

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**

(Civil Jurisdiction)

Civil Case No. 28 of 2008



BETWEEN: AKISINA MALIU
Claimant

AND: MOLITAMATA VILLAGE LAND TRIBUNAL
Defendant

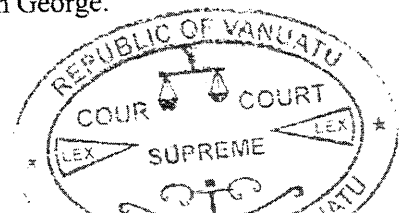
Coram: *Mr. Justice Oliver A. Saksak*

Counsel: *No appearance for Claimant (Marisan P Vire)*
Sammy Aron for Defendant
No appearance for Interested Party (George F Boar)

Date: *1st June 2017*
Issued: *7th June 2017*

DECISION

1. I have today taken the decision to strike out the enforcement proceedings of the defendant. Following are the reasons:
2. By notice dated 19th May 2017 this matter was made returnable today for an enforcement hearing. This case is a complete one with the only life issue being costs. The costs were assessed and determined by the Master on 10th August 2009. The sum offered by Mrs Vire and agreed by Mr Boar was VT 365.020. Costs of the hearing fixed at VT 5.000 was added making the total costs to be VT 370.020.
3. An Enforcement Order was issued by the Court on 2nd August 2010.
4. The defendant is Molitamata Village Land Tribunal. (The Tribunal) Although Mr Boar applied to join Judah George as an Interested Party it appears from the record that the application has never been determined. As such the only party and defendant in this proceeding is Molitamata Village Land Tribunal. And it is the State Law who acts for the Tribunal, not Mr Boar. The costs awarded by the Master on 10th August 2009 was awarded to the Tribunal, not Mr Boar's client, Judah George.



5. Mr Boar then filed an application seeking a Warrant of Arrest on 13th November, 2011. This application has not been determined. In light of the circumstances of this case, this application is misconceived and is hereby dismissed. Judah George has not been joined as a party to this case and therefore he has no standing to make the application for a warrant of arrest. If anyone should be complaining about the non-payment of costs, it should be the State Law Office on behalf of the Tribunal and not Mr Boar. And there is no evidence before the Court that it is the Tribunal that is complaining, rather it is Judah George.
6. The circumstances are therefore confusing in their current state. And without counsel attending Court when they should to clarify their positions and assist the Court as they are obligated to do, and considering that it has been some 4 years when Counsels were last heard by the Court on 3rd October, 2013, it is the view of the Court the proceeding should be brought to its end to avoid further unnecessary legal costs.
7. Mrs Vire indicated on 3rd October 2013 that she would be filing a notice of ceasing to act, but has not done so to date. As such she is still counsel on record for the claimant.
8. This proceeding as regards enforcement is therefore struck out. If the defendant or the Interested Party wishes to pursue the matter further, they may need to consider filing a fresh proceeding to claim their costs as a civil debt. But they should bear in mind also that the date of the costs order is 10th August 2009, and whether or not it might be time-barred under the Limitation Act.

DATED at Port Vila this 7th day of June 2017

BY THE COURT


OLIVER.A.SAKSAK

Judge

