

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

Civil Case No. 56 of 2010

**BETWEEN:** MOLI BOETOKORUA  
Claimant

**AND:** VOMBANICI AND EREHI  
First Defendants

**AND:** GOVERNMENT OF THE REPUBLIC OF VANUATU  
Second Defendant

**AND:** WILLIAM SUMBUETOVI representing FAMILY  
SUMBUETOVI  
Third Defendant

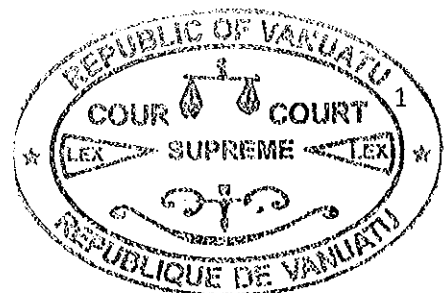
**Coram:** Mr. Justice Oliver A. Saksak

**Counsel:** Mr. George Nakou for Claimant  
Mr. Kiel Loughman for First Defendant  
Ms Florence Williams for Second Defendant  
Mrs. Marisan Vire for Third Defendant

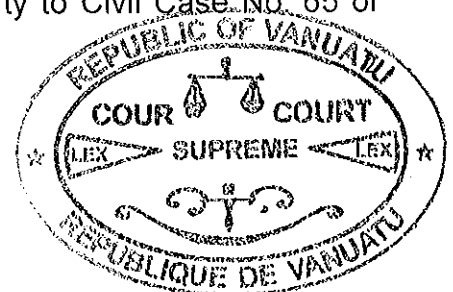
**Date of Hearing:** 24<sup>th</sup> April 2014  
**Date of Decision:** 28<sup>th</sup> November 2014

**DECISION**

1. The applicant, William Sumbuetovi (Third Defendant) filed an application on 18<sup>th</sup> February 2014 seeking Orders that –
  1. Paragraph 1 of the Order of this Court in CC 56 of 2010 be amended by removing the words “Area Land Tribunal” and replacing same with “Joint Village Land Tribunal.”
  2. The Area Land Tribunal Decision of 12<sup>th</sup> September 2012 be quashed.



3. The registration of the Area Land Tribunal Decision of 12<sup>th</sup> September 2012 with the Second Defendant be cancelled.
  4. Costs of the application; and
  5. Other Orders deemed appropriate.
2. The application is supported by the sworn statement of the applicant filed on the same date.
  3. On 23<sup>rd</sup> April 2014 only Mr. Loughman and Ms Williams were present. Counsel sought directions that the Third Defendant file their written submissions within 21 days and the Claimant, First and Second Defendants file their responses within 14 days thereafter, and that the Court would deliver its decision on a date to be fixed and notified.
  4. The Third Defendant (as applicant) filed his written submissions on 30<sup>th</sup> May 2014. The Second Defendant filed written submissions on 26<sup>th</sup> June 2014. The Claimant and First Defendant have not filed any written submissions. The Court will dispense with their submissions.
  5. The application by the Third Defendant is hereby dismissed in its entirety for the following reasons –
    - (a) It is unnecessary as the error he complains of at paragraph 4 of the Order dated 29<sup>th</sup> April 2011 are already rectified by the Judgment dated 1<sup>st</sup> February 2011. The Judgment preceded the Orders and they override the Orders.
    - (b) The application for corrigendum was filed more than two years after the Orders of 29<sup>th</sup> April 2011 were issued. Paragraph 5 of the Orders gave liberty to Parties to apply on 48 hours notice in respect of any further Orders. The applicant was not a party to Civil Case No. 65 of



2010 then but he was a party to Civil Case No. 11 of 2010 which was filed before Civil Case No. 65 of 2010. The Judgment dated 1<sup>st</sup> February 2011 was made in his favour. As the complainant it was encumbered on him to take immediate steps to have the Joint Village Land Tribunal to reconvene. However, it appeared he simply sat on his right and waited for something to happen.

(c) The application is misconceived and is an abuse of process because it goes further to seek quashing and cancellation Orders which are normally sought in a judicial review application. His application was not a judicial review application.

(d) The Customary Lands Tribunal Act has now been repealed. There is now in existence a new Custom Land Management Act. Clearly under the new Act, it wouldn't make any difference whether the "corrigendum" is or is not made. The fact appears to be that Vunapaka Land is still in dispute and it must now make progress under the provisions of the Land Management Act.

6. Accordingly, the application is dismissed with costs in favour of the Second Defendant only, on the standard basis as agreed or taxed by the Court.

7. There are Costs Orders dated 5<sup>th</sup> February 2014 which the Claimant and Third Defendant (applicant) must discharge if they have not already done so.

**DATED at Luganville this 28<sup>th</sup> day of November 2014.**

**BY THE COURT**

  
**OLIVER A. SAKSAK**

**Judge**

