



**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Civil Appellate Jurisdiction)

Civil Appeal
Case No. 21/3527 SC/CIVA

**BETWEEN: Listair Advent Training Institute Committee
Inc.**

Appellant

AND: Norah Dick

Respondent

Date of Judgment: 7th June 2022
Before: Justice Oliver A Saksak
In Attendance: Mrs Marisan P Manuariki for
Appellant/Applicant
Mr Tom Joe Botleng for Respondent

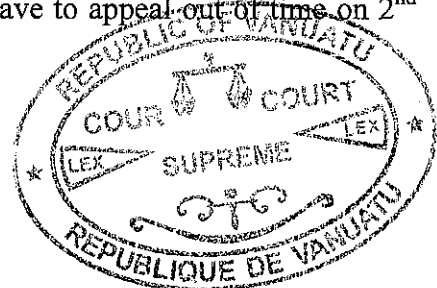
JUDGMENT

Introduction

1. This Judgment is issued on the papers.
2. On 23rd May 2022 I issued clear directions that the applicant file written submissions in support of their application seeking leave to appeal out of time by 1st June 2022, and that Mr Botleng would file responding submissions by 8th June.
3. Mr Botleng sent an email on 7th June 2022 at 9:34am informing the Court that the applicant has not filed any submissions as directed. As a result Mr Botleng in turn is not able to file any responding submissions.

Background

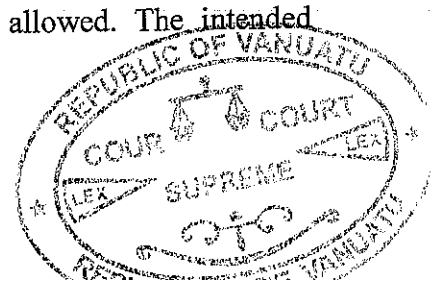
4. The applicant filed an application seeking leave to appeal out of time on 2nd March 2022.



5. The applicant, Listair Advent Training Institute Committee INC (Listair) filed proceeding in the Magistrates Court as CC 802 of 2021.
6. On 30th August 2021 the Magistrate's Court issued an Order striking out the claim on the basis of locus standi (lack of standing).
7. The applicant filed a Notice and Grounds of Appeal on 26th October 2021, well outside the appeal period of 30 days.
8. The applicant's application for leave was only filed on 2nd March 2022 about 7 months later.
9. Mr Botleng on the other hand filed an application on 13th January 2022 seeking orders that the intended appeal be dismissed with costs.

Discussion

10. First on the applicant's application for leave. Leave is refused and the application is dismissed.
11. The applicant has not complied with clear directions of the Court issued on 23rd May 2022. If the applicant as intended appellant was serious about Listair's standing to institute legal proceeding, they should have taken serious steps immediately after the decision of the Magistrate's Court to show their grievance by filing a Notice of Appeal. They waited until 26th October 2021, almost 2 months had lapsed. Moreover Listair overlooked the obligation to seek leave prior to filing the Notice and Grounds of Appeal. It is a serious oversight on the part of Listair perhaps not to instruct their lawyer sooner.
12. Those failures and/or omissions made the application for a strike out by Mr Botleng for the respondent very relevant.
13. Accordingly the application by the respondent is allowed. The intended appeal of the applicant (Listair) is hereby dismissed.



14. Costs follow the event. The respondent is entitled to her costs of the applications on the standard basis as agreed, or taxed.

15. This case is otherwise complete and the file is to be closed.

DATED at Port Vila this 7th day of June, 2022.

BY THE COURT

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Oliver A Saksak
Judge

