

**BETWEEN: Jiang Su Provincial Construction Group  
(Vanuatu) Limited**

**Claimant**

**AND: Zhijian Pang of Stella Mare Area**

**Defendant**

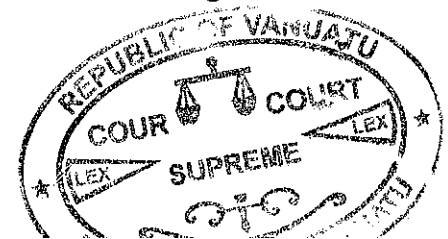
*Date of Hearing: 30<sup>th</sup> September 2020*  
*Date of Decision: 9<sup>th</sup> February 2021*  
*Before: Justice Oliver.A.Saksak*  
*In Attendance: Ms Stephanie Mahuk for the Claimant*  
*Defendant in person*

---

**JUDGMENT**

---

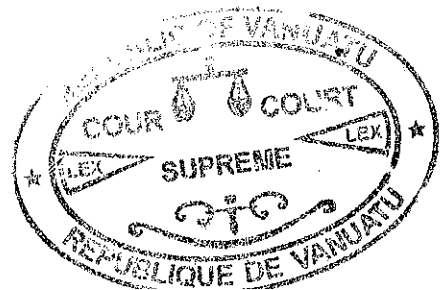
1. The claimant claims damages for defamation against the defendant in the sum of VT 8 million, together with costs and interests.
2. On 6<sup>th</sup> May 2019, 4<sup>h</sup> June, 11<sup>th</sup> June and 13<sup>th</sup> June 2019 the defendant caused the display of a banner and signage at the Family Mart, USP and PTH Roundabouts in Port Vila. These are major traffic intersections. The banner and signage were displayed and peak traffic hours from 7-8:00am, 9:00-11:00am, and 2:30pm to 5:00pm on each of the four days.
3. The claimant alleges the display was defamatory to the claimant, calculated to injure the claimant's reputation and good will in Vanuatu.
4. The claimant sought and obtained restraining orders against the defendant on 24<sup>th</sup> June 2019.
5. The defendant filed a defence on 19<sup>th</sup> August 2019 through Mr Nigel Morrison of Ridgway Blake Lawyers denying any wrong doing.
6. Mr Morrison filed a Notice of Ceasing to Act for the defendant on 5<sup>th</sup> August 2020.



7. The defendant filed another defence on 18<sup>th</sup> August 2020. He denied all claims and allegations made in paragraphs 3 and 20 inclusive of the statement of claim.
8. The claimant seeks summary judgment against the defendant on grounds:
  - (i) The defendant does not have a defence having any prospect of successfully defending the claimant's claims, and
  - (ii) The defendant does not have any evidence in support of his defence.
9. The claimant relies on the evidence by sworn statements of Ge Yihi filed on 12<sup>th</sup> June 2019, 9<sup>th</sup> July 2020, 9<sup>th</sup> September 2020 and 29<sup>th</sup> September 2020.
10. The defendant relies on his sworn statement filed on 25<sup>th</sup> September 2020 and the counter-claims filed on 27<sup>th</sup> August 2020.

### **Discussion**

11. Ms Mahuk objected to the Counter-claims on grounds they were filed late. I accept that submission and reject the defendant's counter-claims.
12. Rule 9.6 of the Civil Procedure Rules is applicable when determining an application for summary judgment.
13. Pursuant to Rule 9.6 (7) (a) the Court must be satisfied the defendant has no real prospect of defending the claims of the claimant.
14. The defendant's evidence shows that:
  - (a) He obtained authorization from the Port Vila Municipal Council to display his banner on the four days as alleged. His action was therefore not an independent deliberate action intended to defame the claim in any way.
  - (b) His intention was to get assistance from any members of the public who might wish to offer assistance.



15. In my view those are good defences of truth or justification and privilege.
16. The claimant's evidence shows the banner and signage in the sworn evidence of Ge Yihu dated 12<sup>th</sup> June 2019. The banner reads:  
 “ *CHINESE ( JIAN SU PROVINCIAL CONSTRUCTION GROUP) CHEATING CHINESE.* ”  
 It is also written in Chinese Language below the English version, in large letters and with a red ink.
17. As to the allegation of “cheating” made in the banner, the defendant's evidence is contained in his sworn statement of 25<sup>th</sup> September 2020.
18. None of the claimant's evidence addresses or responses to those issues raised by the defendant. Therefore there may be truth in the allegation made in the banner. In law where there is truth, there is justification and no action for defamation can lie.
19. For those reasons the application for summary judgment is refused and is dismissed.
20. The claims of the claimant are dismissed at this point.
21. The defendant may sue the claimant for breach of contract under a separate action.
22. There will be no order as to costs.

**DATED at Port Vila this 9<sup>th</sup> day of February, 2021.**

**BY THE COURT**

.....  
 Oliver.A.Saksak  
 Judge

