



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

Judicial Review
Case No. 21/3553 SC/JUDR

BETWEEN: Noel Raf Karae Chairman of Matairan Area Council
of Chief (Big Bay Inland)

Claimant

AND: Taslamane Area Land Tribunal (Big Bay Coast)

First Defendant

AND: Custom Land Management Office

Second Defendant

AND: Solomon Tavue

Interested Party

Date of HEARING: 20th day of June, 2022 at 9:00 AM

Date of Decision: 21st June 2022

Before: Justice Oliver Saksak

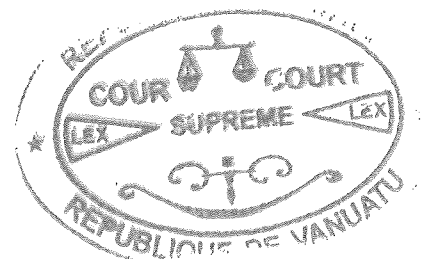
In Attendance: Mr Sakiusa Kalsakau for Applicant by email

Mr Sammy Aron for First and Second Respondents (Excused)

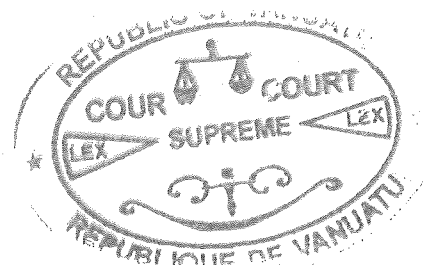
Ms Laniana Raikatalau for Interested Party

DECISION

1. By Minute dated 19th May 2022 this matter was adjourned for the third time to 20th June 2022 for a Rule 17.8 Hearing.
2. Mr Kalsakau sent an email at 8:15am on 20th June 2022 informing he had a dental appointment at 9am on 20th June and sought a short adjournment to 23 or 24th June or the following week.
3. At the AVL conference Ms Raikatalau only was available. Ms Raikatalau objected strongly to an adjournment. Undue delay was the main ground for the objection.
4. Mr Aron also sent an email at 8:54am on 20th June 2022 indicating he was not feeling well due to flu.



5. For the reasons given the Court excused Mr Aron and Mr Kalsakau but the Court refused the request for a further adjournment.
6. Mr Aron had filed written submissions on 20th June 2022 at 9:00am. The Interested Party had filed written submissions at 8:20am on the same date.
7. Ms Raikatalau invited the Court to consider those submissions and to take into account the evidence made available in the sworn statements filed on 18th November 2021, 25th November 2021 and 14th December 2021.
8. The First and Second Defendants filed evidence from Linda Mala on 3rd November 2021 and sought to rely on the factual events expressed in the statement at paragraph 5 of their submission synopsis.
9. In brief both counsel submitted the applicant had not satisfied the criteria in Rule 17.8 (3) (a), (b) and (c) and that the Court should decline to hear the case and strike it out.
10. The Republic sought costs at VT 100.000. The Interested Party sought costs on an indemnity basis.
11. I thank Counsel for their written submissions but the answer is found purely by examining the claim filed on 25th October 2021.
12. The applicant seeks first 2 declarations. For these, the applicant should have named the Attorney General as party. See Rule 17.4 (1) (a) and 17.4 (2) (b). The applicant failed to name the Attorney General as a party.
13. Secondly he seeks 2 quashing orders against the decision of the second defendant but has failed to plead those decisions specifically. As such I accept the defendant's submissions that there is no cause of action disclosed to warrant the continuation of this matter to a hearing.



14. The statement of the applicant filed on 28th October 2021 in support of the urgent judicial review claim is unhelpful. He has not annexed any decisions of the First or Second Defendants which he seeks to be quashed under his claim.
15. I am not satisfied the applicant has any arguable case or cause of action against the defendants. He is not directly affected or at all to entitle him to seek any review under Rule 17. There has been substantial delays.
16. Those are sufficient to allow the submissions of the defendants and the Interested Party.
17. I therefore decline to hear this claim and accordingly strike it out.

Costs

18. I award costs in favour of the First and Second Defendants and also in favour of the Interested Party. Those costs are awarded on the standard basis as agreed or be taxed by the Master. This costs order follows the undertaking given by the applicant. He is now bound by that undertaking to meet costs. Mr Kalsakau did not object to the Interested Party's application to be joined in the proceeding, therefore his client has to meet the costs of the Interested Party as well.

DATED at Luganville this 21st day of June, 2022.

BY THE COURT

.....
*
Oliver Saksak

Judge

