

**BETWEEN: Obed Kasso, John Tannmelip Moses M
Coupas, Atis Sewere Jimmy Nicklam, Willie
Yawha, Amos Stephen, George Hiwa, Sam
Narua, Joseph Kasso, Simon Mahit,
Nocklam Asol, Johnny Natuka, Vattie
Solomon, Edmond Saksak**

Claimants

AND: Michael Hocten, deceased

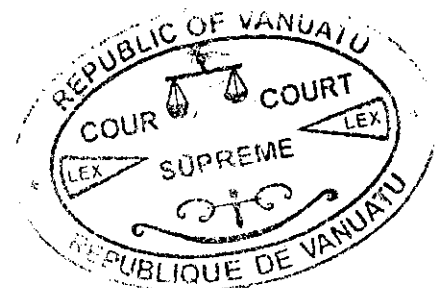
Defendant

Date of Hearing : 16th February 2017
Date of Judgment: 27th October 2017
Before: Justice Oliver.A.Saksak
In Attendance: Willie Kapalu for the Claimant
No appearance for the Defendant

JUDGMENT

Introduction

1. This is a reserved judgment as to quantum of damages. Liability was entered against the defendant by default on 5th July 2016.
2. This is an undefended claim. The defendant was personally served on 6th July 2016. He was bedridden with illness during process. He has a wife and siblings. He passed away in September this year.
3. The case appears to have a long history. The defendant now deceased used agents to collect money from clients with promises to pay back the shares with billions of vatu. No receipts were ever issued. Promises were verbal. Whatever happened to the moneys collect remains a mystery. But clients put their trust in the defendant and continued to give him moneys over many years without receipts. No one ever complained or raise any suspicions as to whether the scheme was real or a scam. The clients believed the scheme was real. But unfortunately over those many years, none of the contributors ever received any returns on their shares as promised. They then filed this proceeding in February 2016.



Quantum

4. As regards quantum of damages Mr Kapalu filed written submissions on 1st August 2017. Counsel places reliance on evidence by sworn statement of:

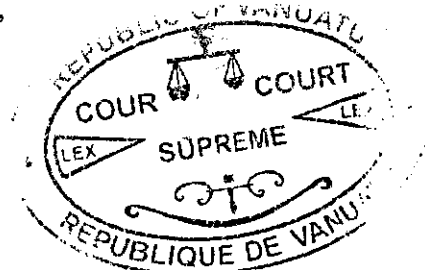
- a) Obed Kasso filed on 8th February 2016 and 12 December 2016
- b) Vattie Solomon filed on 2nd December 2016 and 15th February 2017.
- c) Atis Sewere filed on 21st March 2016
- d) Moses Loupas filed on 7th November 2016
- e) Georg Hiwa filed on 3rd November 2016
- f) Edmond Saksak filed on 3rd November 2016
- g) Sam Narua filed on 2nd November 2016
- h) Willie Kalo filed on 3rd October 2016
- i) Johnny Natuka filed on 3rd October 2016
- j) Jimmy Nicklam filed on 23rd September 2016, and
- k) Joseph Kasso Filed on 17th October 2017

5. The sworn statements and the evidence as to amounts of contributions and the shares promised are unchallenged by the defendant. However it appear he promises of billions of vaunt in return for contributions are in my view exaggerated and are unbelievable as unreal. The amounts are specified in the Table of Contributions at the extreme right hand column in the written submissions. Those amounts are unreal and cannot be included in the claims for damages. The only amounts the Court accepts are the amounts of contributions made by each of the claimants.

6. Mr Kapalu raises the question of the Limitation Act and submitted it does not apply. It is an interesting aspect. The contributions were accepted or taken by the defendant in consideration of a return in billions. In my view there is an implied trust created. As such I agree with Mr Kapalu's submission.

7. And Mr Kapalu is claiming an interest of 5% on the amounts contributed. I accept that is a reasonable percentage and I allow it. I therefore allow the following assessments-

- | | | |
|-----|----------------|---------------|
| (a) | Obed Kasso | VT 7,410,000 |
| (b) | John Tammelip | VT 5,670,000 |
| (c) | Moses M Coupas | VT 2,604,000, |

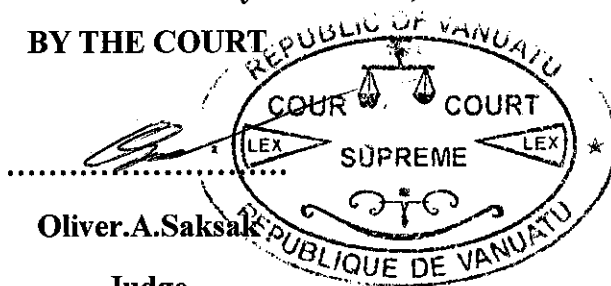


(d)	Atis Sewere	VT 259, 900
(e)	Jimmy Nocklam	VT 2,150,900
(f)	Willie Yawha	VT 6,831,450
(g)	Amos Stephen	VT 164,455
(h)	George Hiwa	VT 650,000
(i)	Sam Nirua	VT 2,295,000
(j)	Joseph Kasso	VT 830,250
(k)	Simon Mahit	VT 4,725,000
(l)	Nocklam Aisso	VT 2,186,550
(m)	Johnny Natuka	VT 2,017,200
(n)	Vatti Solomon	VT 8,403,230
(o)	Edmond Saksak	VT 442,200
	TOTAL	VT 46,634,485

8. Accordingly I award damages after assesment to the Claimants in the total sum of VT 46, 634, 485 in favour of the claimants against the defendant. As the defendant is deceased, that these damages be paid out of the deceased's estate by his personal representative
9. The Claimants are also entitled to their costs of and incidental to this action on the standard basis as agreed or taxed.

DATED at Port Vila this 27th day of October, 2017

BY THE COURT



Oliver.A.Saksak

Judge