

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

Civil Case No. 208 of 2013

BETWEEN: MARIANNE BANI
Claimant

**AND: VANUATU NATIONAL COUNCIL OF WOMEN
COMMITTEE (Inc)**
Defendant

AND: REPUBLIC OF VANUATU
Interested Party

Coram: *Mr. Justice Oliver A. Saksak*

Counsel: *Less J. Napuati for the Claimant*
Salling N. Stephen for the Defendant
Kent T. Tari for the Interested Party

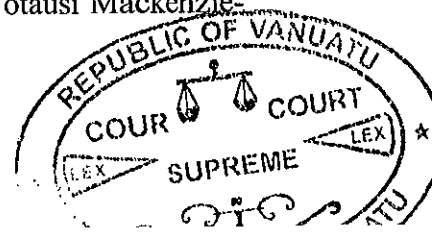
Date of Hearing: *16th September 2014*

Date of Judgment: *17th December 2014*

JUDGMENT

Background Facts

1. The claimant was appointed as Project Officer by the then President of the Defendant since January 2009. She executed a contract which was to be for a period of 6 months. She was paid monthly salaries of VT 38.000 and housing allowances of VT 10.000.
2. After working for a period of 2 months there arose a dispute within the institution which saw Ms Packete vacating office. The claimant continued to work.
3. Mr Arthur Faerua and Mrs Do Kenneth were appointed interim administrators at the time and they terminated all other staff of the Defendant leaving the claimant to continue to occupy office.
4. Mr Faerua and Mrs Kenneth continued as interim administrators until 15th December 2010. They had by expressed consent dated 7th August 2009 agreed they would be interim administrators only until Civil Case 39 of 2009 was fully determined. They had also agreed that the new administrators were Eslie Turner, Votausi Mackenzie-



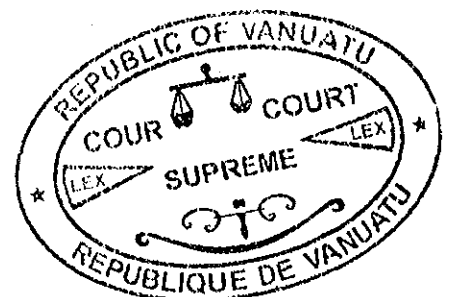
Reur and Marianne Bani. However Mrs Turner and Mrs Mackenzie-Reur resigned their positions leaving only the claimant as sole administrator. She held this position until 15th August 2011.

Claims

5. The claimant sues the Defendant for unpaid salaries for 25 months at VT 113.000 per month and Housing allowances at VT 10.000 and VNPF contributions at 8% for this period at VT 80.000.
6. She claims also for-
 - a) Governance and Board Allowances
 - b) Extra Duties and Responsibilites
 - c) Annual Leave
 - d) Severance, and
 - e) 3 months notice.

The details of these claims are set out in the Amended claim filed on 23rd December 2013.

7. The Defendant says in their defence that the claims of the claimant are misconceived and that it did not disclose any reasonable cause against the Defendant. The defendant made a counter-claim of VT 10.929.439 against the claimant.



Evidence

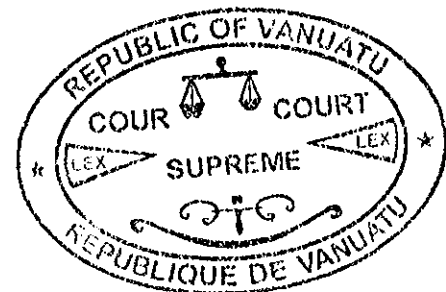
8. The claimant relied on her evidence by sworn statement dated 23rd December 2013 which she confirmed in her examination-in-chief and tendered into evidence as Exhibit C1. She also relied on the evidence of Manina Packete dated 24th June 2014 which was tendered into evidence as Exhibit C2.
9. The defendant relied on the evidence of Mrs Blandine Boulekone by sworn statement filed on 13th March 2014 tendered into evidence as Exhibit D1.
10. The State claimed it was only an Interested Party and did not produce any evidence. They did however file a Defence on 3rd April 2014 making denials to the claimant's claims.

The Issues and Discussions

11. Mr Stephens raised only one issue: whether the claimant was ever appointed by the Supreme Court as Administrator of the Defendant?

This has been canvassed by the Court in its earlier decisions. There has been no appeals against those decisions. Mrs Boulekone in her oral evidence raised disagreement over those decisions but she has come in too late into the case and her disagreements do not change those decisions without any appeals.

12. For clarity, the Supreme Court did not appoint the claimant as administrator. The appointment was by consent made on 7th August 2009. The Court recognised that position but the actual cut-of date was 15th December 2010. The State's submissions support this date.
13. The State raised the issue of whether the Interested Party should be held responsible for the claimant's remuneration and other allowances and benefits claimed. Counsel argued and submitted the answer should be in the negative. The Court accepts those arguments and submissions. The answer is in the negative.



14. From the claimant's point of view whether the Defendant (VNCW) is liable to pay her salaries as administrator from 15th December 2010 to 15th August 2011? The answer is in the affirmative. She was the sole administrator during this time. As such she was entitled to receive her salaries including her housing allowances and her VNPF contributions.

15. Altogether she held that position for 8 months at VT 113.000 per month plus Housing Allowances of VT 10.000 per month and 8% of VNPF contributions.

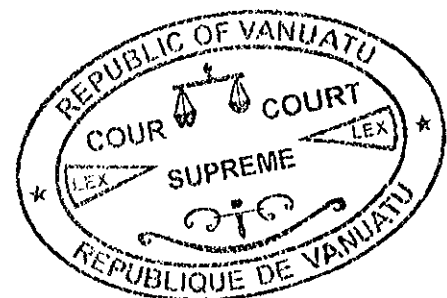
16. In summary she is entitled to –

a.Salaries	VT 113.000 x 8	=	VT 904.000
b. Housing	VT 10.000 x 8	=	VT 80.000
c.VNPF	VT 113.000 x 8/100 x8	=	VT 72.320
TOTAL		=	VT 1.056.320

17. In my considered opinion the claimant is not entitled to-

- a) Governance and Board Allowances
- b) Extra Duties and Responsibilities
- c) Annual Leave
- d) Severance, and
- e) 3 months notice

These claims were not particularised and there was no evidence giving details of them. These are rejected on those basis.



Conclusion

18.1 The claimant succeeds in part of her claims against the defendant only. Against the State the claims are dismissed.

18.2 The claimant has judgment in her favour against the Defendant VNCW for the total sum of VT 1,056,320 being for her services as Administrator of VNCW from 15th December 2010 to 15th August 2011.

18.3 The counter-claims of the defendant are not substantiated and are dismissed.

18.4 Having won, it follows she is entitled to her costs of and incidental to the proceeding on the standard basis as agreed or taxed by the Court.

DATED at Port Vila this 17th day of December 2014

BY THE COURT


OLIVER.A.SAKSAK

Judge

