

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

Civil Appeal
Case No. 20/1896 CoA/CIVA

BETWEEN: **FAMILY TURA**
 Appellant
 INDIGENE LAWYERS

AND: **FAMILY MOLTANMAUTE**
 First Respondent

AND: **FAMILY ATKIN**
 Second Respondent

AND: **TAFTUMOL**
 Third Respondent
 SUGDEN LAWYERS

AND: **FAMILY LOIROR LIN**
 Fourth Respondent

AND: **FAMILY WARAWARA and**
 VARAOVARAO
 Fifth Respondent

Date of Hearing: **13 November 2020**

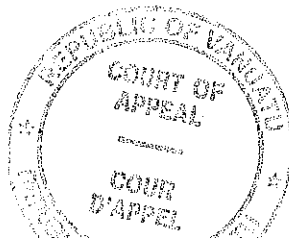
Coram: **Hon. Chief Justice V. Lunabek**
 Hon. Justice J. Mansfield
 Hon. Justice R. Young
 Hon. Justice D. Aru
 Hon. Justice G. Andrée Wiltens
 Hon. Justice V.M. Trief

In Attendance: **Mr J. Ngwele and Mr C. Leo for the Appellant**
 Mrs M.G. Nari for the Second Respondent
 Mr A. Godden for the Third Respondent
 Mr E. Molbaleh for the Fourth Respondent
 Mr D. Yawha for the Fifth Respondent

Date of Decision: **20 November 2020**

JUDGMENT


1. When this matter was called, we raised with counsel for the Appellant whether the Appellant had a right of appeal from the Supreme Court to the Court of Appeal (section 22(4), *Island Courts Act*).

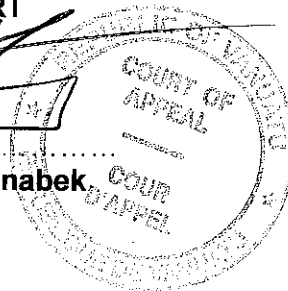


2. After consideration, counsel for the Appellant accepted that there was no such jurisdiction. In those circumstances, the Appellant consented to the appeal being dismissed. The appeal is therefore dismissed.
3. As to costs, counsel for the Third Respondent sought indemnity costs. None of the other Respondents sought costs. We are not satisfied that this is a case which justifies indemnity costs. In their submissions the Third Respondent raised the question of this Court's jurisdiction to hear this appeal. However, we note that the basis on which the respondent sought indemnity costs in their submissions was based on a different assertion.
4. We acknowledge that after the Third Respondent raised the question of this Court's jurisdiction to consider this appeal, the Third Respondent was put to further work in completing reply submissions as well as the preparation of an affidavit. In those circumstances, while we do not order indemnity costs, we will order greater costs than would ordinarily be the case. The Appellant therefore will pay costs to the Third Respondent of VT100,000.

DATED at Port Vila this 20th day of November 2020

BY THE COURT


Chief Justice V. Lunabek



The seal is circular with the text "REPUBLIC OF VANUATU" around the top edge and "COURT OF APPEAL" in the center. Below the seal, the words "COURT OF APPEAL" are printed again.