

REPUBLIC OF VANUATU

OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

on the

IMPROPER INTERFERENCE

with a

LAND LEASE

by the

**FORMER MINISTER OF FOREIGN
AFFAIRS, MR AMOS BANGABITI**

This report contains the findings of fact, opinions, views and of unlawful conduct and the recommendations of the Ombudsman pursuant to the Constitution of the Republic of Vanuatu and the Ombudsman Act No.14 of 1995.

17th July 1997

TABLE OF CONTENTS

	<u>PAGE NO.</u>
PREAMBLE	1
1 SUMMARY	3
2 JURISDICTION AND SCOPE OF ENQUIRY	6
3 METHOD OF INVESTIGATION	7
4 COMMENTS BY INDIVIDUALS OR ORGANISATIONS AFFECTED BY THIS REPORT	7
5 RELEVANT LAWS	8
6 BACKGROUND AND FINDINGS OF FACTS	9
7 FINDINGS OF WRONG CONDUCT AND DEFECTIVE ADMINISTRATION PRACTICES	14
NO.1 BREACH OF S40(A) OF LAND LEASES ACT CAP.163 BY MR BANGABITI	14
No.2 BREACH OF ART 5(1) OF THE CONSTITUTION BY MR BANGABITI	14
No.3 MR BANGABITI ACTED CONTRARY TO THE RULE OF LAW	14
No.4 BREACH OF THE LEADERSHIP CODE BY MR BANGABITI	15
No.5 MR CARLOT KORMAN ACTED AGAINST THE RULE OF LAW, THE LAND LAW AND THE CONSTITUTION	15
No.6 BREACH OF THE LEADERSHIP CODE BY MR KORMAN	16
8 RECOMMENDATIONS	16
9 APPENDICES	17

PREAMBLE

"Do ye think that the Scripture saith in vain "The spirit that dwelleth in us lusteth to envy"." **James 4 v 5.**

This report deals with an incident in Santo which illustrates a major problem which recurs again and again in complaints to the Ombudsman's Office. It shows how an expatriate (a native of Australia which is one of Vanuatu's greatest benefactors) found himself the victim of envy and persecution despite having done no wrong and despite having acted generously in allowing families to live in his property without payment.

The incident illustrates a very undesirable habit and characteristic which is apparently becoming widespread among ill-informed members of the public and - worse still - among those who are entrusted with leadership. In other words there exists increasing evidence that if any expatriate - or indeed any ni-Vanuatu offends in any way the feelings of someone who is involved in political parties then that political party is able to have the offender punished, regardless of his innocence. It appears to be enough ground for oppression that somebody "in power" intends to "get him".

It cannot be emphasised strongly enough that the rule of law and the Court's decisions are binding on every member of the public whether indigenous, or citizen or expatriate. Membership of any political party, whether that party is in office or not, does not give the member any power whatsoever to act in an unlawful way against selected victims and to go against a court's decision. All members of our society are protected equally against violations of their rights and even if a person is viewed as a "big man" in his party he has no more legal right and therefore no more valid power, than the humblest member of the public with no interest in politics.

The fact that the victim in this Santo case was an investor, and an employer of indigenous people, in an area of the country where economic activity is badly needed, shows a complete failure to realise the importance to Vanuatu of all people prepared to face the great expense of coming to the country investing money in an uncertain economy which has yet to recover from its downward slip and thereby playing an absolutely vital role in the country's salvation.

There is very little point in setting up "Task Forces", "Economic Planning Committees" etc if existing expatriates, or potential investors are being discouraged by harassment and interference and delays of a completely illegal nature in securing their rights in an ostensibly democratic country.

Every episode such as the one dealt with in this report finds its way into people's conversations and in reports sent home by victimised expatriates and into media interviews which paint a sad picture of the prejudices and increasing lawlessness in the life of Vanuatu.

The value and importance of encouraging foreign investors in Vanuatu cannot be emphasised too much at this hazardous moment in Vanuatu's development, and indeed this week's announcement by the Government of the planned "Foreign Investment Board" or "one stop shop" for investors recognises this. If actions are taken - particularly of an illegal nature - against their well-being, these are directly destructive to the country's hopes.

Therefore I hope that this incident in Santo will illustrate the dangers of "anti-expatriate" propaganda and action and that the members of the public will see the danger signals before it is too late and will put aside any feelings - however understandable - of envy of those who are apparently "better off" and by minimising feelings of "them and us".

It is also vital at this stage that expatriates check their own behaviour to make sure that no appropriate arrogance or conceit characterises their relationships with their ni-Vanuatu neighbours, in order that a spirit of co-operation may develop and flourish at this difficult time in Vanuatu's development.

This incident illustrates clearly that the law regarding land and property rights is either not clearly understood or is greatly resented by many people. It would help greatly if these particular issues were clarified and settled once and for all.

Whether we like or not, we are all in this together and we will stand or fall together.

