

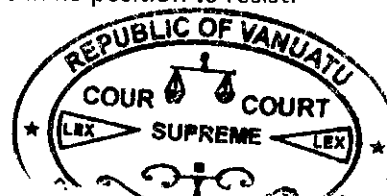
BETWEEN: Chief Dan Bob
Appellant

AND: Charlie Mala
Respondent

Date: Friday, 11 May 2018
By: Justice G.A. Andrée Wiltens
Counsel: Mr E. Nalyal for the Appellant
Mr B. Kalotiti Respondent

JUDGMENT

1. This was an appeal, set down for a one-day hearing at 9am 11 May 2018 at Dumbea.
2. Justice Geoghegan, in a Minute dated 15 March 2018, directed that the appellant file an Appeal Book – failing which it was firstly not possible to hear the appeal, and secondly, which might lead to the matter being dismissed.
3. On Wednesday this week I noted that there was still no Appeal Book. I mentioned this to Mr Yahwa, whose firm represents the Respondent, and he undertook to ascertain the position with Mr Nalyal. I am confident therefore that the Appellant was very recently reminded of the hearing, and the lack of an Appeal Book.
4. This morning, I was advised that the one-day fixture needed to be vacated; and that counsel would attend in Chambers. Mr Nalyal has filed brief written submissions in support of the Appeal with the Court this morning at 9am – but still no Appeal Book.
5. Mr Kalotiti had firm instructions, despite the offer of a significant wasted costs order in his client's favour, to seek dismissal of the appeal due to lack of prosecution. Mr Nalyal argued against that, seeking instead an adjournment, but he really was in no position to resist.

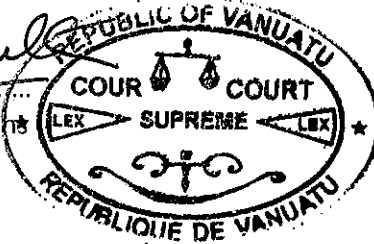


6. Given Mr Nalyal's failure to comply with Justice Geoghegan's direction, and the lengthy passage of time that has elapsed since the original orders were made in 2010 regarding the Chiefly Title, and also accepting that finality of dispute and certainty of result are desirable outcomes from Court proceedings, it seems to me that the only appropriate course now open to the Court is to dismiss the appeal.
7. In the circumstances, Chief Dan Bob's appeal is dismissed for want of prosecution; however costs will fall where they lie.

Dated at Port Vila this 11th day of May 2018

BY THE COURT

Gandhi Wilton
Justice G.A. Andrée Wilton

The seal of the Supreme Court of Vanuatu is circular. It features a central emblem of a scale of justice. The text "REPUBLIC OF VANUATU" is written along the top inner edge, and "REPUBLIQUE DE VANUATU" along the bottom inner edge. In the center, the words "COUR" and "COURT" are positioned on either side of the scale, with "SUPREME" below them. The word "LEX" is written in two small boxes on either side of "SUPREME". A small star is located on the right side of the seal.