

**BETWEEN: Family Sulni represented by Roul Sulni of
Pekair village, North West Malekula,
Malampa Province, Vanuatu**

Claimant

**AND: Family Cyrus represented by Jerry Cyrus of
Tenmaru Village North West Malekula,
Malampa Province Vanuatu**

First Defendant

AND: Chief Virambath

Second Defendant

AND: Jean Martin Nidvaune

Third Defendant

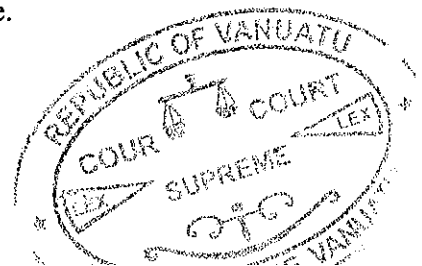
**AND: Customary Land Management Office
(CLMO) Port Vila, Vanuatu**

Fourth Defendant

Date of Judgment: 19th July 2022
Before: Justice Dudley Aru
For Distribution: Mr Roger Tevi (Agent for Mr Napuati) for
Claimant
Second Defendant
Mr Tom Loughman for Fourth Defendant

JUDGMENT

1. This is an application for leave to extend time to file judicial review (JR) proceedings out of time to challenge a decision of the first defendants sitting as the Amok Village Land Tribunal. Since 20 September 2021, the claimant has not taken any steps to pursue the application and I now deal with it on the papers.
2. The land in dispute is known as Amu custom land. On 17 September 2009 the second defendants and his council decided that the land belongs Chief Jean Martin Nidvaune. Accordingly the decision was recorded on the custom owner declaration form on 25 October 2010 and forwarded to the Custom Land Management Office who issued a Certificate of Recorded Interest 'Green Certificate' to Mr Nidvaune.



3. The claimant intends to challenge the second defendant's decision by way of judicial review and filed an application for leave to file a JR claim out of time. Rule 17.5 of the Civil Procedure Rules provides:

"17.5 Time for filing claim

(1) The claim must be made within 6 months of the enactment or the decision.

(2) However, the court may extend the time for making a claim if it is satisfied that substantial justice requires it."

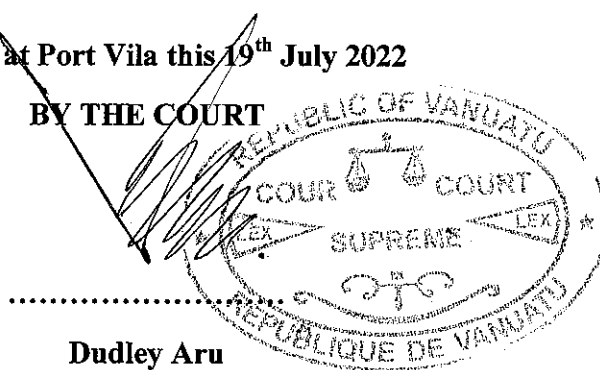
4. The requirements are any claim for judicial review must be filed within 6 months of the decision intended to be challenged. The Court may only extend time if substantial justice requires it.
5. The application for leave was filed on 10 July 2020. By then 11 years had lapsed since the decision was made. A cross application was filed by Mr Nidvaune to have the matter struck out on the basis that the application was way out of time as 11 years had lapsed. Second, the applicants were aware of the hearing and one of their members a Raol Sulni was the spokesman for chief Jean Paul Tavie at the hearing. Third, the applicants were not parties to the dispute, chief Tavie who is their chief represented their interests.
6. The same submission is echoed by the state that 11 years had lapsed and the claimants sat on their rights without doing anything. If the application were to be allowed it would be prejudicial to Mr Nidvaune who had been enjoying the fruits of the decision for 11 years.

Result

7. The application for leave to extend time is refused and is hereby dismissed. Each party to bear their own costs.

DATED at Port Vila this 19th July 2022

BY THE COURT



Dudley Aru

Judge