1 SUMMARY

- 1.1** On 1 August 1996, Mr X from Luganville complained to the Office of the Ombudsman that Mr Amos Bangabiti the former Minister of Foreign Affairs had written a letter of threat to him concerning his father Y's land in Luganville.
- 1.2** Mr X had obtained an Eviction Order to evict the families residing illegally on the lease title belonging to his father Mr Y. The families complained to all UMP Ministers what happened. This resulted in a threatening letter being sent to Mr X by the former Minister of Foreign Affairs Mr Bangabiti. The Minister stated that as a Government Minister he was not happy with the way some expatriates were treating ni-Vanuatu. He reminded Mr X that he was involved in the 1980 Rebellion and that his residential permit expired on 25.02.97. An anonymous caller from Foreign Affairs told Mr X if he enforced the Eviction Order, he would be deported.
- 1.3** For the reasons that follow in this public report, my present opinion is that the complaint is justified. The facts relevant to my opinion are:
- (a)** Mr Y has a lease and he and his sons were lawfully entitled to occupy the land because Mr Y was and still is the legal holder. Mr Y gave his son, X his power of attorney to register and develop the land.
(Refer to Appendix "A")
 - (b)** Under A5 (1) (j) and (k) of the Constitution, Mr Y has the right of:

 - (i) protection of his property;
 - (ii) protection from unjust deprivation of his property; and
 - (iii) equal treatment under the law or administrative action.
 - (c)** On 01.04.96 Mr X obtained the Court Order requiring the families to leave the land.
 - (d)** On 16.04.96 the former Prime Minister Mr Carlot Korman wrote to the former Minister of Lands Mr William Edgell giving some options. One of these was that the ni-Vanuatu families be given a subdivided part of the land leased by Mr Y. (Refer to Appendix "B")

- (e) On 15.07.96 the President of the UMP for Luganville region Mr Jean Delaveau wrote a letter to all UMP Ministers stating that his Committee had passed a resolution on 11.07.96 which says:

Conclusion: Follem olgeta points ia, Luganville UMP Regional Executive Committy i askem strong long gavman blong cancellem resident permit blong X mo Z we tufala i deportees blong tufala i go back mo nomo kambak long country Vanuatu. UMP Regional Executive blong Luganville bae i appreciatem bigwan muv we gavman bae i tekem blong save considerem request ia blong executif committy mo tekem into consideration olgeta important points we i mentioned".

(Conclusion: Following these points, Luganville UMP Regional Executive Committee strongly requested the Government to cancel Messrs X and Z's residency permit who were the former deportees for them to go back to their country and never to return to Vanuatu. Luganville UMP Regional Executive would appreciate the Government considers this request and also take into consideration other important points as mentioned).

The President's letter clearly stated that the families living on Y leased land were UMP supporters (Refer to Appendix "C"), and they were requesting the Government to cancel X and Y's residency permits.

- (f) On 25.07.96 Mr Bangabiti the former Minister of Foreign Affairs (a UMP MP) sent a threatening letter to Mr X saying:
- (i) Mr X's residence permit would expire on 25.02.97;
 - (ii) And that Mr X was using the Court Officer Mr Willy Palao to drive the families out of the land;
 - (iii) Also that Mr X was deported after the Santo Rebellion. (Refer to Appendix "D")

- (g) Mr X had apparently received an anonymous call from Foreign Affairs that if he enforced the Eviction Order he would be deported.**
- 1.4 It appears that Mr Y's fundamental Constitutional right for his property not to be interfered with has been breached. This resulted from political interference by the UMP Executive in Luganville and Mr Bangabiti's action who followed the Executive's resolution.**
- 1.5 By interfering with Mr Y's right to enjoy the lease Mr Bangabiti has:**
- (a) Demeaned the Office of the Ministry of Foreign Affairs;**
 - (b) Allowed his integrity to be called into question by not following the laws and Constitution of the Republic of Vanuatu;**
 - (c) And by not accepting a court order has shown disrespect to the Court system and diminished respect for the Government of the Republic of Vanuatu. As such, Mr Bangabiti has breached the Leadership Code which is set out in Chapter 10 of the Constitution of Vanuatu. His action was even worse because he knew about the Court Order issued to evict the families residing on Y leased land and he knew he was not respecting the laws of Vanuatu.**
- 1.6 Mr X was understandably worried at Minister Bangabiti's reference in his letter that his residential permit would expire on 25.02.97. Mr X felt he had been unfairly treated as he believed that he got the Eviction Order in accordance with the laws of Vanuatu. He felt unsecured about his residency in Vanuatu. His father, Mr Y, was therefore also concerned as he would not be earning any money from his local Company if his son X was required to leave the country.**
- 1.7 Other lessees (property owners) would be put in a potentially threatening situation because they might risk losing their land titles if the Government Ministers ignore the laws of this country to deprive the lessees of their rights to their land titles.**
- 1.8 If Ministers and other politicians disregard Court orders, the people of Vanuatu will be right to believe that a Court Order can be ignored by a government Minister. This then encourages politicians and people not to respect the law and not to respect government Ministers, and therefore any such action by a Leader is a breach of**

the Leadership Code as it creates a disrespect for the Government of Vanuatu. This also creates the idea that Vanuatu might be a lawless country if the Ministers do not respect the legal system of the country. This would then gradually encourage the people of Vanuatu not to respect and abide by any court decisions and Court Orders.

- 1.9** People who disregard the decisions of the Court can be held in contempt of the Court and be put in jail. All citizens, including those in Government, must obey the laws which exist in Vanuatu. Everyone is subject to the law and as such the people of Vanuatu must respect and abide by any court decision or order. In this particular case Mr Bangabiti did not respect the Court Order obtained by Mr X. The court is an independent institution. His action was clearly shown by his letter of threat to Mr X dated 25.07.96.
- 1.10** Mr Bangabiti effectively threatened to deprive Mr Y of his right to his leased land. Besides that, the Constitution provides that all people should be treated equally. All the above breaches of the laws are not acceptable in a democratic society, because they contradict basic democratic principles.
- 1.11** The former Prime Minister Mr Carlot Korman disregarded the laws by suggesting to the former Minister of Lands Mr William Edgell to subdivide Mr X's land title and allocate to a third party who had no right on the land. This encouraged the squatters to believe that they had some rights when in fact they had no such right. Mr Korman's suggestion was improper as a lease is indefeasible unless it is ordered by the Court.
- 1.12** Mr Bangabiti presented his apologies to Mr X after we forwarded the Complaint/Preliminary report to him (Refer Appendix F).

