

IN THE SUPREME COURT OF THE
REPUBLIC OF VANUATU
(CIVIL JURISDICTION)

CIVIL CASE No: 71 OF 2003

IN THE MATTER OF THE CONSTITUTION OF THE
REPUBLIC OF VANUATU

AND:

IN THE MATTER OF THE MUNICIPALITIES ACT [CAP
126], AS AMENDED

**BETWEEN: UNION ELECTRIQUE DE VANUATU
LIMITED**

Claimant

MESSRS. GEORGE VASARIS & CO, of PO
Box 166, Port Vila, Vanuatu

Claimant's lawyer's name & address

AND: MUNICIPALITY OF PORT VILA

Defendant

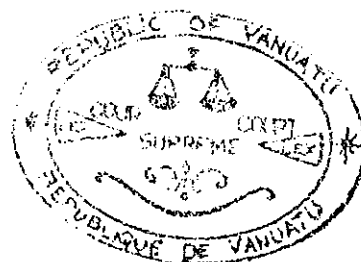
MESSRS. GEOFFREY GEE & PARTNERS,
of P.O. Box 782, Port Vila, Vanuatu

Defendant's lawyer's name & address

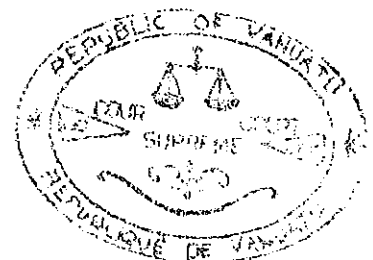
CONSENT ORDERS

UPON HEARING the parties hereto and **BY CONSENT, IT IS HEREBY ORDERED:**

1. A declaration that the "Levying of Fee on Installation of Street Electrical Lamp Posts, Power Transformers and Cable Bye-Law No.13 of 2000" made by the Port Vila Municipality on 29 June 2000 in purported exercise of the powers vested in that Municipality by section 26 and section 36, subsections (1) and (2) of the Municipalities Act [CAP 126] is invalid.
2. Order that the Port Vila Municipality be restrained from requiring the payment to it by the Claimant of the amount calculated according to the terms of the said Bye-Law No. 13 of 2000.



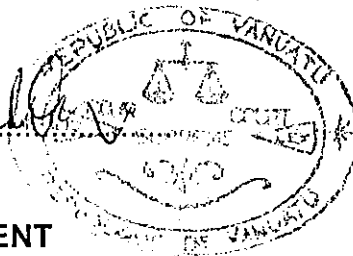
3. A declaration that the "Levying of Fees on Installation of Pressure Valves, Water Mains and Water Tanks Bye-Law No. 15 of 2000" made by the Port Vila Municipality on 29 June 2000 in purported exercise of the powers vested in that Municipality by section 26 and section 36, subsections (1) and (2) of the Municipalities Act [CAP 126], is invalid.
4. Order that the Port Vila Municipality be restrained from requiring the payment to it by the Claimant of the amount calculated according to the terms of the said Bye-Law No. 15 of 2000.
5. A declaration that the "Commission on Electricity Bye-Law No. 19 of 2000" made by the Port Vila Municipality on 29 June 2000" in purported exercise of the powers vested in that Municipality by section 36 of the Municipalities Act [CAP 126] is in valid.
6. Order that the Port Vila Municipality be restrained from requiring the payment to it by the Claimant of the amount calculated according to the terms of the said Bye-Law No. 19 of 2000.
7. A declaration that the "Levying of Fees on Cutting up and Digging of Roads Bye-Law No. 38 of 2000" made by the Port Vila Municipality on 12 July 2000" in purported exercise of the powers vested in that Municipality by section 36, subsections (1) and (2) of the Municipalities Act [CAP 126] is in valid.
8. Order that the Port Vila Municipality be restrained from requiring the payment to it by the Claimant of the amount calculated according to the terms of the said Bye-Law No. 38 of 2000.
9. A declaration that the "Levying of Fees (Footpaths and Roadsides) Bye-Law No. 39 of 2000" made by the Port Vila Municipality on 12 July 2000" in purported exercise of the powers vested in that Municipality by section 36 , subsections (1.) and (2) of the Municipalities Act [CAP 126] is in valid.
10. Order that the Port Vila Municipality be restrained from requiring the payment to it by the Claimant of the amount calculated according to the terms of the said Bye-Law No. 39 of 2000.
11. A declaration that the "Commission from water charges Bye-Law No. 42 of 2000" made by the Port Vila Municipality on 12 July 2000" in purported exercise of the powers vested in that Municipality by section 36 of the Municipalities Act [CAP 126] is in valid.



12. Order that the Port Vila Municipality be restrained from requiring the payment to it by the Claimant of the amount calculated according to the terms of the said Bye-Law No. 42 of 2000.
13. Further the said Bye-Laws No's: 13, 15, 19, 38, 39 and 42 of 2000 are ultra vires Article 25(2) of the Constitution of the Republic of Vanuatu.
14. Further the said Bye-Laws No's: 13, 15, 19, 38, 39 and 42 of 2000 are ultra vires section 38 of the Municipalities Act [CAP 126], as amended.
15. Costs to the Claimant taxed if not agreed.

Dated the 2 day of OCTOBER 2003.

BY THE COURT



BY CONSENT


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JOHN CALDWELL MALCOLM
Advocate for the Defendant


.....
MARK JAMES HURLEY
Advocate for the Claimant