

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU

Civil Case No: 08 of 2012

(Civil Jurisdiction)

BETWEEN: JONATHAN IAVERE

Claimant

**AND: WILLIAM MARA Representing
FAMILY William Reur**

Defendant

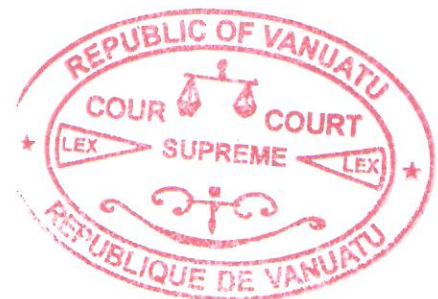
Mr Justice Oliver A. Saksak

Mrs Mary Grace Nari for the Claimant / Applicant
Mr Felix Laumae for the Defendant / Respondent

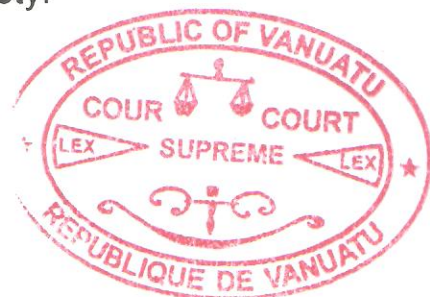
Date of Hearing and Oral Decision: 23rd March 2012
Date of Judgment: 11th April 2012

JUDGMENT

1. On 13th March 2012 the Court heard an application filed by Mrs Nari on behalf of the Claimants. Mr Lent Tevi acted, as agent for Mr Nalyal, Counsel for the defendant at the time.
2. The Court issued the following orders: -
 - "1. Mr Nalyal be disallowed from acting for the respondents in this matter due to a conflict of interest.
 2. The matter stands adjourned for further hearing to Friday 23rd March 2012 at 10 O'clock a.m.



3. *To maintain status quo between parties the following orders are issued in the Interim until further orders of the Court :-*
- (a) *The respondent, his relatives, agents and associates be required to refrain from interfering with the Applicant's lease process from Lulum and Ureure Lands.*
 - (b) *All Parties, their relatives, agents and associates shall refrain from any assault threats, or violence towards each other.*
 - (c) *A copy of this Order be served on the Police Commissioner in Port Vila and the Station Commander in Luganville, Santo.*
4. *Within 7 days from the date hereof the respondent shall file and serve their responses to the application and supporting sworn statements.*
5. *Costs be in the cause."*
3. On 15th March 2012 Mr. Laumae filed Notice of Beginning to Act for the Defendant. And on 20th March 2012 Counsel filed an Urgent Application seeking Orders vacating Orders 3 (a) and other orders stated in the application. Counsel also filed supporting sworn statement by William Mara on the same date.
4. The application was heard on 23rd March 2012 and an oral decision was delivered to the effect that -
- (a) The Orders were set aside in their entirety.



- (b) The defendant's request to join the State as a Party was declined.
- (c) The whole proceeding was dismissed.
- (d) The defendant was entitled to their costs of and incidental to the action on the standard basis as agreed or taxed.

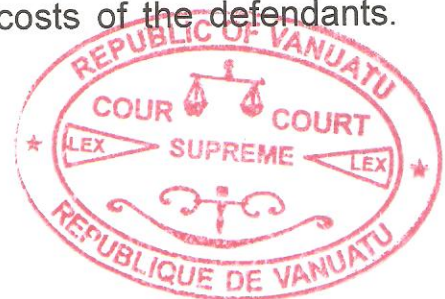
5. The Court now publishes its reasons in brief.

6. As for the setting aside of the Whole Orders of 13th March 2012 –

- (a) Mrs Nari conceded that paragraph 3 (a) of the orders were spent and should be set aside.
- (b) However the Court was satisfied that as to the balance of the Orders, circumstances had changed in favor of the defendants and therefore it was not necessary for the remaining orders to continue to exist under those circumstances. Therefore the Court decided all the Orders should be vacated.
- (c) That being so, there was indeed no longer any need to order that the State be joined as a party to the proceeding.

7. As for the dismissal of the whole proceeding, the Claimant had not filed a proper Supreme Court Claim forming the basis of their application. That being so, it was necessary for the whole proceeding to be dismissed.

8. As for costs, the Claimant had filed an undertaking as to costs and damages on 27th February when he filed his application. As such he was bound by that undertaking to pay the costs of the defendants.



Costs were awarded to the defendant on the standard basis as agreed or taxed.

9. Those are the reasons for the Oral decisions handed down on 23rd March 2012.

DATED at Luganville this 11th day of April 2012.

BY THE COURT



OLIVER A. SAKSAK

Judge.

