

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

Civil
Case No. 20/3603 CVLA

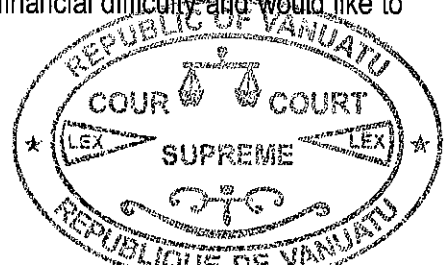
BETWEEN: Carina Fogliani
Applicant

AND: Corina Fogliani
Respondent

Date: 28 September 2021
Before: Justice G.A. Andrée Wiltens
Counsel: Mr E. Molbaleh for the Applicant
Ms S. Mahuk for the Respondent

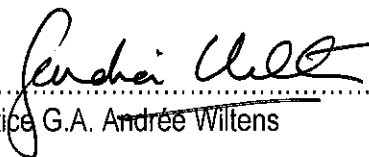
Judgment

1. This was an application to set aside the Restraining Orders issued on 26 July 2021. The orders restrained the applicant from entering Leasehold Title 11/OF24/002 ("the property") and interfering with the tenants and occupants. The applicant was also restrained from dealing with the property in any way including demand of rental income and any and all other matters arising from or in relation to the property.
2. The background to this matter is that the Estate of Louis Maurice Fogliani is being administered by the Respondent. In the course of that, she has encountered severe difficulties from the applicant, which required the restraining orders to be imposed to keep the peace and enable the Respondent to deal with her legal obligations under the letters of Administration.
3. The application for setting aside the restraining orders is premised on the fact that there is no longer any need for the orders, and so that sale of the property can be effected and the applicant share the rent being received from the property. This is all on the basis that she is entitled to a 1/3 share of the residue of the estate in due course. The applicant is aggrieved that others are residing on the property, and that she is financial difficulty and would like to reside on the property.



4. The application is strongly opposed. The respondent has in a sworn statement adverted to a recent occasion at which the applicant invited a number of police officers so as to allegedly extract funds from a tenant of the property. She maintains there is a real need for the orders to remain.
5. I consider the application lacks merit. It would require a consent order indicating that the Respondent agreed to setting aside the restraining orders, for me to be swayed to allow the application.
6. There is nothing to currently prevent the applicant from discussing resolution of the estate with the respondent. There is no need for the applicant to go to or be on the property she is currently restrained from visiting. Her personal circumstances do not enhance the application.
7. During the course of the application, the applicant asked to speak. She quickly demonstrated the real need for continuation of the restraining orders. She is aggressive and assertive and seemingly unable to see another's point of view. She did not advance her case.
8. The application is dismissed, with costs to the respondent of VT 15,000 which are to be paid within 21 days.

**Dated at Port Vila this 28th day of September 2021
BY THE COURT**


Justice G.A. Andrée Wiltens

