

**IN THE COURT OF APPEAL OF  
THE REPUBLIC OF VANUATU**  
(Appellate Jurisdiction)

Civil Appeal Case No. 09 of 2014

**BETWEEN:** DEPARTMENT OF LANDS STAFF  
Appellant

**AND:** TRANSPARENCY VANUATU  
COMMITTEE  
First Respondent

**AND:** MINISTER OF LANDS  
Second Respondent

**AND:** DIRECTOR OF LANDS  
Third Respondent

**Coram:** Hon. Chief Justice Vincent Lunabek  
Hon. Justice John von Doussa  
Hon. Justice Raynor Asher  
Hon. Justice Oliver A. Saksak  
Hon. Justice Daniel Fatiaki  
Hon. Justice Dudley Aru  
Hon. Justice Stephen M. Harrop

**Counsel:** Daniel Yawha for the Appellants  
Eric Molbaleh for the First Respondent  
Kent Ture Tari for the Second and Third Respondent  
Willie Kalo an interested party – in person

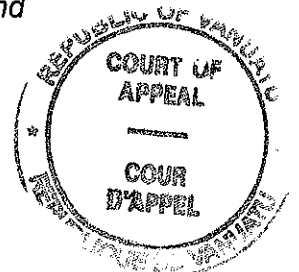
**Date of Hearing:** 16 July, 2014

**CONSENT ORDERS**

1. This appeal concerns “consent” orders made by the Supreme Court on 16 December 2013 which read as follows:

*“UPON HEARING MARIE NOELLE PATTERSON counsel for the claimant and the ATTORNEY GENERAL counsel for the first and second defendant AND BY CONSENT BY ALL PARTIES, IT IS HEREBY ORDERED that:*

1. *The decision of the First Defendant by letter dated 3 August 2012 to the effect that the staff of the Department of Lands, Survey and*



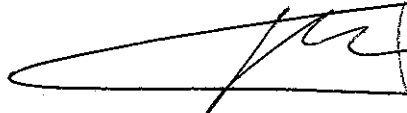
*Registry pays only 50% of the premium payable under the Land Leases Act [CAP. 163] is unlawful and hereby quashed;*

2. *This proceeding is now discontinued on the basis on this Consent Order;*
  3. *Each party shall bear its own costs."*
2. The letter in question out the decision of the then Minister of Lands to allocate available land lots to members staff of the Department of Lands by providing 50 year leases for 50% of the usual premium.
  3. This appeal seeks orders quashing those consent orders on the basis that they directly affect the leases or agreements to lease of the Department of Lands staff who became, or were to become, the lessees of the land in question. There are so far 95 identified staff who got or were to get leases, and the total staff involved appear to number over 130.
  4. The affected staff were not parties to the proceeding when the consent orders were made on 16 December. Some 55 of them were represented by Mr. Yawha when the orders were made. Mr. Yawha had been served with a set of the proceedings, but neither Mr. Yawha nor any of the staff knew of the application for consent orders or the hearing of 16 December 2013. At the time Mr. Yawha was entitled to believe that the case was coming up to a further conference in March 2014. He also had received a letter indicating that his clients were to be joined as parties. Mr. Kalo who appears in person was also an affected staff member and who is self-represented, was also not aware of the consent order hearing.
  5. We have no doubt that the orders, affecting as they did the claims of the former staff members to land, should not have been made without their being heard. This position was sensibly recognised by Mr. Molbaleh for the First Respondent and Mr. Tari for the Republic in the course of the hearing, and they have withdrawn their opposition to the appeal.
  6. We extend the time for the filing of this appeal, which was filed promptly in March 2014 shortly after the appellants became aware of the consent orders.
  7. No leave is required to appeal, as the consent orders had determinative effect and were not interlocutory orders, (see r 7.1(1)).
  8. We allow the appeal and quash the consent orders of 16 December 2013. The proceeding is remitted back to the Supreme Court for a directions conference as soon as possible.
  9. We expect that all Department of Lands staff members who may be affected by the orders sought by the appellant will be joined as parties.



10. We are also prepared to further make orders in relation to the proceedings at the request of the respondents they were not opposed by the appellants. We direct by consent:
- The name of the first respondent is amended to The Transparency International Vanuatu Committee (Inc.)
  - Leave is granted to the first respondent to amend the background it relies on and the relief it seeks in the proceeding as set out in its memorandum of 21 July 2014, providing all references to the consent orders are deleted.
11. Given the history of the matter and the position ultimately taken in this Court by the parties, we make no order for costs on this appeal.

FOR THE COURT



Hon. Vincent Lunabek  
Chief Justice.