2 JURISDICTION AND SCOPE OF ENQUIRY

- 2.1** Pursuant to arts 62(1) and 62(2) of the Constitution and s14(1) of the Ombudsman Act, the Ombudsman has jurisdiction to investigate into administrative defects and improper administrative practices.

2.2 Accordingly, the Ombudsman has jurisdiction to investigate Mr X's complaint to determine whether his allegation was true and whether the action taken by the former Minister of Foreign Affairs, Mr A Bangabiti was in accordance with the laws of Vanuatu. The Ombudsman then commenced an enquiry.

2.3 The scope of the investigation was to establish the following:

- (a) why Mr Bangabiti chose to interfere with a person's legal right to enjoy their leased land;
- (b) why Mr Bangabiti ignored a Court Order.

3 METHOD OF INVESTIGATION

3.1 In accordance with art 62(3) of the Constitution, the Ombudsman is empowered to request any person likely to assist her or furnish with information and documents needed for her inquiry. Based on these powers, documents and information were obtained from the Ministry responsible as well as from other sources.

3.2 Under s17(1) of the Ombudsman Act No.14 of 1995 it is the duty of the Ombudsman where it is possible to obtain evidence and information through informal request, requesting the cooperation of the parties concerned.

4 COMMENTS BY INDIVIDUALS OR ORGANISATIONS AFFECTED BY THIS REPORT

4.1 S16(4) of the Act states that the Ombudsman must give a right to reply or to comment on the accusations to all the parties complained of.

4.2 In accordance with the above, a preliminary report was issued on the 13th September 1996 to all individuals and organisations affected by this report. A reply received is attached as an appendix to this report. Mr Bangabiti must be praised for being the first politician to realise his mistake in the preliminary report and came back to apologise for what he had done to Mr X after he received our Preliminary report. His attached statement (answer to the

Preliminary report) also shows that Mr Bangabiti realised that he had made a mistake by acting against the laws of Vanuatu, and against the Y family.

- 4.3 The former Prime Minister Hon Maxime Carlot Korman did not reply to the preliminary report although all the parties concerned were given an extra seven (7) days in which to respond.**
- 4.4 The former acting Minister for Foreign Affairs Mr Amos Andeng did not respond to the preliminary report although he responded during our investigations as acting Minister for Foreign Affairs.**
- 4.5 The Luganville UMP Executive President, Mr Jean Delaveau who instigated the whole affair kept silent and did not make any response at all.**
- 4.6 Gratien and Marcelino families (squatters) who were residing on Y leased land and being the real cause of the matter did not respond to the preliminary report.**

5 RELEVANT LAWS

5.1 S40(a) of the Land Leases Act [Cap.163] provides:

That, so long as the lessee pays the rent and observes and performs the agreements and conditions contained or implied in the lease and on his part to be observed and performed, the lessee shall peaceably and quietly possess and enjoy the leased land during the period of the lease without any interruption from or by the lessor or any person rightfully claiming through him.

5.2 Art 5(1) of the Vanuatu Constitution provides the following:

The Republic of Vanuatu recognises, that subject to any restrictions imposed by law on non-citizens, all persons are entitled to the following fundamental rights:

- (j) protection for the privacy of the home and other property and from unjust deprivation of property;**
- (k) equal treatment under the law or administrative action.**

5.3 A proprietor of a registered lease has exclusive right to enjoy the benefits derived from the leased land in accordance with the conditions of the lease agreement. An individual's fundamental rights of protection under the law, protection for property and unjust deprivation of property and equal treatment under the law or

administrative process must at all times be respected. It is a serious offence to violate these Constitutional rights. By interfering with these rights a leader violates Art 66(1) of the Constitution of Vanuatu under the Leadership Code, which says a leader as defined under Art 67:

- (a) must not place himself in a position which he might have a conflict of interest in his conduct;**
- (b) must not cause the public not to think highly of his office or position;**
- (c) must not let the people lose respect for the Government of Vanuatu.**

6 *BACKGROUND AND FINDINGS OF FACTS*

- 6.1 The Y family lived on the land before independence. The Gratien and Marcelino families worked for the Ys on the land. After the 1980 Santo rebellion Mr X was deported and declared a prohibited immigrant for his involvement in the Rebellion. Mr Y, X's father and the alienator of the land also left Vanuatu after the Santo rebellion. It is important to mention here that he was not a prohibited immigrant. Those who were declared prohibited immigrants lost all their land titles.**
- 6.2 In 1992 Hon Maxime Carlot Korman with his first Coalition Government allowed Vanuatu's deportees' re-entry into Vanuatu. This included X. He therefore was no longer a prohibited immigrant. Mr X and his father, Mr Y decided to get their business going again on the leased land.**
- 6.3 The father then sent X back to Vanuatu with his power of attorney. This gave X the right to register the land and look after their business. A power of attorney is a legal document which allows one person to act on another person's behalf including doing things on the land and with the land.**
- 6.4 On 31.03.94 Mr X wrote to Mr Carlot Korman asking him to help register his father's land which belonged to him before Independence. He was advised by the Prime Minister's Office to talk to the Ministry of Lands. Mr X followed the advice. The Prime Minister's Office also sent Mr X's letter to Mr Morrison Wabaiat, the then first Secretary of the Ministry of Lands. Mr Y**

was entitled by law to apply to register his land, and because he was the pre-independence owner he had the right to obtain a lease. His son had a power of attorney and could act on his behalf.

