



- For leave for the Claimant to forthwith file and serve the Amended Supreme Court claim.

Both applications are supported by various sworn statements filed in support.

At the outset, Mr Boar concedes that the Claimant's application to have Ranch De La Falaise Limited added as a Party (second Defendant) be allowed; and that leave be granted to the Claimant to file and serve his Amended Supreme Court claim.

The only difference between the parties is whether or not the Supreme Court Order of 16 July 2009 should be set aside.

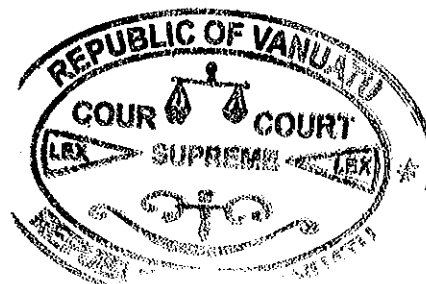
Mr Boar submits that the Order of 16 July 2009 should be set aside. Mr Hurley submits to the contrary for the reasons contained in the sworn statements of Elizabeth David filed 18 February 2009.

On 16 July 2009, the Supreme Court issued a default judgement against the Defendant Jean Paul Virelala. The claim was filed on 19 February 2009. It was served on the Defendant with a response form and a sworn statement of Elizabeth David filed 18 February 2009. There was no response nor defence filed.

Mr Boar concedes during the submissions and upon the Court queries that the Defendant could not show reasonable cause for not defending the claim. This means that the Defendant could not satisfy the Court as to delay for filing a defence and the reasons for it.

Mr Boar's submissions that the Defendant has an arguable defence for the claim must fail. The reasons are set out below. There is no dispute that loans agreements were made between the ANZ Bank (Vanuatu) Limited and the Defendant, Jean Paul Virelala involving Ranch De La Falaise Limited.

The details of such loan arrangements are contained in the sworn statement of Elizabeth David filed on 18 February 2009 with and Annexures [ED1, ED2, ED3, ED 4, ED5, ED 6, ED7, ED8, ED9].



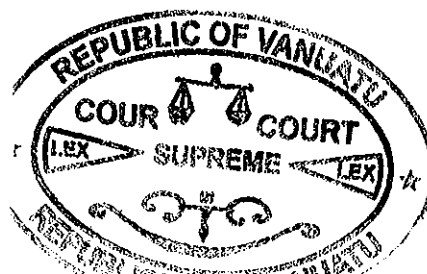
As at 15 April 2010, the Defendant Mr Jean Pierre Virelala's total loan due and owing to the Claimant Bank is VT15,769,170 and the total loan of the Defendant's Company, Ranch De La Falaise Limited due and owing to the Claimant, ANZ Bank (Vanuatu) Limited is VT82,415,631.

Annexure ED9 of the sworn statement of Elizabeth David contained a copy of the Notice of Demand from the ANZ Bank (Vanuatu) Limited to the Defendant, Jean Paul Virelala, dated 29 December 2008.

Schedule 2 of ED9 provides the list of the nature of the Security given by the Defendant, Jean Paul Virelala to the Claimant, ANZ Bank (Vanuatu) Limited. It is reproduced below:

**"THE SECOND SCHEDULE"**

<b><u>Nature of Security</u></b>	<b><u>Date of Security</u></b>
1. <i>Third Party Mortgage over title #11/OH22/059 &amp; 060 given by Jean Paul Virelala</i>	25 <sup>th</sup> April 2006
2. <i>Collateral Mortgage over title #11/OG31/001 given by Jean Paul Virelala</i>	25 <sup>th</sup> April 2006
3. <i>Collateral Mortgage over title #12/0643/009 given by Jean Paul Virelala</i>	25 <sup>th</sup> April 2006
4. <i>Third Party Mortgage over title #03/0103/004 given by Ranch de la Falaise Limited</i>	25 <sup>th</sup> April 2006
5. <i>Deed of Charge given by Ranch De La Falaise Limited</i>	28 <sup>th</sup> November 2007
6. <i>Guarantee given by Jean Paul Virelala in favour of Ranch De La Falaise Limited support by Mortgage Debenture over Assets of Company, Mortgage over title #12/0641/001, 11/OH22/059, 11/OH22/060, 11/OD33/023, 12/0643/009 &amp; 03/OI03/007.</i>	28 <sup>th</sup> November 2007
7. <i>Third Party Collateral Mortgage over title</i>	28 <sup>th</sup> November 2007



*#120643/001 given by Jean Paul Virelala  
in favour of Ranch De La Falaise Limited.*

*Dated at Port-Vila this 29<sup>th</sup> day of December 2008.*

**FOR ANZ BANK (VANUATU) LIMITED**

*Elizabeth David  
Asset Management Officer*

On the basis of the above material, there is no justification to set aside the default judgment issued against the Defendant, Jean Paul Virelala on 16 July 2009. The Order of 16 July 2009 was regularly issued and there is no defence shown by the Defendant to have the Order set aside.

The Court, thus, makes the following ORDERS:

1. THAT pursuant to Rules 3.1 and 3.2 Ranch De La Falaise Limited be joined as the Second Defendant to this proceeding.
2. THAT the Supreme Court Orders dated 16 July 2009 be varied to delete the reference to title No.03/I103/004.
3. THAT leave be granted to the Claimant to forthwith file and serve the Amended Supreme Court claim in the Form attached to the Claimant's Application filed 12 April 2010.
4. The Application of the Defendant's Amended Urgent Application filed 24 March 2010 is dismissed.
5. The Claimant, ANZ Bank (Vanuatu) Limited, is entitled to her costs assessed at Vatu 50,000 against the Defendant. Such costs of Vatu 50,000 shall be paid by 28 June 2010.
6. The matter is listed for conference on Friday 2 July 2010 at 8.30AM o'clock.

**DATED at Port-Vila this 1<sup>st</sup> day of June 2010**

**BY THE COURT**

**Vincent LUNABEK  
Chief Justice**

