

BETWEEN: VANUATU WAIKEE GROUP INTERNAL INDUSTRIAL CO LTD
Claimant

AND: REPUBLIC OF VANUATU
Defendant

Dates of Hearing: 28TH February 2024
Date of Decision: 28th February 2024

Before: Justice Oliver A Saksak

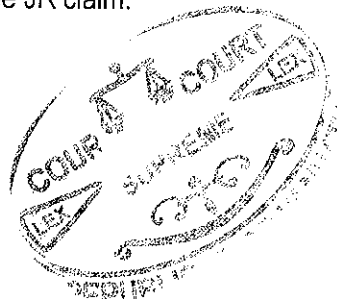
Counsel: Mr Willie Kapalu for the Claimant/ Respondent
Mrs Jelinda Toa Tari for the Defendant/ Applicant

DECISION

1. The Defendant's application filed on 23rd February 2024 to set aside the ex parte orders issued on 13th February 2024 is allowed.
2. The Orders issued by this Court on 13th February 2024 are hereby set aside.
3. This Judicial Review Proceeding is dismissed.

Reasons

4. First, the claimant conceded that the project being undertaken is in the public interest. By that concession the claimant is not prejudiced by vacation of the exparte orders.
5. The claimant's main concern is damages to property. As such their remedy is to claim damages through the normal action by way of a claim, not by Judicial review.
6. Next, there is no evidence that Mr Carmen Liu has any express authority by the owner and shareholder of the claimant company to institute the JR claim.



7. An extract from the Vanuatu Financial Services Commission dated 13th July 2016 shows the sole Director and Shareholder of the Company is Wu Jian Wei. He owns 100% of the shares in the Company.
8. Next, the Judicial Review claim seeks the same orders that were issued as ex parte orders on 13th February 2024.
9. I accept the defendant's ground that the ex parte orders were obtained on misleading facts. These are confirmed from the sworn statements of Mr Jimmy Pierre and Mrs Nafuki filed by the defendant in support of the application.
10. From those evidence, the balance of convenience swings in favour of their vacation.
11. The Defendant went further to seek orders of the Court to dismiss the whole claim in its entirety.
12. I accept that submission. The claim has no basis and should not have been filed in the first place. To continue with its management and progress would achieve nothing more than just put the parties to unnecessary legal costs and wastage of time.
13. For that reason I order that the whole JR claim of the claimant be hereby dismissed.
14. The Defendant claims costs of the application in the sum of VT 100,000. Although Mr Kapalu objected, on the basis of the claimant's undertaking as to damages, the defendant is entitled to costs being costs of the application.



15. Those costs are to be paid within 28 days from the date of this Decision.

DATED at Port Vila this 28th day of February 2024

BY THE COURT



Hon. Oliver A Saksak
Judge