- 6.5 On 24.05.95 Mr Wabaiat wrote to Mr Roger Tary the Director of Lands, requesting him to look into Mr X's request and to provide him relevant information on title 469. As a result the Luganville Rural Lands Office sent a report on title 469 to Mr Wabaiat. The report said that no payment had been made to the alienator Mr Y for part of title 469 being used by South Santo Cattle Project.**
- 6.6 On 22.09.95 Mr Roger Tary wrote to the principal Lands Officer Mr Steven Tahi of Urban Lands Office. He requested Mr Tahi to prepare the lease for Mr Y. The lease was signed. Backdated land rent to 30 July 1980 was paid by Mr X. On 28.02.96 the above lease for title 469 was registered under the new title No.03/0G53/002 in Mr Y's name. Mr Y is now the lawful and registered lessee of the land. (Refer to Appendix "A")**
- 6.7 Mrs Gratien and Mrs Marcelino were employed by the Ys and were allowed to live free in the houses the Y provided to them. Ever since the Ys left Vanuatu the families had been living on the land. When Mr X came back they were not prepared to leave.**
- 6.8 Following Mr X's letter of 12.03.96 to the Luganville Court explaining that his father was the registered lessee of the land, the Court made an order on 01.04.96 evicting the Gratien and Marcelino families. They were ordered by the Court to leave the land before 21.04.96.**
- 6.9 On 16.04.96 the then Prime Minister Mr Korman wrote to the then Minister of Lands Mr William Edgell and advised him to resolve the matter. He suggested two options:**
- (a) to subdivide the Y leased land and allocate some to the families; or**
- (b) allocate other land to them from a new subdivision next to Y leased land.**
- (Refer to Appendix "B")**
- 6.10 The latter was adopted and included an agreement between Mr Edgell, Mr X and Gratien and Marcelino families constituting the following:**

- (a) allocate another block of land to the families;**
- (b) Mr X to allow the families 30 days to peacefully vacate his father's leased land; and**
- (c) the families to meet all fees for their new lease title;**

(Refer to Appendix "E")

6.11 On 15.07.96 the Luganville UMP Executive Committee wrote to all UMP Government Ministers complaining about Mr X's actions towards the Gratien and Macelino families. The families are UMP supporters. The Committee asked all UMP Ministers to take immediate action to cancel Mr X's residence permit. In response the then Minister of Foreign Affairs, Mr Bangabiti wrote to Mr X on 25.07.96.

Dear Sir,

RE: ISSUE ON LAND TITLE 03/0G53/002
LUGANVILLE

After examining a three (3) past letter reporting some action been made against some Ni-Vanuatu living in that surrounding Land area I am not very happy with the way well threatening these people.

Further to my understanding you are one of those deportees at Santo rebellion and now using Mr Willy Palao a court house Officer to drive out these Ni-Vanuatu flocks.

However, Mr X, I am afraid to inform you that in such case your residential permit will valid are as follows :

Mr X	25/02/97
Mr Z	10/03/97

I'm well aware of this matter and hope you take into consideration.

Hon. Amos Bangabiti
Minister of Foreign Affairs and Immigration
(Mr Z was Mr X's brother)

- 6.12 Following receipt of this letter from the Minister, Mr X faxed a letter of complaint to the Office of the Ombudsman. He explained that he was paying an annual land rent of Vt 130,000 and an annual property tax of Vt 140,000. Mr X felt that he should have some say on what he does on the land and that he should not be threatened.**
- 6.13 On 12.08.96 the Ombudsman informed Mr Bangabiti of her intention to investigate Mr X's complaint. In response to the above letter, Mr Bangabiti wrote to the Ombudsman on 19.08.96 expressing his dissatisfaction with Mr X's actions towards the families residing on the land. The Ombudsman wrote another letter on 20.08.96 to Mr Bangabiti requesting him to explain the basis of his letter to Mr X. The Ombudsman asked:**
- (a) whether those evicted had any right to reside on the land;**
 - (b) who made the complaint to him; and**
 - (c) on what issue specifically and why the complaint was forwarded to him.**
- 6.14 Another letter from the Ombudsman was sent to Mr Bangabiti referring to the Minister's letter of 25.07.96 in which he stated that Mr X was using Mr Willie Palao the Court Officer to evict the families from Y leased land. The Ombudsman asked Mr Bangabiti to clarify his point as it is a serious matter to accuse a court officer and would require an investigation from the appropriate authority. On 02.09.96 Acting Minister of Foreign Affairs Mr Amos Andeng responded and again questioned Mr X's stay in Vanuatu, as a deportee. He also attached a copy of the Luganville UMP Executive Committee's letter of complaint about Mr X, addressed to all UMP Government Ministers. (Refer to Appendix "C")**

FINDINGS OF FACTS

- 6.15 The lease belongs to Mr Y. He was and is not a deportee. He was and is not a prohibited immigrant. Mr X is acting on behalf of his father Mr Y who gave him his power of attorney. With this legal document (power of attorney), Mr X can do anything on the land and to the land in accordance with his lease. Mr Y or whoever acting on his behalf has the right to the leased land and he cannot be deprived of that right.**

