

**BETWEEN: AGNES MOORE**

Claimant

**AND: REPUBLIC OF VANUATU**

First Defendant

**AND: PRESBYTERIAN CHURCH TRUST  
ASSOCIATION**

Second Defendant

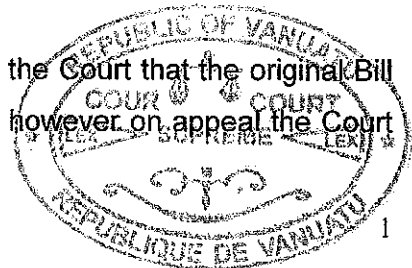
*Coram: Mr. Justice Oliver A. Saksak*

*Counsel: Mr. George F. Boar for the Claimant  
Mr. Fredrick Gilu for the First Defendant  
No appearance by the Second Defendant*

*Date of Hearing: 8<sup>th</sup> August 2013  
Date of Decision: 16<sup>th</sup> August 2013*

**DECISION**

1. When this matter was called on 8<sup>th</sup> August Mr. Boar –
  - (a) Sought direction orders in relation to the Assessment of Damages Report currently being carried out by the Valuer-General; and
  - (b) Sought taxation of his Bill of Costs filed on 15<sup>th</sup> February 2013.
2. Directions have been issued separately in relation to the first request.
3. On the taxation application Mr. Boar clarified to the Court that the original Bill of Costs was calculated on an indemnity basis, however on appeal the Court



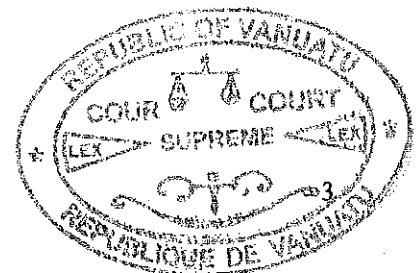
of Appeal had ordered that the Claimant (Agnes Moore) and the Second Defendant (Presbyterian Church Trust Association – PCTA) be entitled to their costs in both the Supreme Court and the Court of Appeal but only on the standard basis. The Bill of Costs under taxation relates only to Costs in the Supreme Court and not costs of the appeal.

4. Mr. Boar therefore urged the Court to simply divide total indemnity costs of VT1,420,000 by 2 in order to arrive at the total standard costs which is the sum of VT710,000. Mr. Boar argued further that disbursements of VT113,600 should be added to find the total costs to be VT823,600.
5. Mr. Boar argued that since the Bill of Costs was submitted to the State Law Office, there had been no response or objections to them. Counsel therefore submitted that appropriate orders should be issued and payments be ordered to be made on or before 16<sup>th</sup> August 2013.
6. Mr. Gilu informed the Court he did not have his File in hand and sought time to the afternoon in order to file responses. Counsel conceded that the State had failed and accepted that costs claimed are legal costs.
7. Mr. Gilu had filed response and objections on 14<sup>th</sup> August 2013. The Court has considered those submissions and objections.
8. I consider first the general submissions raised by the Solicitor General that there should not be any deviation from the rates established by the cases of Hurley v. Law Council [2000] VUCA 10 or Hudson & Sugden v. Holding Redlich CAC 5 of 2000.
9. Mr. Boar did clarify that pursuant to the Court of Appeal decision, the original bill based on indemnity basis had been divided into half to reflect the standard rate. The amount was therefore VT710,000 not including disbursements. There is therefore no deviation in Mr. Boar's bill of costs.
10. Second, the objections raised the Court makes the following rulings.

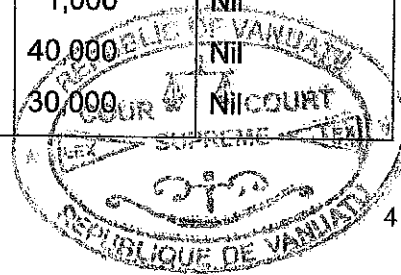


- (a) 23/6/11 – Claim for 5 hours that only 3 ½ hours should be allowed is rejected. The case had a long history. It had complex issues of facts and law which warranted the time and money spent.
- (b) 4/9/11 – Claim for 5 minutes for drafting of Allan’s statement that it should be disallowed for reasons that it was not filed and served on State Law Office. The Court agrees. This claim is disallowed.
- (c) 4/11/11 – Claim for 4 hours for drafting sworn statement of A. Moore that it is excessive and only 2-3 hours be allowed. Objection is overruled.
- (d) 14/3/12 – Claimant for 4 hours to attend Court for Conference that it should be allowed for 30 minutes. Objection is taken but in the Court’s opinion, an hour is realistic and will be allowed instead of 4 hours.
- (e) 18/5/12 – For attending Court Conference for 4 hours – That it is excessive. The Court agrees and allows only 1 hour.
- (f) 20/8/12 – For 4 hours of work done, that only 2 hours allowed. The Court disagrees and will maintain 4 hours.
- (g) 2/9/12 – For 5 hours of research and submission, that only 3 hours should be allowed. The Court accepts but allows 4 hours instead 5 hours.
- (h) 6/9/12 – For 2 hours of continuing research and drafting, that only 1 hour was appropriate. The Court disagrees and maintains the claim for 2 hours.
- (i) 7/9/12 – For 4 hours of trial hearing, that it is excessive and that only 2 hours be allowed. The Court agrees and allows only 2 hours.
- (j) 9/9/12 – For 3 hours of continuing research and drafting, that it was excessive. The Court disagrees and maintains 3 hours as appropriate.

