

(Civil Jurisdiction)

**BETWEEN: JOHNNY JOSEPH**

First Appellant

**AND: CHIEF BEN TUNALA & TIMOTHY  
WELES**

Second Appellants

**AND: PETER NATU, JOHN TARI  
MOLBARAV & ORS**

First Respondents

**AND: BOETARA TRUST LTD**

Second Respondents

**AND: GOVERNMENT OF THE REPUBLIC  
OF VANUATU**

Third Respondent

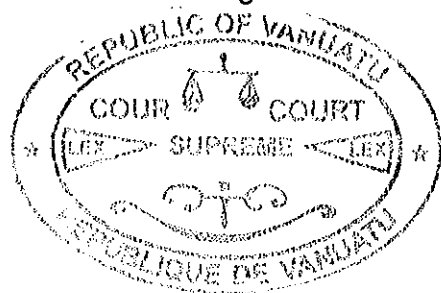
Mr Justice Oliver A. Saksak  
Mrs Anita Vinabit – Clerk

No appearances by First and Second Appellants/Applicants  
Mr Felix Laumae for the First and Second Respondents  
Ms Jennifer Harders for the Third Respondent

Date of Hearing and Judgment: 5<sup>th</sup> May 2009

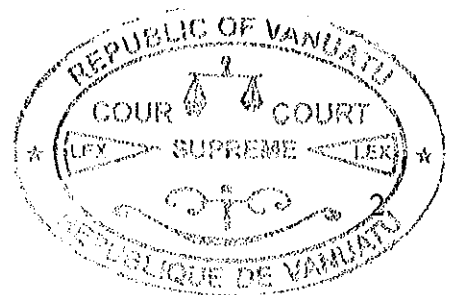
## JUDGMENT

1. The Applicants filed an application on 8<sup>th</sup> October 2008 seeking orders to prevent the Third Respondent from granting further leases to the First and Second Respondents, and for an order restraining the Third



Respondent making a payment of VT37,000,000 to the First and Second Respondents.

2. They filed sworn statements in support of their application on 14<sup>th</sup> October 2008 and a statement as to service on 21<sup>st</sup> October 2008.
3. Mr George Nakou of Pacific Lawyers acts on behalf of the Applicants. He has written to the Court by letter dated 4<sup>th</sup> May 2009 informing the Court he would not be available at the hearing today due to knee problem and seeks a two week adjournment.
4. Both Ms Harders and Mr Laumae object to the request for adjournment for reasons that –
  - (a) The letter has not been copied to them as Counsels for the Respondents.
  - (b) No medical report or certificate is shown to confirm Mr Nakou's medical and physical condition.
  - (c) On the basis of sworn statements from Mr Russel Nari and Mr Gorden John Arnhambat filed in response, the Applicants have no valid appeal before the Lands Tribunal to give them standing to apply for the orders that they seek.
  - (d) No claims have been filed by the Applicants to form the basis of their interlocutory application.
  - (e) No undertaking as to damages was given by the Applicants.
  - (f) No fees were paid as appeal fees.



- (g) Letters of the Applicants did not conform to the legal requirements under Section 22 of the Customary Land Tribunal Act No. 7 of 2001, and that it did not amount to appeals.
5. From the evidence before the Court, it is accepted that the Applicants have no standing to bring their application. And the Court accepts the submissions of the Respondents.
  6. The Court is mindful that the Applicants and their Counsel are not present in Court. But this is not a case that warrants an adjournment. Even if an adjournment was granted, the ultimate conclusion the Court would reach after hearing the Applicants would be the same. Therefore to save costs and time, it is proper to have the request for adjournment refused and the application dismissed with costs at this stage.
  7. The formal orders therefore are –
    - (a) The request for adjournment is refused.
    - (b) The Applicant's application is dismissed.
    - (c) The Applicants will pay the Respondents' costs of the application to be agreed or taxed.

**DATED at Luganville this 5<sup>th</sup> day of May 2009.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**

**Judge**

