

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

Civil  
Case No. 22/2171 SC/CIVL

**BETWEEN:** Family Bani Asi represented by Asitaviti Molivalaleo and Tari Moli

**Claimants**

**AND:** Morris Lui and Family, Moli Morris and Family, Bani Morris and Family, Tari Boesulawono and Family, Haenamoli and Family, Christian Tari and Family, Tangati Anji and Family, Malahase Langati and Family, Votambe Vanuaturu and Family, Harold Vanuaturu and Family, Fred Vanuaturu and Family, Voleo and Clen Michael and Family, Tangisi Molira and Family, Toaturu Tangisi and Family, Damsal Tangisi and Family, Moli Tangisi and Family, Willie Tangisi and Family, Uloulou Damsai and Family, Leowono Damsai and Family and Sohlosu Damsai and Family

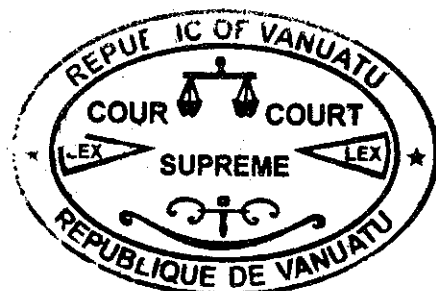
**First Defendants**

Sylvain Vanuaturu, Molisale Vurobaravu, Fred Vanuaturu, Migael Glen, Batrick Clen, Max Clen, Kalvano Harold Vanuaturu Clen Migael, Uloulo Damsal, Votambu Vanuaturu Lina Vanuaturu, Voleo Vanuaturu, Tangisi Moliara Damsai, Tangisi and Toaturu Tangisi

**Second Defendants**

Anna Livo Erenga, Eranga Livo and Vosumbe Livo Bani Livo, Molimwemwe Livo Manjeu Livo and Esbel Livo Berna Livo and Family, Berna Livo and Kathy Livo Votarivui Lui Wala Vui Lui and Pascaline Vui Lui

**Third Defendants**



**Date of Hearing:** *Monday 26<sup>th</sup> May, 2025 and Tuesday 27<sup>th</sup> May 2025*

**Before:** *The Hon. Mr. Justice E P Goldsbrough*

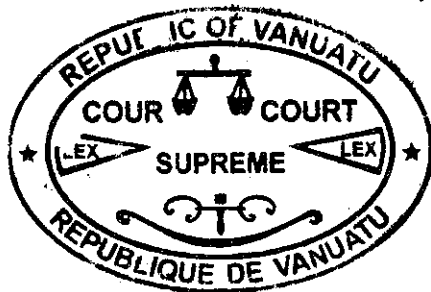
**In Attendance:** *Leo, C for the Claimant*  
*Tevi, R for all defendants*

---

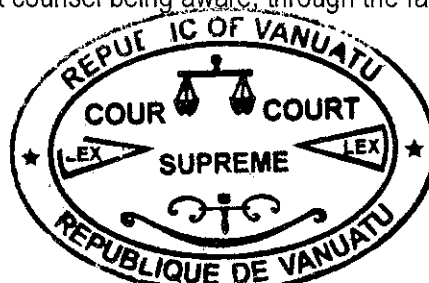
**Decision on application to withdraw filed evidence**

---

1. At the close of the hearing of this matter on Monday 26<sup>th</sup> April 2025, Counsel indicated that a memorandum setting out the terms of a consent order would be filed by 08:00 hrs. today, Tuesday. That has not taken place. Instead, Counsel for the defendants has filed his own memorandum.
2. The content of the memorandum is set out below:
  1. That after the Court hearing yesterday, I received further instructions from the Defendants
  2. They felt that their evidence towards the statement of Claim was not properly addressed in the sworn statements that were prepared by Steven Johnny from Volish Consultancy and Real Estate Services.
  3. They felt that this eviction claim covers areas of land which they have lived upon for more than 3 generations, and they find it difficult just to give up like that.
  4. They would like this Court to withdraw all the evidences that are within the Courts file, and they would like fresh evidence that would address the sworn statements filed by the Claimants.
  5. The Defendants therefore request that liberty be given to them to file proper sworn statements in support of their defence, as well as in response to the sworn statements of the Claimants.
3. The Defendants in this contested matter, set down for trial in September 2024, then December 2024 and now in May 2025, filed a defence, amended defence and, yesterday, a further amended defence.



4. They filed a total of eight sworn statements as evidence in chief for the substantive matter, only two of which begin in the traditional format, attesting that they are sworn and that the content is true. Of the remaining two, filed in proper form, that of Morris Lui directly contradicts the defence of the first defendants.
5. In this application, the defendants seek to withdraw all of their sworn statements and ask that they be removed from the court file, to be replaced with fresh evidence.
6. That application, if it may be termed as such, must be refused. Each person who filed a statement appeared before a Commissioner of Oath and took an oath when they swore their statement. That cannot be ignored, or wiped from the record. The statements were relied upon to support the defences raised. At the very least, those sworn statements must remain and explanation provided of why any further statement appears to give evidence to the contrary.
7. Sadly, the need to file amended stories only became apparent to the defendants after they heard the application for summary judgment presented to this Court and the subsequent discussions between Counsel and the trial Judge over the questions raised.
8. The defendants had Counsel on the record since the file was opened in the Supreme Court in 2022 except for a brief period between 2-14<sup>th</sup> May 2025 when a Notice of Ceasing to Act was filed and then withdrawn. Only two of the sworn statements were settled by counsel. The remaining statements were settled by an unqualified 'consultant' who one of the claimants described at an earlier management conference as their lawyer. The individual then named is not a registered legal practitioner.
9. That the filed evidence does not reflect what the defendants now wish to tell the court in their defence is clear. It also became clear during the hearing that counsel for the defendants had not seen the majority of the evidence filed by his clients. A copy of all the evidence was provided to him when that became apparent.
10. The suggestion of the consent order referred to above came about after the hearing of the application for summary judgment when counsel for the defendants first appreciated the hopeless case presented by his clients. It came about as a result of allowing the clients to have unqualified people prepare and then file material without counsel being aware, through the failure of counsel to

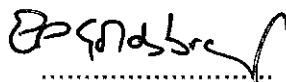


confirm with his clients what had been filed, and without examination prior to the hearing of the application for summary judgment which was listed for hearing immediately prior to the commencement of a scheduled trial. As the hearing began with a recital of what material was available to the court to consider on the application, at the latest at that point it was incumbent on counsel for the defendants to ask for time to see that material if he was not previously aware of it.

11. The application is refused. The defendants are left with the evidence that they filed in this matter. Costs of and incidental to the application are to be costs in the cause.

DATED this 27<sup>th</sup> day of May, 2025

BY THE COURT



The Hon. Mr. Justice E P Goldsbrough