- 6.16 The first Coalition Government in 1992 allowed deportees' re-entry into Vanuatu and Mr X was one of them. Some deportees like Mr X benefited from that change of policy. Mr X registered the lease under his father's name who was not a deportee. Due to the previous Government's decision to allow the deportees re-entry into Vanuatu Mr X should no longer be regarded as a deportee. A deportee or prohibited immigrant would never have been allowed re-entry into Vanuatu.**
- 6.17 The Gratien and Marcelino families did not have any legal right at all to reside on the leased title they had been allowed in the past to reside freely on the Y land by Mr Y. The Eviction Order issued on them was proper. Mr Willy Palao was acting in accordance with the Court instruction to serve the Eviction Order. Although the families are UMP supporters, it does not simply mean that a UMP Minister can act illegally and by-pass or act against the Court Order.**
- 6.18 Mr Bangabiti decided to act upon the request of the Luganville UMP Executive Committee which complained about Mr X and wanted his residence permit cancelled immediately. This particular committee was constituted with people who seem to have no knowledge of the laws and the legal and proper administrative procedures in the Government. A political body dictating the Government of Vanuatu what to do regardless of the laws and the proper procedures caused a Government Minister to act illegally.
Mr Bangabiti indicated that it was very difficult to resist pressure from their political committees.**
- 6.19 In his answer to the Preliminary Report, Mr Bangabiti apologised for his action in the Office of the Ombudsman saying he had made a mistake (see Appendix "F").**
- 6.20 In a separate letter of apology, Mr Bangabiti later wrote to Mr X and apologised for what he had done by sending that letter of threat to him dated 25.07.96. He clarified that he was put under pressure by the Luganville residents which resulted in sending the above letter to Mr X to accept his apology (Refer to Appendix "G").**

- 6.21 Mr A.Bangabiti must be praised for his effort and the decision he took to apologise to Mr X after he realised he had made a mistake. He is probably one of the first leaders to come forward to admit that what he did was wrong. He set a very good example that all leaders of this nation should follow.

7 FINDINGS OF WRONG CONDUCT AND DEFECTIVE ADMINISTRATION PRACTICES

Finding No.1

BREACH OF S40(a) OF LAND LEASES ACT CAP.163 BY MR BANGABITI

- 7.1 Mr Bangabiti breached S40(a) of the Land Leases Act Cap.163 in that he has interfered with Mr Y's right to peacefully, quietly possess and enjoy his leased land.

Finding No.2

BREACH OF ART 5(1) OF THE CONSTITUTION BY MR BANGABITI

- 7.2 Mr Bangabiti breached Art 5(1) of the Constitution in that he has not respected Mr Y's right for protection of his property. He has not respected Mr X's right for equal treatment under the law as well as equal treatment under administrative action. He has violated these individual Constitutional rights of the Ys.

Finding No.3

MR BANGABITI ACTED CONTRARY TO THE RULE OF LAW

- 7.3 Mr Bangabiti acted contrary to the Court Order obtained by Mr X to evict the squatters on Y leased land. He has also acted against the principles of the separation of power.

Finding No.4

BREACH OF THE LEADERSHIP CODE BY MR BANGABITI

- 7.4 Mr Bangabiti seriously breached the Leadership Code by ignoring the laws, the Court Order, the Constitution and threatened Mr X to cancel his livelihood if he did not accept his desires to fulfil his UMP Supporters and to fulfil his own personal political gain.**

As he tried to help the supporters of his own party the UMP, he acted:

- (a) in a situation where there was a conflict of interest;**
- (b) in a way that demeaned his office or position;**
- (c) in a way that his integrity has been called into question; and**
- (d) so as to cause diminish respect for the Vanuatu Government.**

However MP Bangabiti apologised as mentioned in section 6.21, and it is a recommendable ending to this sad event.

Finding No.5

MR CARLOT KORMAN ACTED AGAINST THE RULE OF LAW, THE LAND LAW AND THE CONSTITUTION

- 7.5 Even though the Prime Minister helped the Y family to apply for and obtain their lease, he acted against the decision of the Court to evict the squatters when he gave his suggestions to the Minister of Lands to subdivide Y leased land and allocate to the squatters some of the Y land. His instructions ignored Mr Y's right to enjoy his leased land, the right for protection of his property and unjust deprivation of his property because of political pressures from his UMP supporters in Santo.**

However this advice was not proceeded with.

Finding No.6

BREACH OF THE LEADERSHIP CODE BY MR KORMAN

- 7.6 Mr Korman breached the Leadership Code as a leader under A.67 of the Constitution as he advised one Minister to take an illegal action.**

8 RECOMMENDATIONS

- 8.1 In accordance with S23 of the Ombudsman Act: Procedures after an enquiry under chapter 10 (Leadership Code) of the Constitution if a "leader had failed to carry or has breached any of the duties and responsibilities of office imposed on him under Art 66(1) of the Constitution and is guilty of misconduct in office, I recommend:**

- (a) We originally requested Mr Bangabiti to apologise to Mr X, but this recommendation is not necessary any more as MP Bangabiti followed our original recommendation and apologised.**
- (b) MP Bangabiti should in future not deal with any matter which is outside his jurisdiction instead refer it to the appropriate authority.**
- (c) MP Bangabiti and Korman (along with all MPs and citizens) must respect an individual's fundamental rights under the Constitution as well as respect Court Orders.**
- (d) Government Ministers and all MPs should not carry out illegal instructions or unlawful policies from their political parties in a discriminatory way.**

- 8.2 I ask the President of the Republic of Vanuatu in accordance with the above section on the Leadership Code to forward and report these recommendations to both Mr Korman and Bangabiti.**

Dated this 17th day of July 1997.

