

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Constitutional
Case No. 18/2474 SC/CNST

BETWEEN: RAOUL J. MONTHUEL

First Applicant

AND: NAOKO OGAWA

Second Applicant

AND: THE REPUBLIC OF VANUATU

Respondent

Coram:

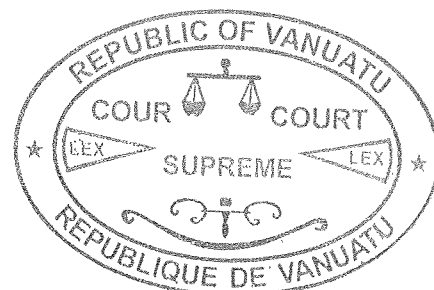
Hon. Vincent Lunabek

Counsel:

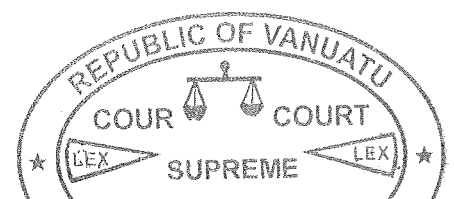
*Mr Roul J. Monthuel in person
Mr Sammy Aron for the Respondent*

STRIKING OUT ORDER

1. The Applicants are owner of a Motor Vessel Boat "Kwa". They arrive in Vanuatu from Noumea, New Caledonia in October 2010. They reside on the vessel with their children. They registered the vessel in the Vanuatu international registry from December 2011 to December 2016. They have applied for local registration of the vessel and they locally registered the vessel on 12 April 2018.



2. They file a constitutional application against the Republic of Vanuatu on 13 September 2018. They alleged that their rights under Article 5(1) of the Constitution, of security of person(c); of Protection of law (d); of freedom of movement (i) and of equal treatment under the law and administrative action (k), have been breached by the actions and/or decisions made by the Principal Licensing Officer and/or Maritime Regulator. They also file sworn statements in support of the constitutional application. A first conference hearing is conducted today 19 November 2018 to enquire on the application constitutional foundation and if there is no constitutional basis, then, the application will be stuck out.
3. I explain the constitutional position, process and procedure to Mr Raoul. He seems to understand that the Principal Licensing Officer and the Maritime Regulator (MR) have powers set under statutory regulations. He seems to understand that the Principal Licensing Officer and the MR made decisions in respect to the vessel pursuant to these regulations. He disputed the decisions or actions made in relation to the vessel and the mode or approach they directed them to repair or maintain the vessel. They challenge the decisions made by these officers and allege these decisions and actions may affect the rights provided under the constitution (security of the person; protection of the law; freedom of movement and equal treatment under the law and administrative action).
4. The sworn statements and the materials attached do not show any direct or indirect breach to the constitutional rights referred to above. Mr. Raoul accepts he can navigate inside Vanuatu waters only. He can navigate everywhere in Vanuatu except overseas. He accepts there is no prohibition for him, his wife and children to travel in Vanuatu and overseas. He says he could not travel overseas by the vessel "Kwa". The materials filed do not show a differential treatment or situation with their own and any other.
5. The material filed show that the customs officers and maritime officers have powers set under the statutory regulations. They made decisions pursuant to those regulations. Mr. Raoul who appears in person and for his wife, was not



happy with these decisions or has issues with the decisions made under these regulations. The way forward for him is to challenge those decisions by way of judicial review. The constitutional claim does not assist the applicants.

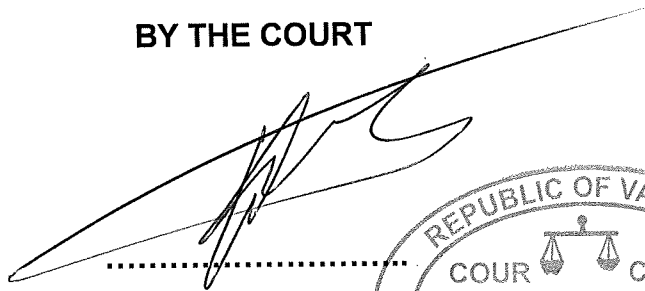
6. I explain to Mr. Raoul that I will struck out the constitutional application as it does not show a breach to any of the rights they alleged in the application. I explain to him that he can seek assistance from the office of the Public Solicitor or a private lawyer to file judicial review claim if he wishes.

7. The Court makes the following orders:

1. The constitutional application filed 13 September 2018 in Constitutional Case 18/2774 is struck out as it has no basis.
2. There is no order as to costs.

DATED at Port Vila this 19th day of November, 2018.

BY THE COURT



Vincent Lunabek
Chief Justice

