

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**

(Civil Jurisdiction)

Civil Case No. 213 of 2007

BETWEEN: WESTPAC BANKING CORPORATION
Claimant

**AND: JEAN MARCEL GOISET AND THI TAM
GOISET**
First Defendants

AND: MR. AND MRS. HANNAM
Second Defendants

AND: MR. SAM MAHIT
Third Defendant

Coram: Justice N. R. DAWSON

Date of Hearing: 14th October, 2009

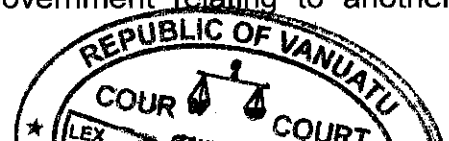
Date of Decision: 15th October, 2009

Counsel:

<i>Claimant:</i>	<i>Mr. M. Hurley</i>
<i>1st Defendants:</i>	<i>Mr. R. Warsal</i>
<i>2nd Defendants:</i>	<i>Mr. J. Ozols</i>
<i>3rd Defendants:</i>	<i>Mr. W. Daniel</i>

DECISION

1. In the Oral Ruling of this Court on 14th October, 2009 in paragraph 3, I indicated that further written reasons would issue with respect to the decision to decline the Application of Mr. Mahit to be joined as a party.
2. The Application by Mr. Mahit was made pursuant to R 3.2 (4) of the Civil Procedure Rules. This Rule states "A person affected by a proceeding may apply to the Court for an order that a person be made a party to the proceeding."
3. It is accepted by counsel for the Applicant that the Court had made an Order on 19th June, 2009 for the sale of the Goiset property. In full knowledge of that order the Applicant entered into a contract with Mr. and Mrs. Goiset on 25th June, 2009 to buy the property. The gist of the application's submissions are that the offer made by his client is a good offer with a very good chance of being completed once the applicant receives funds from the Government relating to another



transaction. The Applicant has not advanced any legal submissions or case law to support the Application.

4. It is clear the Applicant was not a person affected by this proceeding at that time that the Enforcement Order was made and he entered into a contract, which must be void, with Mr. and Mrs. Goiset. Nor can he say he entered into the contract with Mr. and Mrs. Goiset by mistake as he knew the Court had issued enforcement orders on 19th June, 2009. It therefore cannot be said that he was a person affected by the proceeding as the Enforcement Order was made prior to him qualifying himself as a person affected by entering into the void contract with Mr. and Mrs. Goiset. On that ground alone this Application must be declined.
5. It is admitted by the Applicant through his counsel that the Applicant has made no effort to contact the Westpac Banking Corporation or their agents with a view to negotiating the purchase of the property. The Applicant has simply come to Court and has effectively asked the Court to make a decision that the void contract entered into with Mr. and Mrs. Goiset is a reasonable contract and therefore the Court should Stay the Enforcement Order. It is pointed out to counsel for the Applicant that this Court is a Court of Law to decide legal issues, not to assess the commercial viability of commercial transactions. In addition this is the second time a purported contract has been brought to this Court with the intention of obtaining a Stay of the Enforcement Orders issued in June and continues to have all the hall marks of the First Defendants entering into arrangements to defeat the Enforcement Order issued by this Court.
6. The Application to join Mr. Mahit as a party to these proceedings is therefore declined.
7. Costs have already been dealt with in the Oral Ruling of this Court dated 14th October, 2009.

Dated at Port Vila, this 15th day of October, 2009

BY THE COURT

