

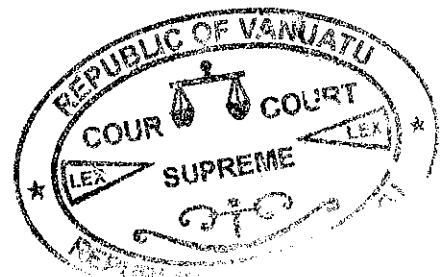
BETWEEN: **Tony Longa**
Appellant

AND: **Lency Charlie Kaun**
Respondent

Date of Hearing: 2nd October 2020
Date of Judgment: 15th February 2021
Before: Justice Oliver Saksak
In Attendance: Mr Jona Mesao for appellant
No appearance for respondents

JUDGMENT

1. The Magistrates Court sitting at Lakatoro, Malekula on 22nd July 2020 heard and appeal regarding a chiefly title.
2. The appellant Tony Longa and Family was the First Appellant and Lency Charlie Kaun and Family Kaun Tavinmal were the Second Appellants. Robert Joseph and Graham James and others were the respondents in the appeal before the Court at the time.
3. The Magistrates Court found and made orders among others, that the chiefly title "Bongamel" belongs to the respondent, and that Bongamel is an existing nasara belonging to the second appellant as the chief.
4. The appellant says the Magistrates Court had no jurisdiction to make such a finding and submitted this was an error of mixed law and fact, and that the appeal be allowed and the decision be quashed.
5. The appellant relied on sections 10, 22 and 23 of the Island Courts Act [Cap 167], sections 30 and 65 of the Judicial Services and Court's Act, and Article 47 of the Constitution.



6. The appeal fails on purely technical reasons. First, the correct parties are not named. In the Court below the parties were Tony Danrum Longa and Family were the First Appellants, Lency Charlie Kaun for Family Kaun Tavinmal were the Second Appellants and Robert Joseph, Graham James and others were the respondents. These were not the same parties in this appeal.
7. Second, the appellant Tony Longa has failed to take serious steps to prosecute his appeal which he filed through counsel on 19th August 2020.
8. Third, the appellant Tony Longa failed to attend a review on 31st August 2020 when the Court in the parties absence directed the filing of Appeal Books with Grounds of Appeal by 14th September 2020. Those directions have not been complied with by the appellant.
9. It is not surprising that Lency Charlie Kaun has not filed any responses despite he was served because of the absence of the Grounds of Appeal and an Appeal Book.
10. Fourth, the appellant failed to name Robert Joseph and others as the second respondents to ensure they have the opportunity to respond.
11. Fifth, due to lack of an appeal book the Court does not have the relevant material on which to determine the appeal.
12. In the circumstances the appeal is dismissed.
13. There is no order as to costs.

DATED at Port Vila this 15th day of February 2021

BY THE COURT

OLIVER.A.SAKSAK

Judge

