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**IN THE LAND COURT OF TONGA
NUKU'ALOFA REGISTRY**

LA 8 of 2018

BETWEEN : SOLOMONE KIOA

- Plaintiff

AND : 'AMANAKI KIOA

- Defendant

BEFORE JUSTICE NIU AND ASSESSOR TOUMO'UA

Date of hearing: 21st August 2018

Date of Judgment: 21st August 2018

Plaintiff counsel: Mr. Siosifa Tu'utafaiva

J U D G E M E N T

1. This judgment is issued as a result of a formal proof hearing of the claim of the plaintiff because the defence filed by the defendant was struck out by this Court on 3 August 2018 upon the ground that the defence disclosed no reasonable defence, it was frivolous, it was unclear that it would prejudice and delay the fair trial of the plaintiff's claim, and it was an abuse of the process of the Court.
2. The plaintiff, having been duly sworn, produced a written statement of his evidence which he proceeded to read to the Court and which he confirmed was true and correct. He also produced a copy of the

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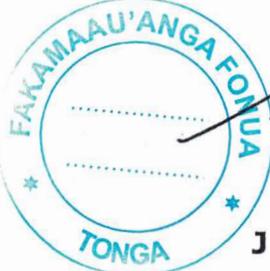
judgment of the Land Court which was given on 17 November 2017, confirming the validity of the lease no.7952 which had been granted to him by his father, Viliami Sovea Kioa, over the town allotment which said Viliami Sovea Kioa had held, and which has now lawfully devolved upon the defendant as heir. He also produced a copy of that lease.

3. By such lease, the plaintiff is entitled to the possession and occupation of the land contained in that lease, namely, the whole of the area of the town allotment.
4. The defendant has refused to accept the right of the plaintiff to have the possession of the land in accordance with the terms of the lease, and has refused to move out and allow the plaintiff to have the possession.
5. The plaintiff has accordingly had no alternative but to bring this claim to ask for a writ of possession from this Court to evict the defendant from the land of his lease.

6. The defendant was notified of this formal proof hearing and, as related by Mr. Tu'utafaiva, counsel for plaintiff, the defendant came to the Court this morning with his counsel, Mrs. Petunia Tupou, and upon learning from Mr. Tu'utafaiva that the hearing was only for formal proof of the plaintiff's claim, they informed counsel Tu'utafaiva that there was no point in them attending and they left.

7. Having heard, and seen, the evidence of the plaintiff, I am satisfied that he is entitled to possession of the land of his lease and that the defendant has improperly and unlawfully refused to give up possession thereof to the plaintiff.

8. Accordingly, I order that a writ of possession be issued forthwith against the defendant. I also order that the defendant pays the costs of the plaintiff in these proceedings, to be taxed if not agreed.


L. M. Niu
J U D G E

NUKU'AIOFA: 21 August 2018