

IN THE HIGH COURT OF SOLOMON ISLANDS

Civil Jurisdiction

CIVIL CASE NO. 235 of 2025

BETWEEN: BEVERLY TALO **First Claimant**

**AND: ELWIN TALO TALOMATAKWA, OWEN TALO, CLACY KAREKA,
STEPHEN ANISITOLO, JEFF ANISITOLO, SIPAE ANISITOLO
AND EDWIN ANISITOLO** **Second Claimants**

AND: DEROL ILABAEA AND KENDAL ANIPOENI **First Defendants**

AND: ST ENTERPRISES LIMITED **Second Defendant**

AND: XU LAN **Third Defendant**

Date of Hearing: 27th October 2025

Date of Ruling: 27th October 2025

Mr. E. Olofia for the Claimants

Mr. E.G. Matangani for the First and Second Defendants

Mr. G. Muaki for the Third Defendant

RULING

AULANGA; PJ:

1. The First and Second Defendants apply to strike out this proceeding on the grounds that the First and Second Claimants ("Claimants") are attempting to relitigate a matter previously determined by this Court. Specifically, the relief sought by the Claimants, as advanced through their defence and counterclaim, was struck out in HCSI No. 527 of 2022.

In the view of the First and Second Defendants, this constitutes an abuse of the Court's process and should be struck out pursuant to Rule 9.75 of the *Solomon Islands Courts (Civil Procedure) Rules 2007*.

2. The Claimants did not file any written response to the application. However, through their counsel, Mr. Olofia, they submit that the previous strike-out order does not preclude them from recommencing the matter in separate proceedings before this Court. In their view, the present proceeding demonstrates that such recommencement is permissible.
3. The pertinent facts of this case reveal that on 22nd July 2024, the Court, in HCSI CC No. 57 of 2022, issued an Unless Order against the Claimants due to their repeated failure to comply with Court Direction Orders. Subsequently, on 17th April 2025, the Court struck out the Claimants' amended defence and counterclaim and judgment was entered against them.
4. For this application, there are three key issues for the Court's determination. First, whether the present proceedings constitute a recommencement of a matter already determined by the Court. Second, whether the recommencement of the claim amounts to an abuse of the Court's process. Third, whether the claim ought to be struck out pursuant to Rule 9.75 of the *Solomon Islands Courts (Civil Procedure) Rules 2007*.
5. Rule 9.75 of the *Solomon Islands Courts (Civil Procedure) Rules 2007* provides that the Court may strike out a claim or part of a claim if it appears to: (a) be frivolous or vexatious; (b) disclose no reasonable cause of action; or (c) constitute an abuse of the process of the Court. The principle against re-litigation is well established in common law. In *Henderson v Henderson* (1843) 3 Hare 100; 67 ER 313, the English Court of Chancery held that a party may not raise in subsequent proceedings any claim which ought to have been raised in earlier litigation. This doctrine, often referred to as the *Henderson* rule, remains good law and continues to be cited as authority for the principle that litigation must be final and complete. This principle was reaffirmed in *Johnson v Gore Wood & Co* [2000] UKHL 65, where Lord Bingham emphasized the importance of protecting the Court's process from

misuse, stating that litigants must not be permitted to pursue claims in a manner that undermines the finality of judicial decisions.

6. Similarly, in *Re Aranga Estate* [2025] SBHC 70, at paragraphs 16 and 17, the Court addressed the issue of relitigating a matter in separate proceedings after it had already been struck out in earlier litigation. The Court held that such conduct amounted to an abuse of process and was contrary to the proper administration of justice in the following statements:

“16. A further concerning matter is the earlier High Court Civil Case No. 427 of 2018, which was struck out for want of prosecution. This was raised at paragraph 5.21 of William Tofasi’s sworn statement filed on 21st March 2024. That case involved the same applicant, along with Edwin Dilaomea, James Laukwoo, and Robert Koko, seeking administration of the same property (PE:135-001-1). The struck-out order remains valid and in force.

*17. The applicant did not apply to have that order set aside and instead initiated this proceeding. In my view, this amounts to an abuse of process, a terminology well explained in *Lolo v Kwoioloo* [2014] SBHC 25. That prior order remains valid until it is set aside by interlocutory application or appeal. What the applicant has effectively done is to misuse the legal process. He decided to bypass the proper legal process and commenced this proceeding which is repetitive and amounts to a duplication of the court proceeding. This duplication of proceedings is both improper, vexatious and an abuse of the Court’s process recognised under Rule 9.75 of the Solomon Islands Courts (Civil Procedure) Rules 2007.”*

7. The Claimants’ current claim seeks relief that was previously advanced in their defence and counterclaim in HCSI CC No. 57 of 2022. That claim was struck out following an Unless Order, and judgment was entered against them. The Claimants have not appealed that decision nor sought leave to reinstate the struck-out claim.

8. Their attempt to recommence the same matter in a separate proceeding, without addressing the prior judgment, is a clear attempt to circumvent the Court's earlier order. This undermines the finality of litigation and constitutes an abuse of the Court's process.
9. The oral submission by Mr. Olofia asserting that the strike-out does not preclude the recommencement of the matter in a separate proceeding before this Court, is misconceived. The Court's order in the earlier matter remains binding, and the Claimants are estopped from relitigating the same issues. The proper course would have been to appeal or seek review of the earlier decision, not to initiate a fresh proceeding.
10. The application to strike out the claim, pursuant to Rule 9.75 of the *Solomon Islands Courts (Civil Procedure) Rules 2007*, is hereby granted. The Claimants shall pay costs of this hearing to the First and Second Defendants on a standard basis.

Orders of the Court

1. The claim filed by the First and Second Claimants is hereby struck out in its entirety.
2. Costs of this application shall be jointly and severally paid by the First and Second Claimants to the First and Second Defendants on a standard basis.

