

IN THE BANKS/TORRES ISLAND COURT DEBT CASE NO 1129 OF 2021
OF THE REPUBLIC OF VANUATU

.....
(Civil Jurisdiction)

BETWEEN: EVELYN HOPKINS

Claimant

AND: TREVOR FRANCIS

Defendant

CORAM: Justice Raymond SIPLAQ
Justice Patrom WOSEI
Justice Keith HOPKINS

Clerk: Dimas ARU

DOH: 23rd July 2021

DOJ: 23rd July 2021

CASE: APPLICATION FOR DEBT SETTLEMENT

DEFAULT JUDGEMENT

Introduction

1. This is an Application for the settlement of outstanding debt [Loan] brought before this court by the claimant, Evelyn Hopkins, against the defendant, Trevor Francis.
2. The claimant claims that the defendants has an outstanding debt of 28,000 Vatu on her loan scheme. She also claim interest of 6,000 Vatu + 1,000 Vatu as filing fee.

Issue

3. Whether or not the Defendant made a loan with the claimant's loan scheme?



4. Whether or not the loan was not fully repayed by the defendant?

Claimant's Claim

5. The claimant claims that she has grant a loan of 60,000 Vatu to the defendant on 16th September 2016.
6. Later, the defendant repaid an amount of 20,000 Vatu leaving 40,000 Vatu as the remaining principle amount.
7. In 2018, the claimant spoke to his son, Basil Hopkins who was residing in Santo at that time to approach the defendant to repay his debt. The Defendant was working at the Northern District Hospital at that time.
8. When approached, the defendant gave the claimant's said son, Basil an amount of 12,000 Vatu. Remaining loan debt is 28,000 Vatu.
9. In 2020, while in Sola, the claimant approach the defendant to repay his debt, however he conveyed that he has fully repaid the loan to the claimant's son Basil Hopkins and his wife.
10. All attempts were made for the defendant to settle the debt, with no success, therefore the claimant pursues the matter before this Court to order the defendant to settle the outstanding debt.
11. The claimant claims an amount of 28,000 VT as the outstanding Debt plus 6,000 Vatu interest plus 1,000 Vatu as the Court fee. The total claim is 35,000 VT.

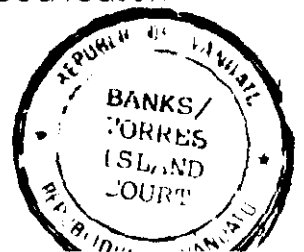
Appearance

12. No appearance for the Claimant.

Court Findings

The Court finds out that:

13. There was no appearance for the claimant despite being served with summons to attend court.
14. With the non-attendance of the claimant, the court will now apply Rule 4[1] of the Island Courts – [Civil Procedure] Rules, as outlined as follows:
*"(1) Non-attendance of claimant
If the claimant does not appear at the time for the hearing of the claim, the court shall, unless it considers that there is some good reason for the claimant's non-attendance:*



- (a) Strike out the statement of claim,
- (b) Make an order for the claimant to pay the expenses of attendance of the defendant and witnesses for the defendant or the claimant,
- (c) Determine in the absence of the claimant any counter-claim or set-off filed by the defendant.
- (d) Determine in the absence of the defendant the claim of the claimant"

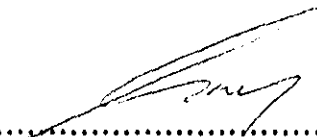
15. After considering the defendant's defense, the court made the following Orders:

COURT ORDER

- 16. The court declined to make any ruling on other options as established on Rule 4(1) of the Island Courts – [Civil Procedure] Rules, and decide that a strike out order is appropriate. Therefore the claim of the claimant is struck out accordingly pursuant Rule 4[1(a)].
- 17. Liberty is given to both parties to appeal within 30 days if they are not satisfied with this decision.

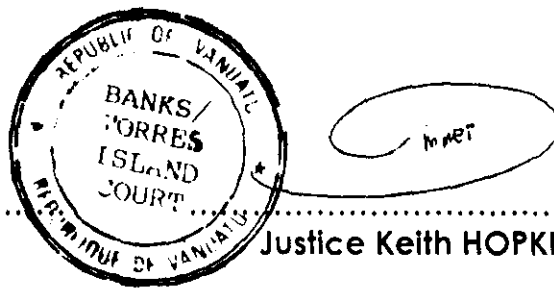
Dated at Sola- VANUA LAVA, this 23rd July 2021

BY THE COURT



Justice Raymond SIPLAQ

Patrom - Wosai



Justice Patrom WOSEI **Justice Keith HOPKINS**