

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

Civil Appeal Case No. 12 of 2015

BETWEEN: ZEBEDEE MOLVATOL
Applicant

AND: RACHEL MOLSAKEL AND MATHIAS MOLSAKEL
First Respondents

AND: REPUBLIC OF VANUATU
Second Respondent

AND: TIMOTHY MOLBARAV & Ors.
Third Respondents

AND: BOETARA FAMILY
Fourth Respondent

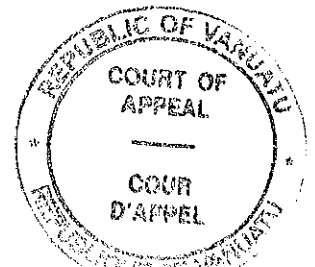
Coram: *Hon. Chief Justice Vincent Lunabek*
Hon. Justice John von Doussa
Hon. Justice Ronald Young
Hon. Justice Daniel Fatiaki
Hon. Justice Mary Sey
Hon. Justice Dudley Aru

Counsel: *Mr RT Kapapa for Applicant*
Mr R Sugden for the First Respondents
Ms C Lahua (SLO) for the Second Respondent
Mr F Laumae for the Third and Fourth Respondents

Date of Hearing: *Wednesday 6 May 2015*
Date of Delivery: *Friday 8 May 2015*

MINUTE

1. The Applicant Zebedee Molvatol seeks leave from the Court of Appeal to appeal against an order made in the Supreme Court on 2nd December 2014 giving the First Respondents leave



to file Judicial Review case no. 8 of 2013 out of time. Leave to appeal to this Court was refused by the Supreme Court on 23rd April 2015, and the applicant now renews his application to this Court.

2. When the application came on for hearing the Court was asked by the Applicant's counsel to consider as a preliminary issue the request of the Applicant to have Mr Sugden who is now on the record as lawyer and counsel for the First Respondents disqualified from so acting on the ground of conflict of interest. That conflict is said to arise from Mr Sugden's former role as lawyer and counsel for the Applicant at an earlier stage in the litigation over the Belbarav land, and in particular in an appeal to this Court in Civil Appeal Case No. 42 of 2007.
3. This preliminary issue was discussed by the Court with Mr Sugden. It is sufficient now to record that Mr Sugden agreed that at the very least potential conflict exists and announced he sought leave to withdraw as counsel for the First Respondents. We gave him leave to withdraw. He will not hereafter act directly or indirectly in the matter for the First Respondents.
4. Upon Mr Sugden announcing his withdrawal, the First Respondents were without legal representation. The Court considered that the application for leave to appeal should therefore stand over until the July sittings of the Court of Appeal to enable them to engage another lawyer.
5. The Court did not embark upon the substantive hearing of the application for leave to appeal. However, the Court took the occasion to inform the parties that if reliance is to be placed on the outcome of earlier cases between the parties or associated interests in this long running



dispute over custom ownership of the Belbarav land, it is essential that the Court has before it copies of the pleadings in those earlier cases, and copies of sworn statements and exhibits that are referred to in the judgment relied upon. In particular this must be so in relation to the judgments in Civil Case No. 8 of 2010 and Civil Case No. 25 of 2012 referred to in written submissions.

6. The matter is stood over for relisting at the July 2015 sittings of the Court of Appeal.

DATED at Port Vila this 8th day of May, 2015

BY THE COURT



Vincent LUNABEK
Chief Justice

