

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

Civil Case No. 103 of 2012



BETWEEN: NGUYEN FELIX
Claimant

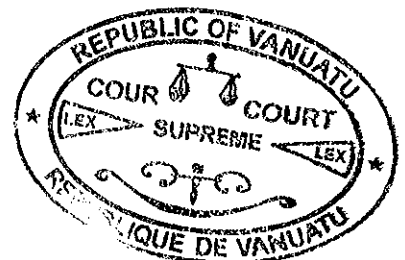
AND: REPUBLIC OF VANUATU
Defendant

Hearing: 29 July, 2013
Before: Justice Robert Spear
Appearances: No appearance for the Claimant (Daniel Yawha)
Frederick Gilu for the Defendant

JUDGMENT

Setting aside default judgment

1. The State applies to set aside the default judgment entered on 22 October 2012. It does so on the basis that it had filed a defence on 19 October 2012 and that it does have an arguable defence.
2. It is correct that a defence was filed on 19 October 2012 but it had not made its way to the Court file by the time that the request for default judgment was acted upon.
3. The statement of defence is barely sufficient and it amounts more to a denial that anything is owing because there was no contract between the parties. If that proves not to be the case on closer examination then the Republic can expect to have to meet indemnity costs.



4. I have indicated to Mr Gilu that I will be distinctly unimpressed if this is found to be a case where the Republic is endeavoring to delay making payment due by it for whatever reason. It is important the Republic faces up to its contractual responsibilities. If the Republic does not honor its commitments then what hope can there be for private individuals.
5. The default judgment entered on 22 October 2012 is set aside.
6. The matter will return for a conference before me at 8 am on 13 August 2013. In the intervening period,:-
 - a) There will be full discovery by both parties by verified lists of documents to be filed and served by 7 August 2013.
 - b) There will be mutual discovery of all documents by 9 August 2013.
7. By the time that this matter returns to me on 13 August 2013, I expect that the full contract position to have been clarified by the exchange of this information.
8. Notwithstanding the absence of Mr Yawha today I am not prepared to make any order for costs.

BY THE COURT

