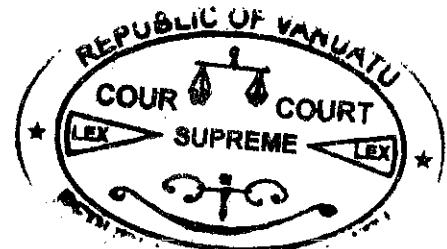


**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Civil
Case No. 20/551 SC/Civil

BETWEEN: Jang Yoon Gil
First Claimant
Gil Motors Limited
Second Claimants

AND: Hwang Hye-Ok
First Defendant
Hwang Hye-Jeong
Second Defendant
Victoria Limited
Third Defendant
Shin Gyeong Beam
Fourth Defendant
Willie Ben Karie
Fifth Defendant
Raizen Maseiras Jon (aka John)
Alick Maseiras
Sixth Defendant
Lorry Junior
Seventh Defendant
Julian Tove, Administrator of Yumi
Toktok Stret News
Eighth Defendant



Date of Hearing: 9 March 2021
Before: Justice G.A. Andrée Wiltens
In Attendance: Mr W. Kapalu for the First and Second Claimants
Mr N. Morrison for the First, Second, Third and Fourth Defendants (not required)
Mr B. Bani for the Fifth Defendant
Mr J. Tari for the Sixth Defendant
No appearance for or by the Seventh or Eighth Defendants
Date of Decision: 10 March 2021

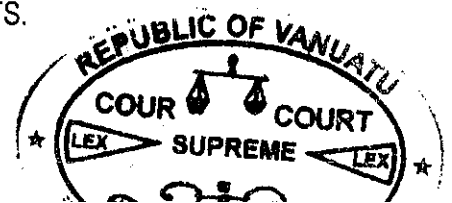
Judgment

A. Introduction

1. This case concerned alleged the defamatory publication by certain individuals related to or using the Yumi Tok Tok Stret ("YTS") social media platform via the internet.

B. Background

2. The Claim was filed on by Mr Gil without the obvious input of legal advice. Mr Kapalu commenced acting for the Claimants on 17 April 2020.
3. The first four named Defendants all filed defences to the Claim and then applied for the Claim against them to be dismissed as there were no allegations made against them. Mr Kapalu agreed that the Claim against those Defendants could not be maintained, and accordingly on 30 October 2020, the Claim was struck out as against the First, Second, Third and Fourth Defendants. They did not seek costs.
4. As of that date, the remaining Defendants, except for the Fifth Defendant Mr Karie, had taken no steps in the litigation. Accordingly, Mr Kapalu sought Judgment by Default against the Sixth, Seventh and Eighth Defendants, with the quantum of damages to be awarded to be assessed by the Court. That application was reserved for the issue of damages to be considered, especially in the light of the Fifth Defendant's position.
5. There were then certain timetabling directions given dealing with further pleadings and evidence so that the case could be concluded by trial on 9 March 2021.
6. Mr Karie had also applied for his removal as a Defendant on the basis that while he had some historical ties to YTS, at the time of these events, those ties had been severed and there was no connection between him and the Claim. That application was declined. Whether he retained ties to YTS was a matter for evidence. However, there were specific allegations against Mr Karie which did not relate to his alleged involvement with YTS.



C. The Claim

7. Essentially, the Claim made two central allegations relating to publication by Defendants 5 to 8 of allegedly defamatory material on 12 February 2020 and 17 February 2020. Following the 12 February 2020 publication, Mr Karie, Mr John and Mr Junior allegedly published further defamatory material. Following the 17 February 2020 publication by Defendants 5 to 8, Mr Karie and Mr John allegedly published further defamatory material. The further published material is the very same as that following the 12 February 2020 publication, and therefore appears to be a duplication.
8. The allegations relating to the 12 February 2020 and 17 February 2020 publications by Defendants 5 to 8 are in the following paraphrased terms:

Willie Karie, Raizen Maseiras John, Lorry Junior and Julian Tove ...colluded and conspired together to publish in YTS articles defamatory to Mr Gil and Gil Motors Limited.

9. The 12 February 2020 article complained of reads as follows:

" A Korean by the name of GIL JANG YOON has been operating and selling cars illegally in Vanuatu for the past 10 years. GIL JANG YOON has been operating a business called GIL MOTORS LIMITED which YTS news has uncovered that has falsified documents to allow him to operate this business here in Vanuatu.

