

CF

IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

(CIVIL)

ENFORCEMENT CASE NO. 924 OF 2020

BETWEEN:

- 1. IATA NAKOU**
- 2. SOLOMON VATIE**
- 3. JOHN DANMELIP**

Judgement Creditors

AND

MICHAEL HOCHTEN

Judgment Debtor

Date of Hearing: 22nd June, 2020
Delivered: 22nd June, 2020
Before: The Deputy Master Aurelie Tamseul
Appearances: Jack Kilu counsel for the Judgment Creditors
 No appearances for the Judgment Debtor
In Attendance: Iata Nakou and Solomon Vatie (1st and 2nd Judgment Creditors)

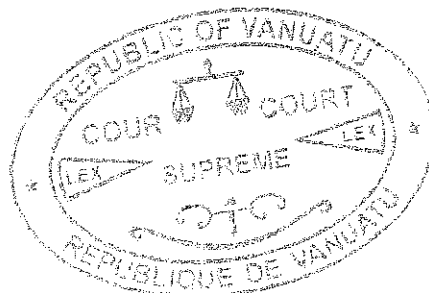
JUDGMENT

Headnote

Enforcement Period – Civil Procedure Rules 14.9- Application of statute of limitations mandatory

a. Introduction

- 1. This matter came up today for the Enforcement of the Consent Orders signed between the parties on the 8th March, 2005, some 15 years ago.



b. The Law

2. Limitation Act, Cap. 212

Section 3. Limitation of actions of contract and tort and certain actions

(4) "An action shall not be brought upon any judgment after the expiration of twelve years from the date on which the judgment became enforceable, and no arrears of interest in respect of any judgment debt shall be recovered after the expiration of six years from the date on which the interest became due."

3. Civil Procedure Rules No.49 of 2002

Enforcement period

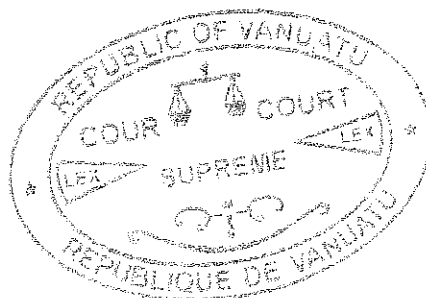
" 14.9 (1) An enforcement creditor may enforce an enforcement order at any time within 6 years after the date of the order.

(2) An enforcement creditor must get the court's leave to enforce an enforcement order if:
(a) it is more than 6 years since the enforcement order was made; or
(b) there has been a change in the enforcement creditor or enforcement debtor, by assignment, death or otherwise.

(3) The court may grant leave if it is satisfied:
(a) that the amount is still owing; and
(b) if more than 6 years has passed, about the reason for the delay; and
(c) if there has been a change, that the change has happened; and
(d) that the enforcement creditor is entitled to enforce the order; and
(e) that the enforcement debtor is liable to pay the money."


c. Discussion

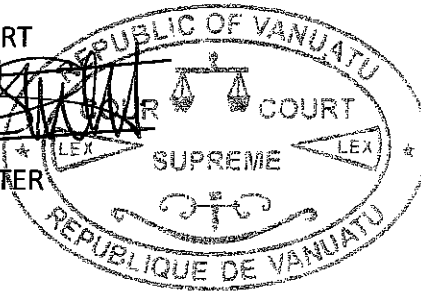
4. The Civil Procedure Rules gives the Judgment Creditors the option to enforce their judgment after 6 years on the basis that the leave of the Court is sought and granted and that the Court is satisfied that the amount is still owing.
5. There is no doubt that the amount still owes. Unfortunately, as the parties are attempting to enforce this judgment well beyond the 12 year limitation period under the Limitation Act, the court is now statute barred from assisting the parties to enforce its judgment.



d. Result

6. The Application is accordingly dismissed and the file hereby closed.
7. The parties may appeal this decision before a Judge of the Supreme Court.

BY THE COURT

DEPUTY MASTER



The seal of the Supreme Court of Vanuatu is circular. The outer ring contains the text "REPUBLIC OF VANUATU" at the top and "REPUBLIQUE DE VANUATU" at the bottom, separated by two small stars. The inner circle features a central emblem of a scale of justice. Above the scale are the words "SUPREME COURT" and below it is the word "SUPREME". On either side of the central emblem, the word "LEX" is written within a small triangle. The seal is partially obscured by the signature and the text "BY THE COURT" and "DEPUTY MASTER".