

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

Civil
Case No. 23/2975 SC/Civil

BETWEEN: Aaron Bongmial Hanghangkon
Claimant

AND: Vanuatu National Provident Fund (VNPF)
Defendant

Before: Justice Oliver A. Saksak

Counsel: The Claimant in person- unrepresented
Mr Kevin Nathan for the Defendant

Date of Hearing: 25th June 2024
Date of Judgment: 11th October 2024

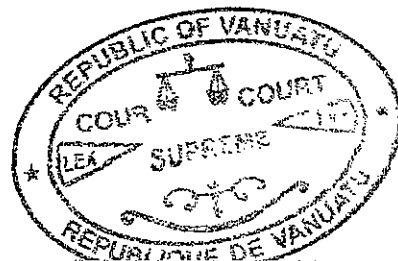
JUDGMENT

Introduction and Background

1. This was a very short trial of about 10 minutes commencing at 9:25am and ending at 9:35am.
2. The claimant did not pay any trial fees whereas the defendant paid VT 15.000 on 24th June 2024.
3. There were no cross-examinations. The claimant simply informed the Court he relied on his claim filed on 3rd October 2023 and the sworn statement filed in support of the claim dated 10th May 2024.
4. The proceeding is instituted in the claimant's individual and personal name as the biological son of late Aaron Bongmial Hanghangkon who passed away in 2021.

Pleadings

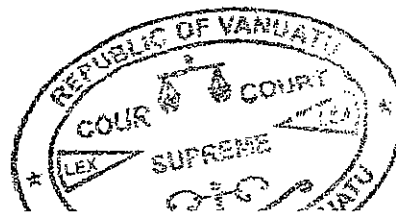
5. The claimant pleads at paragraph 4 of his claim that he has secured letters of administration of his deceased father's estate in Probate Case 22/2678.



6. In paragraph 5 the claimant pleads a duty of care by the defendant and breach thereof by failure to provide independent audited financial statements and the failure to produce them. He alleges lack of transparency and accountability resulting in him suffering losses and damages.
7. In paragraph 6 the claimant makes several allegations also against one Hermon Hanghangkon.
8. In paragraph 6 (i) the claimant pleads that the Deceased's Estate has suffered economic loss and damage.
9. In paragraph 6 (j) the claimant pleads vicarious liability and pleads that the Defendant be made liable for all the losses and damage suffered together with associated and accumulated losses and damages in the future.
10. He seeks judgment in the sum of VT 20,000,000, 10 percentage interest per annum, filing and service fees and costs of the proceeding on the standard basis.
11. The defendant on the other hand relied on the defence filed on 6th November 2023 and the sworn statements of Leah Tasale and Jimmy Mael filed on 30th May 2024 respectively. The claimant did not seek to cross-examine these witnesses for the defendant.
12. The Court then directed that written submissions be filed resulting in the claimant filing written submissions on 15th July 2024 and the defendant filing submissions on 25th July 2024.

Discussion

13. The written submissions filed by the claimant on 15/07/2024 appears to me to be written by a law student or a legally qualified person, however the submissions do not raise any specific issues, legal or factual for consideration and determination by the Court. The submissions contain some 9 paragraphs in 4 pages. No case law is referred or cited.
14. In contrast is the extensive submissions filed by the defendant on 25/07/2024 containing 15 pages, responding to all the points raised by the claimant in detail and connecting the submissions with the facts as per the evidence by sworn statements of Leah Tasale and Jimmy Mael.

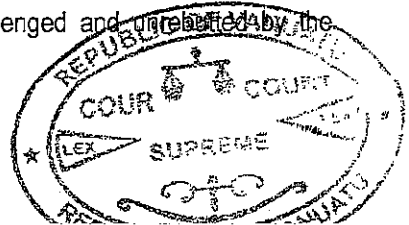


15. Further, all arguments and submissions are supported by case law such as CAC 18/2666 [2019] VUCA Paul and Janet Hocten and Saling Watte v Pierre Hoctene and Estate of Michael Hoctene, CAC 19/1802 [2019] VUCA Mocha Limited v ANZ, CAC 3/1997 Gerard Laymand v Ombudsman [1997] VUCA, Henderson v Henderson [1843] G.Q.B.288, CAC 34/2007 [2007] VUCA Dominique Morin v Asset Management Unit and Dominique Govan, and Jones v Dunkel (1959) 101 CLR 298.

Deficiencies of the claimant's case

16. In examining and analysing the claimant's claims and pleadings, I find a number of deficiencies as follows:-

- a) The claimant's pleadings in paragraph 4 of his claim pleads that he is the legal administrator of the Estate of late Aaron B. Hanghankon yet in paragraph 1, he sues individually and in his own personal capacity.
- b) This is clearly demonstrated in the fact that the claimant is named personally as " Aaron Bongmial Hanghangkon." He has not instituted the proceeding as " Aaron Bongmial Hanghankon" as Administrator or Personal Representative" of the Estate of Late Aaron, Bongmial Hanghangkon as required by Queen's Regulation No.7 of 1972 providing for Succession, Probate and Administration of Estates of Deceased Persons.
- c) Paragraph 6, (b), (c), (e), (f), and (j) makes references and allegations of conspiracy against one " Herrmon Hanghangkon" and yet the claimant does not join the named person as a defendant to give him the opportunity to respond and be heard.
- d) The claimant's claim to VT 20,000,000 are not substantiated by any evidence. And similarly his claims for economic losses and damages are not substantiated by any evidence from the claimant.
- e) In his personal capacity, the VNPF does not owe any duty of care to him, therefore he lacks standing to sue the defendant for negligence
- f) Contrary to the claimant's allegation about lack of transparency and accountability, the evidence of Leah Tasale and Jimmy Mael stand unchallenged and unrefuted by the



claimant. Their evidence show that VNPF made disclosure of the document the claimant requested. Those documents show there is currently nothing owing to the the late Aaron Hanghankon and/or his estate. The claim is unwarranted, oppressive and is futile and is an abuse of process.

- g) The VNPF from their evidence has accounted for every fund of the late Aaron Hanghankon and there is nothing more the defendants can do. The matter is at end.
- h) For those reasons I accept the submissions by the defendant as reinforced by case law. I reject the submissions of the claimant and reject all the claims of the claimant. Accordingly I dismiss all claims in their entirety.
- i) The claimant has put the defendant to unnecessary costs. I order that he pays the costs of the defendant on the standard basis as agreed or taxed.

DATED at Port Vila this 11th day of October 2024

BY THE COURT


Hon. OLIVER A SAKSAK

Judge