A handwritten signature in black ink, appearing to read 'Marie-Noëlle Ferrieux Patterson', with a long horizontal flourish extending to the right.

MARIE-NOËLLE FERRIEUX PATTERSON
OMBUDSMAN OF THE REPUBLIC OF VANUATU

9 APPENDICES

Appendix A	Copy of the lease document
Appendix B	Mr Maxime Carlot Korman's letter to Mr William Edgell
Appendix C	Luganville UMP Executive's letter to all UMP Ministers
Appendix D	Mr Bangabiti's letter to Mr X
Appendix E	Mr William Edgell's Agreement
Appendix F	Mr Bangabiti's apology in his reply to the preliminary report
Appendix G	Mr Bangabiti's letter of apology to Mr X

APPENDIX 'A'**REPUBLIC OF VANUATU
LAND LEASES ACT CAP 163**

L.R. Form 4

FAXIN
2.8.96

1/9

LEASE

(Section 31 and 35)

SPECIAL LEASE.

CLASS ~~RESIDENTIAL~~

TITLE No. 03/OG52/002

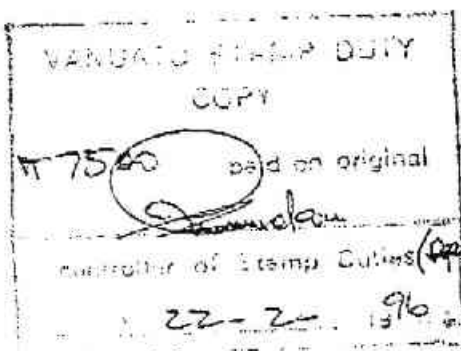
(PLEASE READ THE NOTES ON BACK PAGE BEFORE COMPLETING THIS FORM)

Full name(s)
description(s)
and address(es)
in Vanuatu**LESSOR(S)**THE MINISTER OF NATURAL RESOURCES, in accordance with
section 8 and 9 of the Land Reform Regulation of 1980
(hereinafter called the Lessor)Full name(s)
description(s)
and address(es)
in Vanuatu**LESSEE(S)**MR. [REDACTED]
C/- [REDACTED] MR. X
B.P. 307
LUGANVILLE SANTO.Delete this paragraph if
inapplicable* Delete whichever
asterisked phrase if inapplicable1. The Lessor(s) has/have received from the Lessee(s) the sum of
(amount in words and figures) _____
(VT _____) for the grant of this
Lease.2. The Lessor(s) lease(s) to the Lessee(s) the land * comprised in the
above-mentioned title*

OR

* shown edged green in the attached plan certified by the Director of
Surveys and signed by the persons signing this instrument* for
the term of fifty (50) years commencing on the
19th day of October 19953. The Lessee(s) shall pay to the Lessor(s) the *yearly/*quarterly/
*monthly rent of (amount in words and figures) one hundred forty
nine thousand eight hundred vatu
(VT 149,800)
reviewable in accordance with the provisions of the Act and payable
on the 30th day of July each (date(s) rent is to be paid).
year in advance4. This Lease is granted subject to the provisions of the Land Leases
Act and of any Rule relating to leases made thereunder and to those
agreements and conditions specified in the Schedule hereto.

* Delete as appropriate

Delete if Lessee is a single person or
corporation. If paragraph is not
deleted, delete whichever
asterisked phrase is inapplicable.5. The Lessee(s) holds this Lease as *joint proprietors/*proprietors in
common in the following undivided shares:-

"А" ХИДИННА

人人可

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P.02

PRIME MINISTER'S OFFICE. 678 22863

P.01



*Premier Ministre
République de Vanuatu*

*Prime Minister
Republic of Vanuatu*

PM/901/1/336/MCK/lr/96

Hon. William Edgell,
Minister of Lands,
Ministry of Lands,
PORT VILA.

16th April, 1996.

Dear Minister,

RE LAND DISPUTE ON TITLE NO. 03/0653/002 LUGANVILLE, SANTO.

I am informed that the said title is under dispute between Mr. , the Lessee, and Messrs. Grassion and Marcelino Bae of Ambrym. X

The family Bae have been residing in the area since 1983 and prefer to own part of the residential area in this title.

To solve the dispute I prefer that the following options be considered for immediate action :-

Option One - To subdivide part of the title with the agreement of the Lessee and issue a lease to family Bae.

Option Two - To issue new lease to family Bae of the new Subdivision Project adjacent to the same area, which presumably is under survey at present.

I thank you for your anticipation on this matter.

Yours sincerely,

[Signature]
MAXIME CARLOT KORMAN
Hon. Prime Minister



c.c. : First Secretary, Ministry of Land
: Director of Land, Port Vila
: Principal Officer, Urban Land Office, Luganville.

[REDACTED]

2/

[REDACTED]

APPENDIX "C"

UNION DES PARTIS MODERES
P.O. BOX 102
LUGANVILLE
SANTO

TEL _____



UNION OF MODERATE PARTIES

FAX _____

TO : ALL U.M.P MINISTERS
PORT VILA

Date 15/07/96

RE : CONCERN ABAOT DEPORTEES **Mr. X** MO **Mr. Z**
LONG OL MUV ABAOT LANDS INSAED LONG LUGANVILLE TOWN.

