

IN THE HIGH COURT OF SOLOMON ISLANDS
Civil Jurisdiction
(Bird J)

Civil Case No. 254 of 2022

BETWEEN: RICHARD LUKISI & ROWSON LUKISI First Claimants
AND: LIUKANA RESOURCES DEVELOPMENT Second Claimant
AND: PACIFIC CREST ENTERPRISES LIMITED First Defendant
**AND: LAWSTER LUKISI, ROBERT LUKISI, GALO SEPU,
LOWELL KIMASARU & ROCKSON VILI** Second Defendants
AND: ATTORNEY GENERAL (representing the Commissioner of Forest)
Third Defendant

Date of Hearing: 11th March 2025
Date of Decision: 13th March 2025

Mr Lloyd FitzReggie for the First and Second Claimants
Mr Donald Marahare for the First Defendant
No appearance for the Second Defendants
Mr Benton Pitry for the Third Defendant

RULING ON DISMISSAL

Bird PJ:

1. This proceeding involved a claim of breach of trust by the legal trustees of Liukana land over logging operations therein. Mr Richard Lukisi and Rowson Lukisi (First Claimants) are members of the Liukana landholding group. Liukana Resources Development is a registered entity that oversees the development affairs of the group. They seek various reliefs including a relief to account for all logs extracted and exported from Liukana land.
2. The First Defendant is a company duly registered in Solomon Islands and operates business in the forestry sector. The Second Defendants are the duly determined trustees of the group. The Third Defendant represents the Commissioner of Forest.
3. Pleadings are closed. On 26 July 2024, a notice of change of advocate was filed by Mr Haniel Waisanau of Bond Lawyers on behalf of the first named First Claimant and the Second Claimant. Messrs Rano and Company previously acted for them. Following that event, a notice of discontinuance was filed on 30 July 2024. The effect of the notice is the named parties have discontinued their claim against the First, Second and Third Defendants.

4. When the matter came before me on 3 September 2024, Mr FitzReggie of Rano and Company and Mr Waisanau of Bond Lawyers both appeared for the First and Second Claimants. I directed that they sort out their representations.
5. Notwithstanding the uncertainty of representation and on 13 September 2024, Messrs Rano and Company filed an application to strike out the First and Second Defendants Defences for non-compliance of prior direction orders.
6. Upon hearing counsel on 1 October 2024, I directed Mr Waisanau to file and serve his application for leave to withdraw representation. That application was filed on 14 October 2024. The scheduled hearing of the application on 31 October 2024 was vacated. The proceeding was mentioned on 11 March 2025.
7. On that date, I enquired of all counsel if they have issues about Mr Waisanau's application with a view of setting another hearing date. Mr FitzReggie, Mr Marahare and Mr Pitry told me that they have no issue with the application. I therefore grant leave for Mr Waisanau to withdraw and he was excused.
8. Having excused Mr Waisanau, I enquired about the application to strike out the First and Second Defendants Defences. The Claimants intended to pursue their application. At that point, I raised with Mr FitzReggie the possible effect of the notice of discontinuance on his application. Mr Marahare also views that by notice of discontinuance filed on 30 July 2024, the first named First Claimant and the Second Claimant has no claim against all Defendants.
9. Mr Pitry further raised the issue of non-payment of cost pursuant to my orders perfected on 12 September 2023. By paragraph 2 of that order, the Claimants are to pay the First, Second and Third Defendants cost within 7 days. I was informed by Mr Pitry and confirmed by Mr FitzReggie that the Claimants have not fully settled the Third Defendant's cost. There has been a delay of more than one year for the Claimants to settle the cost. Mr Pitry referred me to rule 24.48 of the Solomon Islands Courts (Civil Procedure) Rules 2007 (CPR) on the consequence of non-compliance of cost order
10. Having given due consideration to the notice of discontinuance filed in this proceeding, and having noted the provision of rule 24.48 of the CPR, I hereby use my discretion and order that the claim filed on 29 June 2022 be struck out with cost.



Justice Maelyn Bird

Puisne Judge