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**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Land Jurisdiction)

Land Appeal Case No. 02 of 2009

BETWEEN: STEPHENSON BULE
Appellant

AND: RON TAMTAM
First Respondent

AMON WARI
Second Respondent

JOSEPH RAUBAN
Third Respondent

JOEL TAMTAM
Fourth Respondent

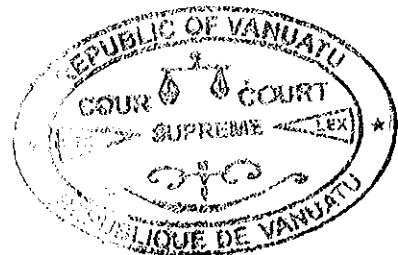
ZAACHEUS BILA
Fifth Respondent

CHIEF TELKON WETAS
Interested Party

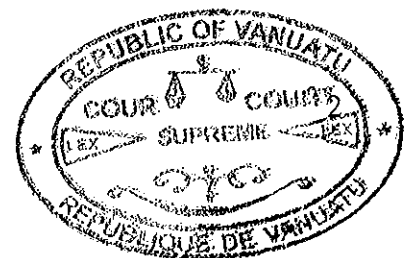
<i>Hearing</i>	:	<i>27 April 2011</i>
<i>Before</i>	:	<i>Justice RLB Spear</i>
<i>Appellant</i>	:	<i>No Appearance (Mr S Hakwa)</i>
<i>1st Respondent</i>	:	<i>Mr D Yawha</i>
<i>2nd Respondent</i>	:	<i>"</i>
<i>3rd Respondent</i>	:	<i>Mr W Daniel</i>
<i>4th Respondent</i>	:	<i>Mr D Yawha</i>
<i>5th Respondent</i>	:	<i>No appearance (Mr J Kihu)</i>
<i>Int Party</i>	:	<i>Mr C Leo</i>

DECISION
27 April 2011

1. On 28 March 2011, the Chief Registrar gave notice that this appeal was set down for hearing at 10.00 am today in the Supreme Court Hearing Room.



2. The appearances of counsel are as noted above. Notably, there was no appearance by or on behalf of the Appellant.
3. On the joint application of Mr Yawha and Mr Daniel for the 1st to 4th Respondents (inclusive), the appeal is dismissed for want of prosecution. Costs are left to be agreed or argued.
4. I should note that Counsel explained that Mr Hakwa was involved in a trial before the Chief Justice today. However, Mr Yawha was also able to explain that that trial was not due to start until this afternoon. That was in accordance with my own observations as I had seen the Chief Justice in his Chambers just before I came in to the Hearing Room for the commencement of the appeal hearing,
5. When I returned to my Chambers after dismissing the appeal, I found a letter dated 27 April 2011 on my desk from Mr Hakwa and addressed to the Chief Registrar marked BY HAND / VERY URGENT. In that letter, Mr Hakwa stated that he was not able to attend "*the Conference ... as he is also engaged in a trial before the Supreme Court in Civil Case No. 64 of 2010 from Tuesday 26 April 2011 to Friday 29 April 2011*". This was followed by a request for "*a new Conference date*".
6. I need to comment:
 - a) The fixture today was for the hearing of the appeal and not for a conference. That is explicitly stated in the Notice from the Chief Registrar;
 - b) Difficulties with a fixture for the hearing of an appeal are not to be addressed in such an informal manner; that is by a letter to the Chief Registrar. If counsel has a "last minute" difficulty with a fixture, they need either to appear personally or instruct an agent to appear and seek an adjournment. If the conflict or difficulty is appreciated in good time before the fixture then a formal application for an adjournment on notice is



required so that all parties, as well as the Court, are able to take stock of situation and a decision can be made with the benefit of input from all the parties;

- c) The way this case has been left, it appears that Mr Hakwa has simply decided to prefer one case to another. That is totally unacceptable.
7. It is, of course, open to Mr Hakwa to apply for reinstatement of the appeal. If that occurs, the issue of wasted costs will need to be given careful consideration.

BY THE COURT

