

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

Civil Case No. 58 of 2010

BETWEEN: SANTO KAVA COMPANY LIMITED

Claimant

AND: KEVIN ANDERSON & ORS

Defendants

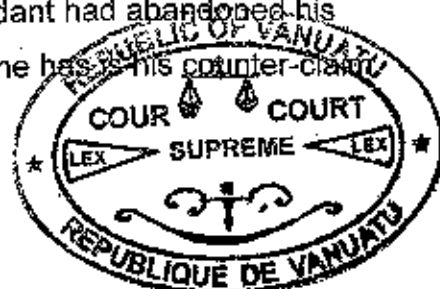
Coram: Mr. Justice Oliver A. Saksak

Counsel: Mr. Stephen T. Joel for the Defendant

ORDER

WHEREAS:-

1. By Notice issued on 21st August 2013 calling this matter for a conference hearing today.
2. Mrs. Marisan Vire filed a Notice of Ceasing to Act for the Claimant at 0930 hours this morning.
3. At the hearing held at or about 1045 hours this morning, neither Mrs. Vire nor any representatives of the Claimant were present.
4. Mr. Joel submitted to the Court to either –
 - (a) Adjourn the matter and fix another date; or
 - (b) Struck out the proceeding for want of prosecution.
5. Mr. Joel further informed the Court the Defendant had abandoned his intended appeal and that the only live matter he has is his counter-claim



Now therefore after perusing the documents on File and considering Mr. Joel's submissions, the Court decides that the second alternative is the appropriate remedy in this matter for the following reasons :-

- (a) Since 15th February 2011, when the Court issued its decision giving leave to the defendant to file an appeal the orders of 4th February 2011, the matter did not progress in any useful way by either parties.
- (b) The case remained idle until the Court on its own motion issued a notice of mention on 23rd January 2013 returnable on 4th February 2013. That was some period of 13 months.
- (c) Rule 9.10 (1) and (2) (a) and (d) gives power to the Court to strike out a proceeding at a conference where there has been no step taken in the proceeding for 6 months.

It is therefore ordered that –

- 1. Civil Case No. 58 of 2010 be hereby struck out in its entirety.
- 2. There be no orders as to costs.

DATED at Luganville this 5th day of September 2013.

BY THE COURT

