

IN THE MATTER OF: An application by PETER ANTHONY COOMBE
for Leave to apply for an Order of
Certiorari.

AND:

IN THE MATTER OF: An Order dated the 28th day of November
1988, made by the Minister of Immigration
pursuant to the Immigration Regulation
1971.

J U D G E M E N T

This court accepts the contention of the applicant that it is the duty of the court to review orders made under section 17 of the Joint Regulation concerning immigration in spite of its preclusive wording. It seems to this court that this principle was made clear in *Anisminic Ltd v The Foreign Compensation Commission v Another* 1961 1 ALL ER 208.

Accepting this principle the court must now turn to look at the application in particular which is for leave to apply for an order of certiorari in respect of a decision of the Minister responsible for Immigration made on 28th November 1988.

In accordance with Order 61 rule 2 the WP HC (CP) Rules application has been made ex parte to the court and was accompanied by a statement setting out all that was required, and by affidavits.

The purpose of those affidavits is to verify the facts relied on to support the application.

The ground as set out in paragraph 3 of the application are that:

the Prime Minister has exercised the said power for an improper purpose,

and that

the Prime Minister has exercised the power without observing the rules of natural justice.

Seven affidavits are filed in support. They contain, in the courts view both relevant and irrelevant material. There are descriptions of the consequences of the applicants departure which, although not unimportant to many people, themselves are not relevant. Speculation as to the motive behind the action is also contained within the affidavits. Opinions are also expressed.

The question which the court must decide is what facts are made out in the affidavits and whether they are sufficient to persuade the court to grant the leave requested.

Having considered the affidavits this court has concluded that insufficient facts have been established in the affidavits in support for the court to exercise its discretion in favour of the applicant and the court therefore declines to grant the leave sought by the applicant.

Dated at Port Vila this 13th day of December 1988.

E.P. Goldsbrough
E.P. GOLDSBROUGH
ACTING JUDGE