



**BETWEEN:** FAMILY KALON  
First Claimant

**AND:** EDDIE KARIS  
Second Claimant

**AND:** FAMILY KATLONG  
Third Claimant

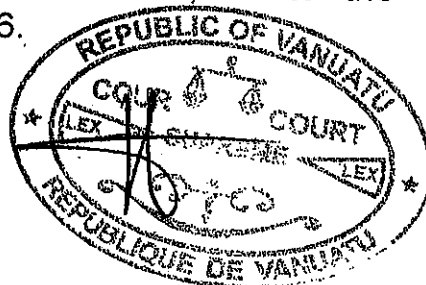
**AND:** FELIX THOMAS  
First Defendant

**AND:** THE DIRECTOR OF LAND RECORDS  
Second Defendant

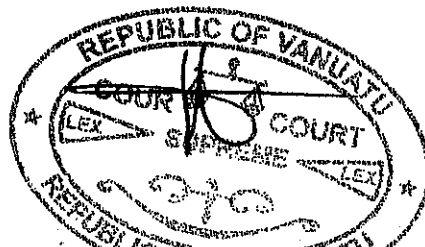
*Mr. Ronald Warsal for the Claimants – no appearance  
Mr. James Tari for the First Defendant - no appearance  
Mr. Frederick Loughman for the Second Defendant*

## **JUDGMENT**

1. The Claim in this matter was filed in the Supreme Court on 20 October 2005. Mr. Ronald Warsal of Kilu, Daniel & Warsal Lawyers is counsel for the Claimants.
2. During chambers hearing on 12 September 2006, Mr. Warsal applied for leave to amend the Supreme Court Claim. He informed the Court that he wanted 7 days to prepare and file the Amended Claim. The Court granted him leave to do so within that time frame. The matter was given a return date of 11 October 2006.
3. On 11 October, 2006 Mr. Ronald Warsal did not appear. Nothing was ever received from Mr. Warsal to explain his non-appearance. The filing of the Amended Claim directed on 12 September 2006 remained outstanding. The Claimants were ordered to pay wasted costs at VT5,000 to the Second Defendant by 31 October 2006.



4. Another chambers hearing was called for 3 November 2006. On that date Mr. Warsal did not show any appearance. Nothing was received from Mr. Warsal to explain his non-appearance. The Claimants, through Mr. Warsal, have yet to comply with the Directions of 12 September to file their Amended Claim. Payment of wasted costs remain outstanding as well.
5. Next chambers hearing was called for 16 March 2007. Mr. Warsal did not show up. Nothing was received from Mr. Warsal to explain his non-attendance. Directions of 12 September 2006 and 11 October 2006 were yet to be complied with.
6. Next chambers hearing was called for 16 May 2007. Mr. Warsal did not show any appearance. Nothing was received from him to explain his non-appearance. None of the Orders, even at this point in time, had been complied with.
7. It is now approximately 8 months and 4 days since the Directions of 12 September 2006 were issued directing the Claimants and Mr. Warsal to file their Amended Claim.
8. It is now approximately 7 months and 5 days since the wasted costs order was made on 11 October 2006. The amount remains unpaid and the Order not complied with.
9. I find this attitude disrespectful by a senior counsel in this jurisdiction. In my view, Mr. Warsal, must show cause why he should not be punished for contempt. The continuing delay in complying with orders made at conferences only prejudices his clients, the Claimants. They had sought him out as their counsel because, amongst others reasons, they believed that he will properly represent them.
10. Rule 9.10 of the Civil Procedure Rules provides that if the Claimant does not take the steps in a proceeding that are required by these Rules to ensure the proceeding continues, or comply with an Order of the Court made during a proceeding, the Court may strike out the proceeding without notice, if there has been no step taken in the proceeding for 6 months. Two

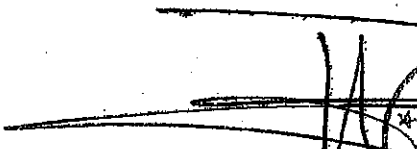


Orders of this Court has been allowed to remain or ignored without complying with them for over 6 months.

11. I make the following orders:-

- (a) The proceeding before the Court in this matter is struck out.
- (b) Wasted costs of today at VT5,000 in favour of the Second Defendant to be paid by Mr. Wasal by 20 June 2007.
- (c) Outstanding wasted costs at VT5,000 ordered on 11 October 2006 to be paid by Mr. Warsal by 20 June 2007.
- (d) Mr. Warsal to appear before this Court at 4.30 p.m. on 18 June 2007 to show cause why he should not be punished for contempt and secondly, why he should not pay the wasted costs.

**DATED at Port Vila, this 16<sup>th</sup> day of May, 2007.**

  
**H. BUNU**  
Judge.

