT**

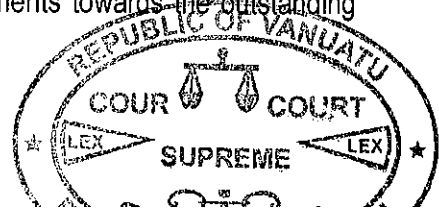
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A. Introduction

1. This was a debt collection exercise due to non-performance under a loan secured by a registered mortgage over property.

B. Issues

2. Ms Matariki's instructions were that there was serious default under the mortgage – as at early April 2020, the Bank was owed almost VT 8 million, with no payments forthcoming since December 2014.
3. Mr Vohor's instructions were that the debt was accepted, and that it was intended that the Defendant's son-in-law and daughter would take over the payments towards the outstanding

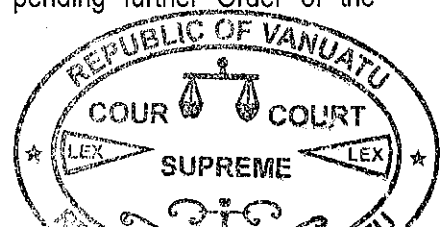


mortgage. This confirmed the instructions previously reported by Mr C. Leo, previous counsel instructed.

4. Ms Matariki confirmed that this was the Defendants' stated position since January 2019 when the Defence was filed, but even as recently as this morning when she checked with her clients, nothing concrete had been proposed by the Defendants or their family members to resolve the situation.
5. Mr Vohor had no objection, in the circumstances, to judgment being granted in the terms of the application. His clients intended to deal with the Claimant in the interim before enforcement steps were taken in respect of the judgment.

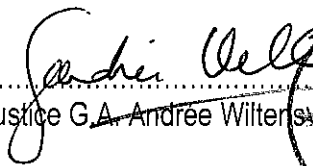
#### B. Result

6. Accordingly, judgment is granted to the Claimant in the following terms:
  - (i) The Mortgagee is empowered to enter upon, take possession of and be empowered to sell and transfer the leasehold properties contained and described in Title No. 03/OJ92/029 ("the property") by such means and in such manner as it shall see fit.
  - (ii) Pending such sale and transfer the Mortgagee, or an agent(s) duly authorized by it in writing, be empowered to enter on the said leasehold property and act in all respects in the place and on behalf of the proprietor of the lease and to apply in reduction of the money due and owing to the Claimant all or any rent received in respect of the said property.
  - (iii) The purchase money to arise from the sale and transfer of the said leasehold property and the money received (if any) by the Claimant pending such sale and transfer shall be applied:
    - Firstly in payment of expenses occasioned by the sale and transfer or going into the remaining in possession (as the case may be) including the cost of this application;
    - Secondly, in payment of the money then due and owing to the Claimant as the Mortgagee;
    - Thirdly, in payment of subsequent Mortgages or encumbrances (if any) in order of their priority; and
    - Fourthly, the surplus (if any) shall be paid into the Supreme Court Chief Registrar's Trust Account pending further Order of the Supreme Court.



7. The Claimant is entitled to costs. The costs are to be agreed between counsel, but if not, taxed by the Master. Once settled, the costs are to be paid within 21 days.

Dated at Port Vila this 26th day of May 2020  
BY THE COURT

  
Justice G.A. Andree Wilten

