

**BETWEEN: DINH TRADING LIMITED**  
Appellant

**AND: TRANSPACIFIC PROPERTY CONSULTANT  
LIMITED**  
Respondent

Hearing: 18 April 2013

Coram: Hon. Chief Justice Vincent Lunabek  
Hon. Justice John von Doussa  
Hon. Justice Ronald Young  
Hon. Justice Oliver Saksak  
Hon. Justice Robert Spear  
Hon. Justice Dudley Aru  
Hon. Justice Mary Sey

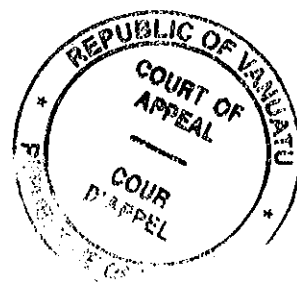
Counsel: Felix Laumae for the Appellant  
Dane Thornburgh for the Respondent

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**MINUTE**  
**26 April 2013**

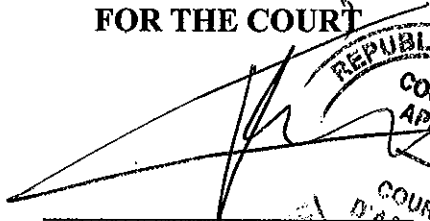
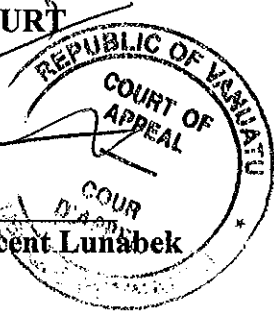
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1. This Minute is to record the outcome of this case.
2. The appeal against the judgment of the Supreme Court delivered on 22 March 2012 was not filed until 9 October 2012 being a delay of 6 months and 9 days. An application to extend time to appeal was considered by the Court of Appeal.
3. The appeal was against a decision of the Supreme Court that the Appellant repay to the Respondent a deposit of Vt 3,750,000 together with interest thereon at 10% per annum from 28 May 2008 until fully paid up and with costs to be agreed or taxed.



4. The explanation proffered for the Appellant for the late filing of the appeal was as follows: *"the main reason for the delay is the difficulties we faced to pay outstanding fees in order for our lawyer to proceed to file the appeal"*.
5. There was a paucity of evidence as to the financial circumstances of the Appellant. On the strength of the evidence before it, the Court could not accept that the Appellant had experienced such severe financial constraints that it did not have the ability to pursue an appeal for over six months after delivery of the judgment.
6. In those circumstances, the Court indicated that it would not be prepared to extend time for the appeal unless the Appellant paid an amount of Vt 6 million into Court. That sum was assessed to be the approximate amount of the judgment entered against the Appellant with accrued interest and the costs of the trial. The Court considered that, in this case, leave to extend time to appeal a monetary judgment in a commercial setting should not be considered without security for the judgment being taken.
7. Mr Laumae sought time to consult his client. When the Court resumed, he then informed the Court that the application to extend time for bringing the appeal was withdrawn.
8. That withdrawal brought this appeal proceeding to an end.
9. The case is now returned to the Supreme Court to settle the costs in that Court and for an enforcement conference to be convened.
10. Costs of Vt 75,000 are awarded to Transpacific Property Consultant Limited against Dinh Trading Limited in respect of this appeal.

**FOR THE COURT**

  
  
**Hon. Chief Justice Vincent Lunabek**