

BETWEEN:	JOE JEFFRED BONG <u>Plaintiff</u>
AND:	WAN SMOLBAG THEATRE <u>Defendant</u>

JUDGMENT

This is an application pursuant to Section 20 of the Employment Act [CAP.160]. The defendant applies for the Plaintiff's claim to be dismissed on the basis that the plaintiff is statute-barred. Three (3) years had expired and the Plaintiff could no longer claim for his remuneration. He is statute-barred.

Section 20 provides:

"No proceedings may be instituted by an employer for the recovery of remuneration after the expiry of 3 years from the end of the period to which the remuneration relates."

Section 20 is not a mandatory provision. The Court can use its discretionary power when the circumstances of the particular case at hand so warrant in order to do justice which is the situation in the present case.

Further, the special endorsed writ sought damages for breach of contract against the defendant.

The application of the defendant is refused.

The defendant to pay the costs of this application which is in Vatu 10,000 to the plaintiff.

Further directions for trial to be provided.

DATED at PORT-VILA, this 7th DAY of MAY, 2001

BY THE COURT



LUNABEK Vincent
Chief Justice

