

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

(Civil Jurisdiction)

Civil Case No. 79 of 2001

**BETWEEN: PETER STANLEY BOUCHAUD**  
**Plaintiff**

**AND: DIRECTOR OF LAND**  
**RECORDS**  
**First Defendant**

**AND: THE MINISTER OF LANDS**  
**Second Defendant**

**AND: SOCIETE CIVIL**  
**IMMOBILIERE DU CANAL**  
**Third Defendant**

**RULING ON MOTION TO REINSTATE**

On 5<sup>th</sup> June 2002 I struck out the claim in this case. The reasons are set out in a document of the same date. Counsel for the plaintiff now seeks reinstatement of this action. That is opposed.

The plaintiff has lodged a Notice of Motion and Mr. Kilu has supplied a supporting affidavit and written submissions. He asserts that any previous failings were oversights and there is a strong arguable case. The defendants say there have been too many oversights and the third defendant asserts the quarrel in reality is with the first and second defendant.

On 26<sup>th</sup> February the Court and the parties spent a considerable time examining the issues and documents in this case. As a result, the Orders of 26<sup>th</sup> February were made including paragraph 1, "All parties consider their positions following the conference today and in particular the plaintiff to consider the documents and his claim against the third defendant."

Many actions are started and run in this jurisdiction in the vague hope something will turn up or by some stroke of luck they will succeed. Almost without exception they fail. However, they use up precious court time and cause much expense to other parties; that expense is rarely recoverable.

I cannot say if this is an action of that kind. No plaintiff should be shut out if he has a genuine cause of action. Accordingly I will allow reinstatement of the action on the following grounds:-

1. The plaintiff pays the wasted costs of the defendant for the hearing of 24<sup>th</sup> June assessed at Vt5,000 for the first and second defendant together and Vt5,000 for the third defendant.
2. The plaintiff deposit with the Court by way of security for costs of the defendants the sum of Vt. 200,000 by 3 p.m. On 12 July, failing which the case will not be reinstated.
3. The plaintiff must comply strictly with all directions and orders of the Court, failing which the claim is liable to be struck out again and not reinstated.
4. The plaintiff is to file and serve affidavits of all witnesses he will seek to rely on at trial to prove the case together with all supporting documentation by 3 p.m. on 26 July.
5. There will be a further conference on 29<sup>th</sup> July at 8 a.m. for all parties.

Dated 25<sup>th</sup> June 2002.

