

**IN THE COURT OF APPEAL OF
THE REPUBLIC OF VANUATU**
(Civil Appellate Jurisdiction)

CIVIL APPEAL NO. 52 OF 2012

BETWEEN: **AUGUST WARTE AND THE ESTATE OF MOSES
MASSING**
First Appellants

AND: **CLARIE DORNIC AND LEA McNICOL**
Second Appellants

AND: **THE REPUBLIC OF VANUATU,
RONALD KALORIB, SAMUEL WALTER, MARK
DONALD BULE AND THE PUBLIC PROSECUTOR**
Respondents

Coram: Hon. Chief Justice Vincent Lunabek
 Hon. Justice John von Doussa
 Hon. Justice Raynor Asher
 Hon. Justice Oliver Saksak
 Hon. Justice Daniel Fatiaki
 Hon. Justice Dudley Aru
 Hon. Justice Mary Sey

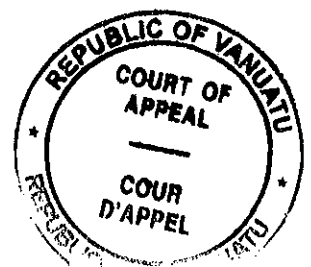
Counsel: Robert Sugden for the Appellants
 Kent Ture for the Respondent

Date of Hearing: Monday 22 July, 2013

Date of Judgment: Friday 26 July, 2013

MEMORANDUM

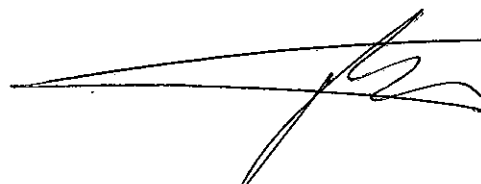
1. This matter was decided by judgment of the Court of Appeal in the April 2013 Session.
2. Judgment was entered against the Republic of Vanuatu and the other respondents in the aggregate amount of Vt 3,039,296 together with costs.



3. The matter was relisted before the Court of Appeal on Monday 15 July 2013 as the Respondents have not satisfied the judgment entered against them, notwithstanding attendances of the parties before a single Judge of the Supreme Court on enforcement conferences. The appellants sought the assistance of this Court to enforce payment of the judgment.
4. It is essential to the due administration of the law and to the fulfillment of the role of government under the Constitution that the Republic complies with orders of the Court, in particular by satisfying money judgments entered against the Republic and its servants after rights of appeal have been exhausted.
5. The Court adjourned further consideration of the matter until Monday, 22 July 2013, to enable the Respondents to attend to payment and to report back to the Court at the next hearing.
6. When the matter was called on 22 July 2013 the Court was informed that payment had not occurred, and was not likely to occur before September 2013, and even then there seemed to be a degree of uncertainty whether payment might be further delayed.
7. As payment had not been made, and was not about to be made, this Court considered that enforcement proceedings should take their normal course before the Supreme Court.
8. This Court therefore entered the following orders:
 - (a) Matter referred back to the Supreme Court.
 - (b) Liberty to the appellants to bring the matter before the Court of Appeal for further consideration at a later date.
 - (c) No order for costs in relation to the hearings before this Court on 15 and 22 July 2013.

Dated at Port Vila this 26th day of July, 2013

FOR THE COURT



Chief Justice Vincent Lunabek

