

BETWEEN: Charley Noviel
Claimant

AND: Alain Kalan
Defendant

Date of Hearing: Friday 28th day of July, 2017 at 11:02 am
Date of Judgement: Friday 28th day of July, 2017 at 11:12 am
Venue: Efate Island Court – Court-Room, Joint-Court Onto, Port-Vila
Before: Justice Daniel Frank (Presiding Justice)
Justice Lutu Sakita (Member)
Justice Serah Paton (Member)

Island Court Clerk: Alida Tchivi

In Attendance: Claimant – Charley Noviel
Defendant – Alain Kalan (No appearance in Court)

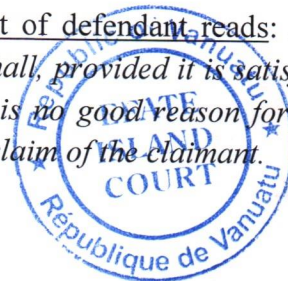
DEFAULT JUDGMENT

An application has been filed by **Charley Noviel** who is the plaintiff before this court in pursuant to Rule 1(2) of the Island Court Procedure Rules of 2005.

This is a normal civil claim for breach of formal contract between the Claimant and the Defendant namely **Alain Kalan**. The Claimant alleged that on or around November 2015 the Defendant and himself, entered into an agreement. The agreement was for the Defendant to borrow money from the Claimant's Business Lending Scheme with a fortnight loan repayment of *Twenty Percent* (20%) interest. The principal amount borrowed is Four Thousand Vatu. Mr Noviel stated clearly on his statement that the Defendant paid only *Eight Thousand and Four Hundred Vatu* (42'000Vt) on the 31st day of March, 2017 but he still failed to comply with the agreement and the outstanding Vatu claimed by the Claimant is now *Twenty Two Thousand Vatu* (22'000Vt).

Both parties were summoned and served directly. This matter was supported in open court. Claimant appeared in Court at the time and date of hearing when called; however Defendant was not present and that no reason was given for his non-appearance. Court has noted on the Court Deposition that Defendant has also not filed his Defence.

Island Courts (Civil Procedure) Rules No. 028 of 2005 (2) – Non-Attendant of defendant reads: *If a defendant does not appear at the time for the hearing of the claim, the court shall, provided it is satisfied that the statement of claim has been served on the defendant and that there is no good reason for the defendant's non-attendance: (d) determine in the absence of the defendant the claim of the claimant.*



The Court is satisfied and therefore, the Court proceeds with the determination of the matter in the absence of the defendant.

Having read, heard and considered the application of claim made by the Claimant in this matter Charley Noviel on behalf of his unpaid sum;

This Court is satisfied and hereby makes the following Orders:

1. The Court orders that the Defendant 'Alain Kalan' to pay a monthly payment Vt 22'000 in full, not less by end 15th August 2017 to settle the outstanding.
2. Both parties need to respect and comply with these orders. Failure to the above, party may apply orally or in writing to the Supervising Magistrate for Enforcement of the order or judgment if it remains unsatisfied.
3. Parties have right to appeal from that judgment to the Magistrate's Court within 30 days from the date of this judgement

DATED at Port Vila this 28th day of July, 2017.

BY THE COURT



Justice Lutu Sakita
(Member)



Justice Serah Paton
(Member)