The forged documents include VFSC registrations which he obtained and used to get a VIPA Certificate also get a license.

GIL JANG YOON used to own G Trading since 2011 before selling the business of to another Korean.

Mr Gil has fraudulently been taking money from Grace Bus sales and has also taken an amount close to over 20 million vatu for a Cruise Ship back in 2011.

Mr Gil took his 20 million Belair owners to supply a cruise ship and he went to Korea to purchase the ship but to date no news has come of the purchase.

It is not known whether Belair owners know Gil is back in Vanuatu extending his illegal deals with no proper license or registration as a Vanuatu business."

10. The 17 February 2020 article complained of reads as follows:

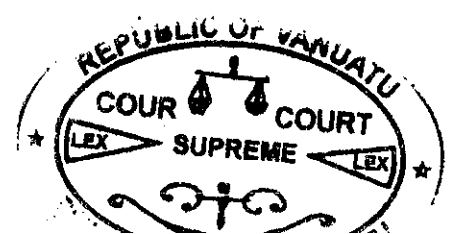
" A Korean by the name Gil-Yoon Jang is back in Vanuatu after hiding from Belair owners Ben Karie for nearly 10 years.

Willie Ben Karie confirmed that he paid VT 29 million in 2011 for a small cruise ship from GIL JANG YOON and his partner Greg KO SEOK BAE but they never delivered him his ship and fled Vanuatu with the money."

11. Following the 12 February 2020 publication, the allegations against Mr Karie, Mr John and Mr Junior are in the following paraphrased terms:

Following the publication of the 12 February 2020 publication by the respective Defendant and others, each made defamatory assertions.

12. They are respectively set out below:



Mr Karie: " Mi bin tekem ol business partners blong hem long court be prosecution long taem ia ino wok gud. Ol man ia oli no sapos blong kam long fesples. Kwestin se hu I helpem olgeta blong kam mo stap mo stap bypasssem law blong Yumi?"

Joseph Jack ol police oli save. Oli bin traem blong mekem wok blong olgeta be....

Lorry Junior ol police oli save ol man we oli stap helpem olgeta.

Clifton Lonsdale deportation bai ino helpem ol victim. Mas fesem court fastaem blong jastis. Man ia I gat connection wetem Tamau Trading we wan lokol company. Kampani ia nao oli usum blong stilim mifala."

Mr John: "This guy Gil has more than three criminal cases in Korea... most wanted criminal in Korea. I am not surprised some police officers are aiding him here with his business.

This is the Same guy who claim to own 100% ownership on a vessel name – VANSTAR Cruise, vessel arrived in Vanuatu back in August 2017 and interestingly Maritime Authority have suspended her registration. The vessel is still moored near Govt Wharf..

This Korean guy also bought a number of properties in Vila- he owns a property also Trade Winds!!

He was previously being deported but now he is back doing black market biz in our soil. He should be deported. Wan top man blong stap bribem ol man ial!

Check his page on FB (Gil-Yoon Jang)

Belair Shipping – this is the same guy who owes you the ship money, this is the same guy who claims that he own VanStar Cruise!!"

Mr Junior: "Those people should not be here.

Yufala traem postem wan photo blo hem every man oli luk mo away lo hem.

Probably he knows he's getting expose and he might try something to run away.

Raizen Maseiras-John do you have any picture of him. Expose him so people can know or help others not to deal with those kinds of investor who ruined the reputation of this country..he should be deported.

This forged document has already been registered and issued proper VFSC".

13. Following the 17 February 2020 publication, the allegations against Mr Karie, and Mr John are in the following paraphrased terms:

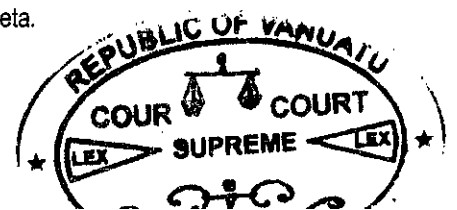
Following the publication of the 17 February 2020 publication by the respective Defendant and others, each made defamatory assertions.

