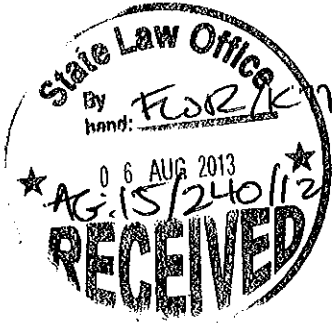


IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU
(Civil Jurisdiction)

Civil Case No. 242 of 2012

**BETWEEN: SONGI GEORGE, TALIBAN SYLVAIN, GERALD
MALERE, FRAZER TAMBE AND WILSON ABIUT**
First Claimants



**AND: MARY SANDY, REDFORD DAVID, KALPAT
STEEDMAN, JOE TOTO AND NELSON ROGER**
Second Claimants

AND: COMMISSIONER OF POLICE
First Defendant

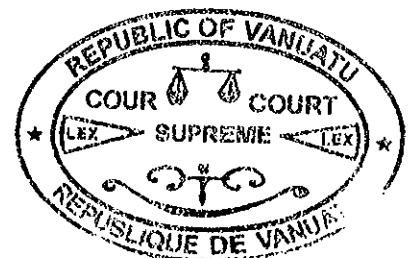
AND: REPUBLIC OF VANUATU
Second Defendant

Hearing: 1 August, 2013
Before: Justice Robert Spear
Appearances: Sailing Stephens for the Claimants
Kent Ture (SLO) for the Defendants

JUDGMENT

Liability

1. Each of the ten claimants seeks damages of Vt 12 million for his or her unlawful arrest and unlawful imprisonment on 4 December 2012.
2. At the commencement of this hearing, having particular regard to the very recent evidence filed for the defendants from Chief Inspector Twomey, a frank discussion took place with counsel in Court with the parties present. It appeared clear that the claimants had become involved in the well documented public dispute between the former Commissioner of Police and the current Commissioner of Police. It is unnecessary to

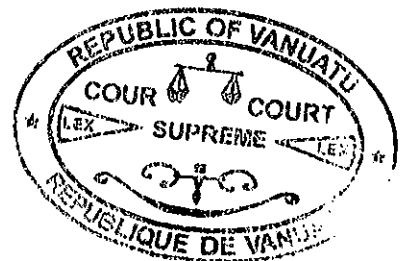


provide any further detail about that dispute. What is of particular significance here is that the evidence for the defence does not provide any basis upon which it could be objectively considered that the arrest without warrant of any of the claimants occurred either:

- a Because of a suspicion on reasonable grounds that the person arrested had committed a “cognisable offence”¹; or
 - b That the persons arrested had been accused of an “offence” under the Police Act²
2. The evidence instead points to the arrests taking place as a result of an order from Commissioner Caulton to enable those arrested to be questioned about their part in the arrest of Mr Caulton and other police officers in September 2012 on the orders of (then) Commissioner Bong. There is, however, no power of arrest reposed in the police just to enable a person to be questioned.
 3. While section 40, the indemnity or protection against acting in good faith, is raised in the defence, it certainly appears at first sight that it is unlikely to have any currency at all in this case.
 4. Following the exchange with counsel, Mr Ture sought a short break to confer with Mr Stephens and also with Senior Police Officers present in Court. When the Court resumed Mr Ture indicated that the defendants admitted liability for wrongful arrest but ask for time to make submissions on quantum of damages in each respect. Mr Stephens indicated that the admissions as to liability for wrongful arrest resolved the claims except as to damages.
 5. Accordingly, judgment is entered against the defendants on liability for wrongful arrest in respect of each of the claimants.

¹ s.12 Criminal Procedure Code.

² s.72 Police Act



6. There will be a hearing at 2.00 pm Wednesday 7 August, 2013 on the question of damages. In this respect, I note that the claimants were serving police officers at the time of arrest, following orders from the Commissioner of Police of the time and subjected to the indignity of being arrested by fellow police officers and held in custody during the day.
7. That disposes of the hearing today save as to the assessment of damages and also costs. Again I observe this is a matter that cries out for a settlement and I encourage counsel to meet and discuss terms of settlement rather than subject this case to a further hearing to determine the issue of damages.
8. The case is accordingly adjourned to 2 pm Wednesday 7 August, 2013 in this court room.

BY THE COURT

