

Amended Claim constitutes a new claim as the claim filed on 1 July 2002 has no longer any effect. I accept this submission.

Mr. Malcolm, then, submitted that the Amended Supreme Court claim filed on 12 March 2007 is statute barred pursuant to section 20 of the Employment Act which provides:-

"20. Period of Limitation

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

The Claimant was dismissed by the First Defendant on 14 September 2001. He then filed a claim against the First Defendant on 1 July 2002 but failed to serve the First Defendant. He then filed an Amended Claim on 12 March 2007, seeking relief in the nature of recovery of remuneration.

The issuance of the Amended Claim on 12 March 2007, was outside the statutory permission under section 20 of the Employment Act [CAP. 160].

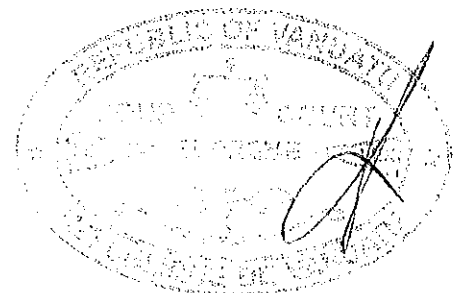
Finally Mr. Malcolm submitted, in the alternative, that if the Court ruled against his client, his client applied for security for costs on the following rational:-

- First, the delays are occasioned by the Claimant; and
- Second, the delays generated additional costs for the First Defendant to find witnesses 7 years after the alleged dismissal; and
- Third, the claimant gave evidence through his sworn statement that he is impecunious.

On the basis of the evidence (sworn statements) before the Court, the facts are not disputed. The provision of section 20 of the Employment Act also is clear and straight forward.

I accept the submissions that the Amended Supreme Court Claim filed on 12 March 2007 is statute barred pursuant to section 20 of the Employment Act [CAP. 160].

I do not need to consider the alternative application about the security for costs. The following order is made:-

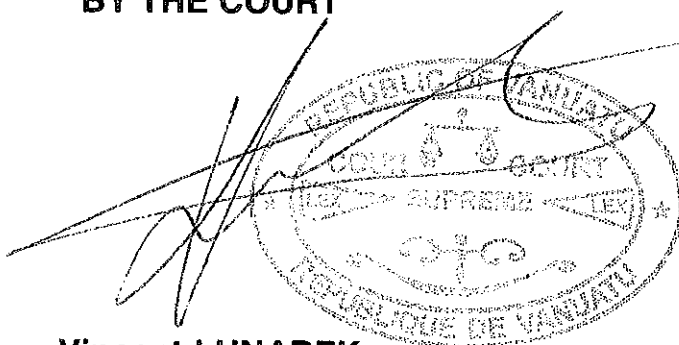


ORDER

1. The Claim is dismissed.
2. There is no order as to costs.

DATED at Port-Vila this 31st day of July 2008

BY THE COURT

The image shows a handwritten signature in black ink, which appears to be 'Vincent Lunabek'. The signature is written over a circular official seal. The seal contains the text 'REPUBLIC OF VANUATU' at the top, 'COURT OF APPEALS' in the center, and 'REPUBLICQUE DE VANUATU' at the bottom. There is also a central emblem on the seal.

**Vincent LUNABEK
Chief Justice**