

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**

(Civil Jurisdiction)

CIVIL CASE No.202 of 2002

<b>BETWEEN:</b>	<b>THE ATTORNEY GENERAL</b> representing the Government of the Republic of Vanuatu <b>Plaintiff</b>
<b>AND:</b>	<b>CHIEF WILLIAM DAVID AND OTHERS</b> <b>Defendants</b>

**ORDER**

A615/89/02

**UPON** hearing Mr. George Nakou on behalf of the plaintiff, (the Attorney General representing the Government of the Republic of Vanuatu) on the Exparte Summons filed and dated 23 December 2002;

**AND UPON** informed and satisfied that Mr. Saling Stephens, although, not appearing, is aware and informed of the Exparte Summons, to be heard by the Court;

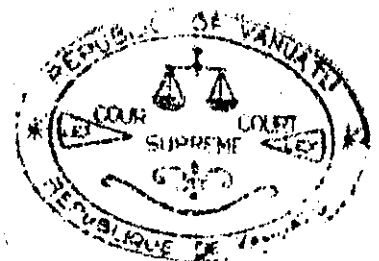
**AND UPON** reading the Affidavit of urgency of Mr. George Nakou of counsel and two (2) affidavits (one of Mr. Stephen Tahu, Director General of the Ministry of Lands, and another of Melteras Gwenael, Deputy Manager of Airport,) both dated 23 December 2002 in support of the application, **the Court makes the following Orders:**

1. THAT the injunctive relief sought in the Exparte Summons are refused.
2. THAT there is no orders as to costs.

**Reasons**

Mr. Stephen Tahu deposes that on 19 December 2002, he had a meeting at the Ministry of Lands with Chief William David and Apia David as custom owners, Madame Goiset, Business Consultant of Norsup custom owners. The custom owners expressed concerned about the lengthy delay by the Government to pay compensation in respect to Norsup Airport Land to the custom owners.

On 20 December 2002, another meeting took place between the same persons and their respective legal counsels (Mr. George Nakou and Mr. Saling Stephens).



On 21 December 2002, a namele leaf was place at the Norsup Airport. It is deposed that the Norsup Airport was closed by the custom owners. On the same date (21/12/2002) all the domestic flights scheduled for Norsup, Malekula had been cancelled for security reasons.

However, on 21 December 2002, Mr. Melteras Gwenael deposes that he received from Police Officer in Command at Lakatoro station that the matter was resolved between the two (2) parties and he requested the Airport to be opened.

There is no evidence before the Court the defendants/custom owners acted violently or intended to threaten the passengers of the planes or the aircrafts at Norsup Airport.

There is no threatened use of violence or apparent commission of a crime warranting the Attorney General to act as a plaintiff in an action to restrain the commission of an offence. The reasons for the orders sought in the Exparte Summons are, among other matters, to give assurance to Vanair Company Limited that security of the aircrafts are provided as counsel for the plaintiff conceded. This does not constitute a legal basis for a court of law to grant an injunctive relief as sought in this case.

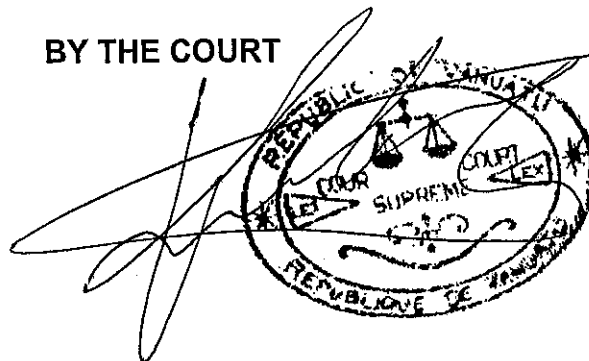
Mr. Melteras deposes that following the Lakatoro Police statement that the matter between the two (2) parties has been resolved and the security is no longer at issue, the Airport Civil Aviation has issued a declaration that Norsup Airport is safe for use at about 3.00PM o'clock on 23 December 2002 and the Norsup Airport is opened for aircraft.

There is no substantive claim filed before the Court, counsel for the plaintiff informs the Court that the plaintiff has no intention to file one when he was asked by the Court to make an undertaking as to filing a substantive claim thereafter.

There is no legal cause of action to substantive the interim relief sought. For these reasons, the injunctive relief sought must be refused and they are, thus, accordingly refused.

**DATED at PORT-VILA, this 30<sup>th</sup> DAY of DECEMBER 2002**

**BY THE COURT**



**Vincent LUNABEK  
Chief Justice**