

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

Civil Case No. 191 of 2023

BETWEEN: **Matilda David**
Claimant

AND: **Rehab David**
First Defendant

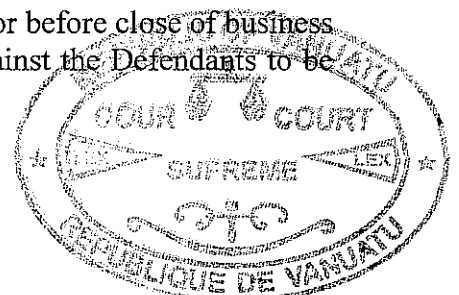
George Hungai
Second Defendant

Date of Judgment: *28th February 2024*
Before: *Justice E. P. Goldsbrough*

In attendance: *Sarisets, A holding papers for Molbaleh, E for the Claimant*
Fiuka, P for the First & Second Defendants

JUDGMENT ON CLAIMANT'S CLAIM AND DEFENDANTS' COUNTER-CLAIM

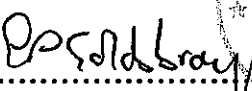
1. On 27 February 2023, the Claimant filed a claim against the First Defendant and Second Defendants ("the Defendants") and their children and dependants for eviction from leasehold title 12/0911/176 and other orders for damages, interest and costs. The claimant also filed an urgent application for restraining with supporting sworn statement of the claimant filed on the same date.
2. On 13 April 2023, the claimant filed a request for default judgment against the defendants.
3. On 4 May 2023, the Court issued a Minute that there is no provision for an eviction order to be made as a default judgment and matter needs to go to a hearing for proof of claim then a eviction order can be made but even then only against named party, not family, friends as requested.
4. On 7 July 2023, the Court issued a Minute for consent orders pursuant to the urgent application that the claimant together with her daughter and other family can return to the property and that all parties refrain from disturbing each other and will keep the peace. The Defendants sought leave to file defence out of time and the Court granted leave to do that before close of business on 21 July 2023.
5. On 4 May 2023, the Defendants were late in filing an application for enlargement of time to file defence and counter-claim with supporting sworn statement of Rehad David.
6. On 28 August 2023, the Court accepted the draft defence and counter-claim and made orders for filing of defence to counter-claim and supporting on or before close of business Monday 18 September 2023 and wastage cost of Vt50,000 against the Defendants to be paid on or before Friday 22 September 2023.



7. On 29 August 2023, the defendants filed their defence counter-claim seeking relief for payment of Vt3,800,000 as compensation for improvements and Vt150,000 for utilities, interest and costs.
8. On 1 September 2023, the Defendants filed and served their joint sworn statement in support of defence and counter-claim, sworn statement of Richard David and sworn statement of Alice David on the Claimant's lawyer.
9. On 22 September 2023, counsel for the Defendants was present and stated that wasted cost was not paid yet and no defence to counter-claim and supporting sworn statement was received. Counsel for the claimant was not present so the Court issued a Minute that he should explain non-attendance and failure to file defence to counter-claim at the next conference on 3 November 2023.
10. On 3 November 2023, both counsels for the claimant and defendants were present and stated that wasted costs were fully paid on 6 October and no defence to counter-claim and no supporting statements were filed yet and counsel for the claimant gave excuses for his failure. Counsel for the defendants seeks judgment on counter-claim without any application.
11. On 15 November 2023, the Defendants filed an application for judgment on defendant's counter-claim and supporting sworn statement of Rehab David and served the same upon claimant's lawyer on the same date.
12. On 20 November 2023, the claimant was directed to file and serve evidence about valuation report by a professional Valuer on or before close of business on Monday 15th January 2024 if not a judgment on counter-claim and claim will be issued on 28th February 2024 at 8:30am.
13. The claimant did not file evidence about valuation report by due date.
14. On 28 February 2024, judgment for eviction was entered against the First and Second Defendants only and judgment for payment of Vt3,800,000 plus Vt150,000 was entered against the Claimant simultaneously.
15. These judgments simultaneously means that the Defendants shall move out of the property on the same day immediately upon receiving the full amount of Vt3,950,000 from the Claimant.
16. No orders for interest and costs.
17. Enforcement hearing on **Monday 27 May 2024 at 3:30pm.**

Dated at Port Vila this ^{8th} of ^{March} 2024

BY THE COURT



E. P. Goldsbrough
Judge of the Supreme Court

