

IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU

Civil
Case No. 19/114 SC/Civil

BETWEEN: Zhang Yumin
Claimant

AND: Vanuatu Daily Post Limited
Defendant

Date: 28 October 2019
Before: Justice G.A. Andrée Wiltens
In Attendance: Ms M. Nari for the late Mr S. Stephens for the Claimant
Mr G. Blake for Mr N. Morrison for the Defendant

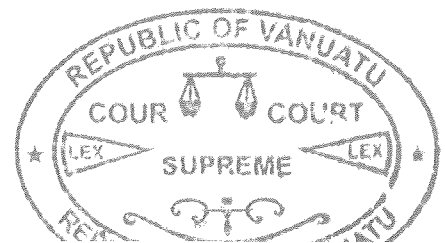
JUDGMENT

A. Introduction

1. This was a defended Claim for defamation.

B. Background

2. The original Statement of Claim was filed on 28 January 2019 by the Claimant in person. It was accompanied by a sworn statement in support of the same date.
3. A Defence was filed on 7 February 2019.
4. The Claimant filed a Reply to the Defence, and a further sworn statement in Response on 12 February 2019.
5. On 13 May 2019 the late Mr Saling Stephens filed a Notice of Commencing to Act. That was the day prior to the first scheduled conference of this matter in the Supreme Court. At that conference Mr Stephens sought an adjournment so that he could make an interlocutory application, and that was granted.



6. On 3 June 2019 Mr Stephens filed an application for leave to amend the Claim, with a supporting sworn statement in support by the Claimant. That application to more particularly plead the details of the alleged defamation was granted by Justice Felix on 10 June 2019. Justice Felix did not timetable by when that should occur.

C. Discussion

7. Since 10 June 2019 the claimant has taken no steps to progress the matter.

8. This file was transferred to my docket on or about 27 September 2019.

9. I caused a conference to be scheduled on 28 October 2019 to discuss with counsel where this matter was heading. Due to the death of Mr Stephens in late August, I caused notice of the conference to be served on Ms M. Nari, who has stepped in to assist many clients of the late Mr Stephens.

10. There was no appearance at the conference by either the Claimant or someone on his behalf. Given the unexplained delay in the amended Claim being filed with the Court, between 10 June 2019 and the death of Mr Stephens on or about 17 August 2019; the delay thereafter and the silence following my scheduling the conference on 27 September 2019 pointing out that no amended claim had been filed, I see no merit in allowing this matter to continue. Had the claimant wanted to continue the action he has had ample time to do so, and his unexplained lack of action demonstrates a lack of desire to progress the matter.

11. In all the circumstances, this claim is struck out for want of prosecution. Rule 9.10(3)(b) of the Civil Procedure Rules provides for the situation where no notice has been taken for 3 months and following notice being given there is no response by the claimant, then the claim may be struck out. That is effectively what has occurred.

D. Result

12. The Claim is struck out.

13. Mr Blake did not seek costs. Accordingly, there is no order as to costs.

**Dated at Port Vila this 28th day of October 2019
BY THE COURT**


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Justice G.A. Andrée Wiltens