11. The Court therefore makes the following taxations –



Date	Item	Time	Amount Claimed	Amount Allowed	Amount Disallowed
			(VT)	(VT)	(VT)
14/3/12	1.	4 hrs	40,000	10,000	30,000
18/5/12	2.	4 hrs	40,000	40,000	Nil
12/6/12	3.	30 mins	5,000	5,000	Nil
13/6/12	4.	1 hr	10,000	10,000	Nil
23/6/11	5.	5 hrs	50,000	40,000	10,000
24/6/11	6.	2 hrs	20,000	20,000	Nil
26/6/11	7.	1 hr 30 mins	15,000	15,000	Nil
5/7/11	8.	30 mins	5,000	5,000	Nil
11/8/11	9.	2 hrs	20,000	20,000	Nil
12/8/11	10.	30 mins	5,000	5,000	Nil
24/8/11	11.	20 mins	2,600	2,600	Nil
6/9/11	12.	5 mins	500	Nil	500
17/9/11	13.	15 mins	2,500	2,500	Nil
27/9/11	14.	10 mins	1,000	1,000	Nil
4/10/11	15.	1 hr	10,000	10,000	Nil
14/10/11	16.	10 mins	1,000	1,000	Nil
4/11/11	17.	4 hrs	40,000	40,000	Nil
14/12/12	18.	10 mins	1,000	1,000	Nil
29/12/12	19.	5 mins	500	500	Nil
12/3/12	20.	10 mins	1,000	1,000	Nil
13/3/12	21.	6 hrs	60,000	10,000	50,000
18/3/12	22.	6 hrs	60,000	30,000	30,000
9/5/12	23.	10 mins	1,000	1,000	Nil
13/7/12	24.	6 hrs	60,000	20,000	40,000
23/7/12	25.	15 mins	2,500	2,500	Nil
3/8/12	26.	1 hr	10,000	10,000	Nil
4/8/12	27.	1 hr	10,000	10,000	Nil
9/8/12	28.	10 mins	1,000	1,000	Nil
20/8/12	29.	4 hrs	40,000	40,000	Nil
31/8/12	30.	3 hrs	30,000	30,000	Nil



2/9/12	31.	5 hrs	50,000	40,000	10,000
6/9/12	32.	2 hrs	20,000	20,000	Nil
7/9/12	33.	4 hrs	40,000	20,000	20,000
9/9/12	34.	3 hrs	30,000	30,000	Nil
8/9/12	35.	1 hr	10,000	10,000	Nil
6/2/13	36.	3 hrs	30,000	30,000	Nil
<b>Totals</b>			<b>724,600</b>	<b>534,100</b>	<b>190,500</b>

12. From the above calculations, the correct amount of costs claimed on the standard basis should be VT724,600. After taxation, the sum of VT190,500 are disallowed and the sum of VT534, 100 are allowed as reasonable party/party costs of the Claimant.


13. The total sums allowed are VT534, 100 plus VT133,600 making the overall total to be VT667,600.

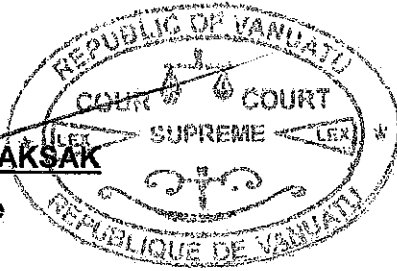
14. The Claimant is therefore entitled to costs of VT667,700 against the First Defendant.

15. The First Defendant is hereby ordered to pay the Claimant the sum of VT667,700 being costs in the Supreme Court within 14 days from the date of this decision.

**DATED at Luganville this 16<sup>th</sup> day of August 2013.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**  
 Judge



The seal is circular with the text 'REPUBLIC OF VANUATU' at the top and 'REPUBLIQUE DE VANUATU' at the bottom. In the center, it says 'COURT SUPREME' and 'COURT SUPREME LEX'. There is a decorative emblem in the center.