

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

Judicial Review
Case No. 18/1168 SC/JUDR

**BETWEEN: SILAS VATOKO, MORRIS KELLY VATOKO &
NAKMAU SAMBO**

Applicants/Claimants

AND: HUMPHREY TAMATA

First Respondent/Defendant

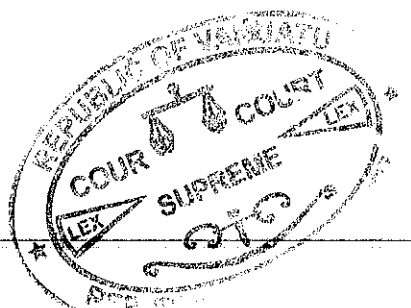
**AND: SILU MALASIKOTO, TORIKO MALASIKOTO
AND FREDDY MALASIKOTO**

Second Respondents/Defendants

Date of HEARING OF APPLICATION: ***29th day of April, 2021 at 9:00 AM***
Date of Decision: ***30th April 2021***
Before: ***Justice Oliver Saksak***
In Attendance: ***Mrs Mary Grace Nari for the Claimants/Applicants***
Mr Tom Loughman for First Defendant/Respondent
Mr Philip Fiuka for Second Defendant/Respondents

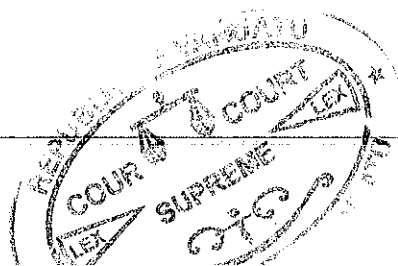
DECISION

1. The application by the claimants for the case to be reopened in order to punish the respondents for contempt of Court pursuant to section 32 of the Judicial Services & Courts Act [Cap.270] is hereby dismissed with costs.



Reasons

2. This proceeding has ended and 2 appeals were brought to the Court of Appeal in November 2019. The Court of Appeal in dismissing both appeals said at paragraph 22 of its Judgment:-
“ It follows from what is said in this judgment that until new representatives are appointed at a meeting properly held under section 6H the identity of the representatives of the custom owners of the Pangona Land are not known, and no new green certificate should issue.”
3. The claimants complain that the meeting purported to be called and held by the defendants first on 12th December 2019 and later on 19th December 2019 were held without their presence and without the presence of a Lands Officer from the Shefa Province.
4. There is clear evidence before the Court that the claimants had clear notices of the meetings called, first on 12th December 2019 but adjourned due to lack of quorum to 19th December 2019.
5. There is clear evidence the claimants had notice of the adjourned meeting of 19th December 2019 as well, but chose not to attend because of what the Court of Appeal said that they were not custom owners and did not have any voting rights, although they were entitled to be present at the meeting.
6. Had the claimants done the right thing and attended the meeting of 19th December 2019, their presence would have made an impact by them contributing to discussions or making points of objections. But they deliberately chose not to attend. They cannot now turn around after having had the opportunity and after realizing decisions were taken as to representative nominations, did not go in their favour. They cannot run now back to the Court and complain that the meeting was not validly called and held. They have come to Court with unclean hands, therefore the Court cannot entertain their concerns anymore



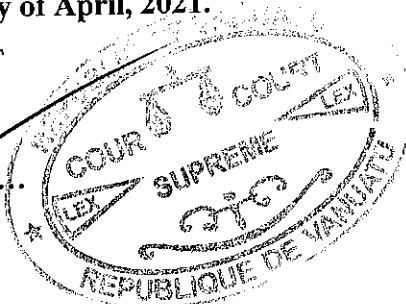
when they themselves were the authors of the situation or circumstances they now put themselves in.

7. The Efate Island Court has made a declaration as to customary ownership of Pangona Land and have made orders accordingly.
8. The Court of Appeal has in a way affirmed the decision of the Island Court. That is the end of the matter. The Claimants are stuck with those decisions. All they can do is submit themselves and go with the flow with the Malasikoto Family who are technically and legally head over Family Vatoko, Family Lakelotaua Nakmau and Family Kalmate Thomas.
9. As regards the lack of attendance by the Shefa Provincial Lands officer at the meetings on 12th and 19th December 2019, there is no legal requirement that he should. It was legally proper and sufficient for a Lands Officer from the Lands Department should be and was present at the meeting of 19th December 2019.
10. For those reasons the application by the claimants is hereby dismissed. The First and Second Defendants are entitled to their costs of the application on the standard basis as agreed or taxed. The claimants must pay those costs.

DATED at Port Vila this 30th day of April, 2021.

BY THE COURT

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Oliver Saksak
Judge

The seal of the Supreme Court of Vanuatu is circular. It features a central emblem with a scale of justice and a book. The text "COUR SUPREME" is written in the center, with "LEX" on either side. The outer ring of the seal contains the text "REPUBLICQUE DE VANUATU".