

BETWEEN: Norris Kalmet

Claimant

AND: Marcel Andre Brugger and Fabienne Brugger

First Defendants

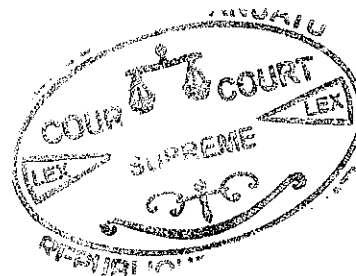
AND: Republic of Vanuatu

Second Defendant

Date of CONFERENCE: 31st day of January, 2024 at 9:15 AM
Date of Decision: 2nd day of February 2023
Before: Justice Oliver Saksak
In Attendance: Mr James Tari for the Claimant
Mr Fleming for the First Defendants/ Applicants
Mr Freddie Bong for the Second Defendant

DECISION

1. I heard Mr Tari and Mr Fleming in relation to two applications to vary the Court orders dated 23rd September 2023 and for the claim to be struck out.
2. The application to vary was filed by Mr Tari on behalf of his client, the claimant. And the strike out application was filed by Mr Fleming.
3. Having considered the written submissions filed by both counsel in relation to the two applications together with the oral responses made by them. I have decided that-
 - a) The application to vary the consent orders issued on 23rd September 2023 be dismissed.
 - b) The application to strike out the claimant's case be dismissed.



4. I now provide reasons. First for the application to vary the orders consented to in September 2023 by the Parties, I accept Mr Fleming's submission in paragraph 9 of his submissions filed 4th December 2023 that to vary the orders would essentially mean the claimant would be obtaining final orders and outstanding the jurisdiction of the Court and abusing its process.
5. For the strike out application the claim is complicated by the counter-claims of the defendants against the claimant, therefore it should not be struck out but be tried fully to determine all issues.
6. The further oral submissions made by Mr Fleming that the claimant's claims were time-barred is not pleaded in the defence and is an untenable

DATED at Port Vila this 31st day of January 2024

BY THE COURT


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Hon. Oliver Saksak

Judge

