

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

Civil
Case No. 20/787 SC/CIVL

BETWEEN: Kalkot Mataskelekele
Claimant

AND: Kalsale Family of Ifira
First Defendant

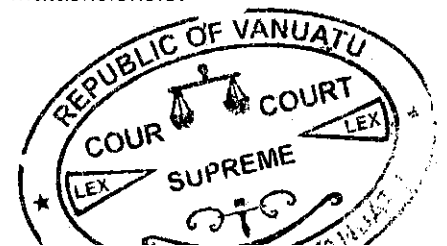
AND: Christiane Brunet
Second Defendant

AND: The Republic of Vanuatu
Third Defendant

Date of Hearing: 2nd September 2020
Date of Decision: 16th October 2020
Before: Justice Oliver A. Saksak
In Attendance: Mr Sakiusa Kalsakau for the First Defendant as Applicant
Mr Kalkot Mataskelekele for the Claimant as Respondent
No appearances for Second and Third Defendants

DECISION

1. The First Defendant Family through counsel applied on 20 July 2020 seeking Orders that the proceeding and claim of the Claimant Family be struck out with costs.
2. The applicant family say the issue of custom ownership has been properly determined and that the matter is now res judicata and that Ashun estoppel prohibits the Claimant for raising the issue, and that it is in the public interest the matter be brought to finality.
3. I heard Mr Kalsakau orally in relation to his written submissions on 2 September 2020. Mr Mataskelekele arrived late that morning and pleaded for time to make written submissions in response. I issued a Minute on that date recording what happened that morning and gave Mr Mataskelekele 7 days to file and serve his responses and submissions.
4. As at 16 October 2020 no response and/or submissions has been filed by Mr Mataskelekele.



5. The application by the First Defendant is therefore unchallenged. And I am persuaded by the submissions of Mr Kalsakau and accept them in their entirety.
6. Accordingly I allow the application. I set aside the earlier decision dated 15 June 2020 and hereby order that the claim and proceeding of the Claimant be hereby struck out.
7. I order the Claimant Family to pay the First Defendant's costs of the proceeding on the standard basis as agreed or taxed.

DATED at Port Vila, this 16th day of October, 2020.

BY THE COURT


Oliver A. Saksak
Judge.

