

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

Judicial Review No. 19 of 2012

BETWEEN : BERNARD ITAI LAUTO

Claimant

AND: THE MINISTER OF LANDS

First Defendant

AND: THE DIRECTOR OF LAND RECORD

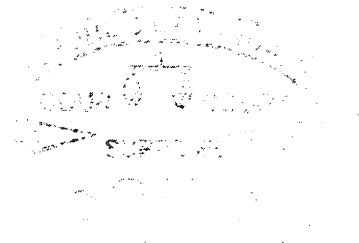
Second Defendant

Coram: Justice Aru

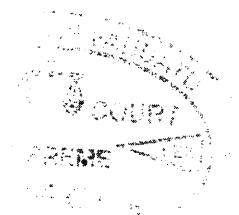
Counsel: Mr. R. Sugden for the Claimant (no-appearance)
Mr. L. Huri for the First and Second Defendants

RULING

1. On 10 February 2017 Mr. Sugden informed the Court during a conference in this matter that he intends to file his Notice of Ceasing to act for the claimant. Directions were then issued accordingly for him to file and serve his notice by close of business the same day. He has not done so as yet therefore he remains on record as counsel for the Claimant.
2. On 14 March 2017 the Defendants applied to have the claim struck out. The Application was supported by a sworn statement of Mr. Huri and was served on Mr. Sugden. The Application was listed for hearing on 23 March 2017. Mr. Sugden was not in Court and gave no reasons for his non-attendance. Despite his intentions to cease to act, he is yet to formalize that.



3. I proceeded to hear the Application as I was satisfied that the Claimant had been duly served.
4. The main ground advanced to have the matter struck out was that the Claimant lacks standing to bring the claim. This is a claim for judicial review where the Claimant Bernard Lauto seeks the following orders:-
 - (1). A mandatory order requiring the Director of Land Records to amend the Land Leases Act Register by substituting the Claimant's name as lessor in all registered leases which Gerald Lauto or Gerald Itai Lauto is the lessor.
 - (2). A mandatory order requiring the Minister of Lands to consent to the lease which has Registered survey diagram number 12/0914/026 and of which the Claimant is the lessor so that the lease can be registered.
5. On 27 August 2013 this matter was stayed pending determination of Civil Case No 152 of 2012. On 13 February 2017, Civil Case No. 152 of 2012 was dismissed by Fatiaki J for want of prosecution. On 12 June 2015 the Efate Island Court declared Smith Richard Lauto as the right person to inherit the family custom properties of Family Itai Lauto that Gerald Itai Lauto inherited from his father late Itai Lauto according to custom and traditions of Erakor Village, South Efate.
6. On June 2015 the Claimant filed Judicial Review Case No. 18 of 2015 to quash the Efate Island Court Judgment in Civil Case No. 1 of 2014. That Judicial Review claim was also dismissed by Geoghegan J on 29 June 2016. The Claimant then appealed to the Court of Appeal in Civil Appeal case No. 2972 of 2016. The Court of Appeal dismissed the appeal and in its considerations remarked that:-



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"..the Efate Island Court judgment of 12 June 2015 reflected the correct and accurate position of the custom in respect to succession and inheritance in the land laws of Erakor ."

7. As per the Efate Island Court Judgment, Mr. Smith Richard Lauto as the eldest son of Gerald Itai Lauto was the right person to inherit Gerald Itai Lauto's custom properties. What the Claimant wants the Court to do in this case is to substitute his name in place of Gerald Itai Lauto as lessor in all leases which Gerald Itai Lauto was the lessor. Given the decision of the Efate Island Court and the remarks made by the Court of Appeal, the only person who can do that is Mr. Smith Richard Lauto. As far as the claim is concerned, the Claimant clearly lacks standing to seek the orders referred to above.

ORDERS

- 1) The Defendants' Application to strike out the claim is granted.
- 2) The claim for Judicial Review is hereby struck out.
- 3) The Defendants are entitled to costs to be agreed or taxed by the Master.

DATED at Port Vila this 29 day of March 2017

BY THE COURT

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D. Aru
Judge