Follem letter blong honorable prime minister date 16/04/96
abaot land title 03/OG53/002 long luganville santo ; U.M.P
regional executif committy blong luganville hemi gat bigfala
concern abaot decision we i kamaot long urban land office
long luganville from graon ia mo hemi wantem givim olgeta
points ia :

1) Urbain land office long luganville ino givim inaf explenesen
long Mr GRACIEN mo MARCELLINO Bae over long dispute blong
land title No. 03/OG53/002.

2) Ino bin gat raon tabol negociation bitwin urban land office,
Mr. **X** mo family Bae over long issue blong graon
ia.

3) Urban land office blong luganville i bin forcem family
Bae blong saenem agreement we i bin made over long issue blong
graon ia blong family Bae i muv aot long graon mo livim house
we hemi occupaem.
Family Bae i bin saenem blindly agreement ia witaot any
explenesen mo understanding.

4) Mr. **X** we hemi wan deportee long santo rebellion
i bin karem back property blong hem long first day nomo we
hemi kasem santo.

Long saed ia U.M.P regional executif blong luganville i aware
gud se ol deportees proterty oli stap under long wan tender
board.

Olsem wanem nao wan deportee olsem **Mr. X** hemi save
yusum back lo properuy blong, hem witaot any approval blong
committy we hemi luk after long tender?

5) Long first day taem **Mr. X** i kamback long vanuatu
mo i kasem santo, hemi aotem long graon ia title 03/OG53/002
Mr. HAROLD STEVEN wetem ol family blong hem.

I no longtaem after hemi aotem Mr. GEORGES STEVEN wetem ol
family blong hem mo nao ia hemi aotem MR. GRACIEN mo MARCELINO
Bae wetem ol family blong tufala. U.M.P regional executif
blong luganville i aware gud se bae ino longtaem MR. **X**
X bae i askem iet blong muvum aot samples 100 ni-vanuatu

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we oli stap long sem eria we hemi stap long hem.
Fasin olsem luganville regional executif committy i luk se
ino streit mo hemi askem gavman blong luk save ol rong muv
we wan deportte olsem [redacted] i stap mekem.

6) MR. [redacted] hemi yusum wan officer blong court
house blong givim order long family bae blong muv aot long
graon mo livim house blong ol word boys blong hem i yusum.
Next day after, [redacted] i kiaman long court from
hemi destroem house we hemi talem se bae ol work boys blong
hem i yusum.

Family bae never kasem wan court order long back & white blong
muv aot long graon mo house but [redacted] i yusum WILLY
PALAO wan court house officer blong hemi kam talemaot long
family bae blong muv aot long graon mo house. Fasin olsem
luganville executif committy i luk se i gat samting i pass
andenit tabol.

7) Muv olsem we MR. [redacted] i stap mikem bae i save
givim exampol long ol nara expatriate deportees blong oli
save follem mo hemia bae i save spoelem right blong ol ni-
vanuatu.

8) Mr. [redacted] i shud recognaesem gavman blong U.M.P
we i hollem power today from ol sapotas blong U.M.P nao we
hemi save kamback long vanuatu. Ol sapotas ia nao we hemi
stap aotem olgueta long graon, mo hemi gat tingting blong
aotem more iet.

9) MR. [redacted] we politiquely hemi wan strong sapotas
blong SERGE VOHOR hemi stap againsem gwan gavman we e stap
long power today, hemia regional executif blong luganville
iaware gud long hem mo askem gavman blong luk save se [redacted] hemi kamback long vanuatu olsem wan deportee mo
hemi no gat right blong stap ronem aot ol ni-vanuatu long
graon we gavman i deportem hem finish long hem fasim olsem
i mas stop.

10) Long taem blong political craesis luganville regional
executif committy i bin boycotem mini congres we i bin take
place long luganville mo plenty leaders blong gavman oli happy
tumas long muv we luganville region i mekem.
Long return U.M.P regional executif blong luganville i askem
strong long gavman blong considerem olgueta points mo luk save
request ia we committy i mikem i kam long gavman.

conclusion : Follem olgueta points ia, luganville U.M.P regional
executif committy i askem strong long gavman blong cancellem
resident permit blong [redacted] mo [redacted] we
tufala i deportees blong tufala i go back mo nomo kamback
long country vanuatu.
U.M.P regional executif blong luganville bae i appreciatem
bigwan muv we gavman bae i tekem blong save considerem request
ia blong executif committy mo tekem into consideration olgueta
important points we i mentioned.

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Long wan executive miting we i bin take ples long thursday
11/07/96 comite i bin pasem wan resolution we i resolve se
U.M.P regional executif committy i askem strong long gavman
blong resident permit blong [redacted] mo [redacted] i mas
became start from date we gavman i ricivim leter ia.

X

2

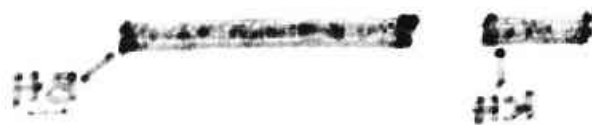
Thank you long cooperation mo long anderstanding.

Yours Faithfully.
Jean Delaveau



President /Luganville region.

DAVID	Murphy
Ismael	Swinton
Benjamin	John. Innes
BONG	Robertson
[Signature]	Council
[Signature]	ABOOL
RUTH Pao	Moko
Luan	
D. MORIN	[Signature]
TOM	TARI
MARCEL	Charley



APPENDIX "E"

4/9

SUBJECT : LAND TITLE 03/OG52/002, LUGANVILLE, SANTO.