14. They are respectively set out below:

Mr Karie: "Mi bin tekem ol business partners blong hem long court be prosecution long taem ia ino wok gud. Ol man ia oli no sapos blong kam long fesples. Kwestin se hu I helpem olgeta blong kam mo stap mo stap bypasssem law blong Yumi?"

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Check his page on FB (Gil-Yoon Jang)

Belair Shipping – this is the same guy who owes you the ship money, this is the same guy who claims that he own VanStar Cruise!!"

15. The relief sought included restraining orders against all the Defendants. Damages were sought for reputational loss to be assessed in the case of Mr Gil, and business loss to be assessed in the case of his company. The Claim further sought punitive or exemplary damages in the sum of VT 15 million in favour of each of the Claimants and costs.

D. Mr Karie's Defence and Counterclaim

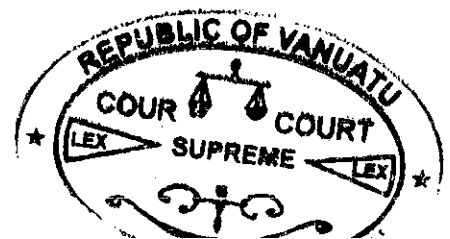
16. He denied colluding or conspiring with any of the other Defendants in relation to the 12 February 2020 article and the 17 February 2020 article. Further he maintained the publication he posted following the 12 February 2020 and 17 February 2020 publications was true and correct.
17. The counterclaim was for damages for money paid but goods not received. How that related to the current case remains a mystery.

E. Response by the Claimants

18. The counterclaim was submitted to be unfounded, frivolous and vexatious. The receiving of money from Mr Karie was flatly denied.

F. Trial

19. Counsel asked to see me in Chambers at around 8.30am on the morning of trial. I had other appointments at that time, but saw them as soon as I was free. There was a proposal to settle the case in relation to Mr Karie by the Claimants discontinuing the Claim against him and his discontinuing the counterclaim against the Claimants, with costs falling where they lay. Counsel needed further time to confirm the proposal and Mr Kapalu requested the case be adjourned.



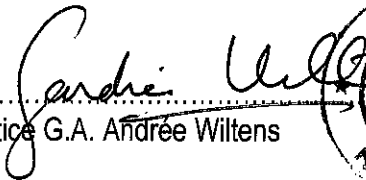
20. Instead, I saw fit to discuss the problems I saw with the Claim, bearing in mind that this was the day for trial.
21. Mr Kapalu did not have his client with him ready to give evidence – he was said to "...be around". There was no other witness in support of the Claim.
22. There was no evidence contained in Mr Gil's sworn statement against any of the Defendants of any collusion or conspiracy as alleged. There was no evidence relating the Defendants to YTS, apart from Mr Tove, who was said to be the administrator of Yumi Tok Tok Stret News. Even if correct, there was no discernible link on the evidence before the Court of how Mr Tove's position had any bearing on the publication of allegedly defamatory material by him and/or others.
23. I also had concerns regarding on what basis to assess the damages sought. There was no evidence as to reputational loss by Mr Gil other than his statement that this was the case. There was equally no basis on which to assess the loss of business suffered by the Second Claimant. The evidence as to these matters was scant or non-existent.
24. In short, I considered the Claim to be hopeless in terms of proof.
25. I also did not see the fairness in the proposal of Mr Karie being permitted to walk away, but Mr John and Mr Junior having to remain in the case even though in a very similar if not exactly the same position as Mr Karie.
26. Mr Kapalu's response to that was to again advance his application for an adjournment, this time to enable amendment(s) to the Claim to be made. Given the lapse of time since the Claim was filed and since Mr Kapalu had accepted instructions, I considered it unfair to the Defendants to grant an adjournment or to allow the Claim to be amended so late in the process. The problems highlighted should have been spotted long before and appropriately dealt with. An amendment to the Claim was only one step that should have taken well prior to the trial. The evidence to support the allegations was in a state of inadequate disarray.

G. Result

27. I declined the oral application to adjourn the trial. Mr Kapalu was then unable to pursue his Claim.
28. In the circumstances, I declined to enter judgment by default against Mr John, Mr Junior and Mr Tove. The Claim is dismissed against all the present Defendants. Mr Karie's cross-claim was then abandoned by My Bani.
29. There was no application for costs.

Dated at Port Vila this 10th day of March 2021

BY THE COURT


Justice G.A. Andree Wiltens