The Agreement is made between :

Party (1) : The Honourable Minister of Natural Resources;
Mr WILLIAM EDGEL.

Party (2) : **Mr. X**; Attorney for **Mr. Y**,
registered Lessee of title number 03/OG52/002.

Party (3) : GRATIEN and MARCELINO BAE as Parties to this said Agreement.

After thorough discussion between the Honourable Minister of Natural Resources; Mr WILLIAM EDGEL and the Parties affected :

- (1) It is hereby agreed by all Parties that option number (2) stipulated by the Honourable Prime Minister MAXIME CARLOT KORMAN in his letter PM/901/1/336/MCK/lr/96 addressed to the Honourable Minister of Natural Resources will be observed :

"...to issue new Lease to Family BAE of the new Subdivision Project adjacent to Lease title 03/OG52/002..."

- (2) - That Department of Urban Lands and Department of Survey to commence immediately to regularized adequate Land (ie Lease titles) to accommodated all persons who are at present residing illegally on title 03/OG52/002.

- (3) **Mr. X** who possess Power of Attorney for the said Lease to allow GRATIEN and MARCELINO thirty(30) days to vacate Lease title 03/OG52/002 and moved to new titles to be identified and regularized by the Department of Urban Lands.

- (4) That GRATIEN and MARCELINO BAE execute and register the Lease on Land allocated to them and that any Fees required in this process falls under the responsibility of GRATIEN and MARCELINO.

- (5) That GRATIEN and MARCELINO on vacating this premises do so in a peaceful manner.

Agreement signed by :

Honourable Minister of Natural Resources, Mr WILLIAM EDGEL

GRATIEN

MARCELINO

Witness :

LIONEL-KALWAT, 2ND SECRETARY, MINISTRY OF NATURAL RESOURCES

Witness :

TAHI STEVEN, PRINCIPAL LANDS OFFICER (LAND SERVICE ORS TERRES)

Date :

17th April 1996



APPENDIX E

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APPENDIX "D"

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P.03

GOUVERNEMENT
DE LA
RÉPUBLIQUE DE VANUATU

MINISTÈRE DES
AFFAIRES ÉTRANGÈRES
ET DE L'IMMIGRATION



GOVERNEMENT
OF THE
REPUBLIC OF VANUATU

MINISTRY OF
FOREIGN AFFAIRS
AND IMMIGRATION

25th July 1996

MOFAI/3/6/C6-1/116/AB:ab/96

Mr. **X**
c/- **ABC LTD**
Luganville

Dear Sir,

RE : ISSUE ON LAND TITLE 03/0G53/002 LUGANVILLE

After examining a three (3) past letter reporting some action been made against some Ni-Vanuatu living in that surrounding Land area I am not very happy with the way well threatening these people.

Futher to my understanding you are one of those deportees at Santo rebellion and now using Mr. Willy Palao a court house Officer to drive out these Ni-Vanuatu flocks.

However, **Mr. X**, I am afraid to inform you that in such case your residential permit will valid are as follow :

Mr. **X** 25/02/97
Mr. **Z** 10/03/97

I'm well aware of this matter and hope you take into consideration.

Siti

Hon. Amos BANGABITI
Minister of Foreign Affairs and Immigration



cc : Director of Immigration
First Secretary, Ministry of Foreign Affairs

APPENDIX D

[REDACTED]

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[REDACTED]
[REDACTED]

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[REDACTED]

112 [REDACTED]
112 [REDACTED]

APPENDIX " F "

REPLY FROM MP AMOS BANGABITI

In his reply to Preliminary findings, Mr Bangabiti made the following comment:

Certainly, pressure from the Luganville UMP Committee was very strong for me to decide on this matter.

I was not given by them the full information and I learnt later that there was a Court decision and I apologise for my letter to Mr X. I was not aware fully of the Court decision - the UMP Committee only presented one side of the story.

My letter concerning Mr X was not a final decision and if I had stayed on as a Minister, I would have reconsidered my decision taking into account all the elements and I would have gone to speak to Mr X personally to sort out the matter amongst all the parties.

I have not had time to see Mr X but I intend to write to Mr X to apologise.

* * * * *

The following also received preliminary reports and were given an extra week to respond but never responded:

- ♦ Mr Jean Delaveau, President - Luganville UMP Executive Committee
- ♦ Mr Maxime Carlot Korman
- ♦ Mr Gratien and Marcelino families.

APPENDIX "G"



12th December 1996

Mr. X

[REDACTED] ABC LTD

Luganville
SANTO

Mr. X

Dear [REDACTED]

RE: LETTER OF APOLOGISE IN REGARDS TO THE PREVIOUS ONE DATED
25TH JULY 1996

You know very well that the situation arise was all the pressure from Luganville residents. It was hard to decide who is right and who is wrong and for that purpose I as former Minister signed the letter to you.

Just last Wednesday 11 December 1996 I have been discussing this matter with the Ombudsman's Office, specially Mrs. Marie-Noelle Ferrieux Patterson and decided to make such an apology to you.

Therefore, accept today this very words from my heart and wish you all the best in your business now and in the future.

A handwritten signature in ink, appearing to be "Amos BANGABITI".

Amos BANGABITI MP
MEMBER FOR AMBAE

"G" 211139A

171-584 [REDACTED] X #2