

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

Civil Appeal
Case No. 24/2131 COA/CIVA

BETWEEN: SHEDRACK SALEMUMU by RONICK SPENLY
Appellant

AND: JOHN GORDON ARNHABAT
First Respondent

AND: JOHNATHAN TAWI
Second Respondent

AND: MARKTON SANHABAT
Third Respondent

AND: LEONARD BILL
Fourth Respondent

AND: BELDON JOE
Fifth Respondent

AND: EPHRAIM SAIRUS & JERETY
Sixth Respondents

AND: ALBERT HORAMBAT
Seventh Respondent

Date of Hearing: 7th November 2024

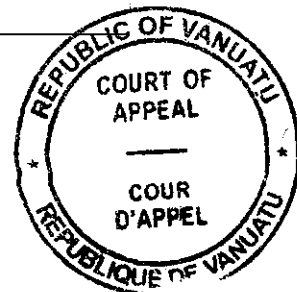
Before: Hon Chief Justice V. Lunabek
Hon. Justice R. White
Hon. Justice M. O'Regan
Hon. Justice O. A Saksak
Hon. Justice V. M. Trief
Hon. Justice E. P. Goldsbrough
Hon. Justice M. A. MacKenzie

Counsel: No appearance for the Appellant
Mr Daniel Yawha for the Second Respondent
Ms Laniana Raikatalau for the Third Respondent
Mr Roger Rongo for the Fourth Respondent
No appearances for First, Fifth, Sixth and Seventh Respondents

Date of Minute: 7th November 2024

MINUTE OF THE COURT

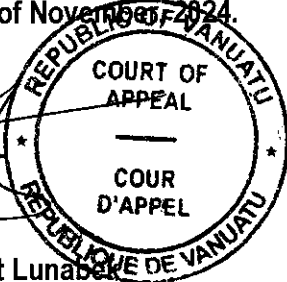
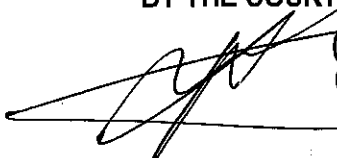
1. This is an appeal against a strike out order of the Supreme Court dated 10th June 2024.



2. The Notice and Grounds of Appeal were filed on 10th September 2024 by Willie Kapalu of Yawha & Associates.
3. When the appeal was called Mr Kapalu did not attend. Mr Yawha explained that the appeal had been transferred to Jerry Boe Lawyers. Mr Boe had arrived late at the Appeal Directions Hearing on 30 August 2024 but the Judge's Minute records that he had attended. It can be inferred that he was then informed of the Appeal listing. Mr Yawha confirmed that Mr Boe had been made aware of the Minute dated 30th August 2024 in which this listing was made.
4. The Court of Appeal noted that the appellant had not complied with the Orders requiring him to file appeal books and submissions.
5. In order to ensure that the appellant, First, Fifth, Sixth and Seventh respondents were not waiting outside the Court, the Court Officer Mrs Vinabit was instructed to check and call the parties. However, none of these parties were present.
6. The Court of Appeal noted that this very unsatisfactory state of affairs enlivened the discretion to strike out the appeal. The opportunity was given to Mr Yawha, Mr Rongo and Ms Raikatalau, to make submissions about that course.
7. Mr Yawha informed the Court that he would abide by Court orders. Ms Raikatalau adopted the same view and Mr Rongo had no objection to an order striking out the appeal.
8. Accordingly, noting the absence of the appellant and his non-compliance with the orders to file and serve appeal books and submissions, the Court ordered that the appeal be struck out for want of prosecution.
9. Mr Yawha and Mr Rongo did not seek any costs. Ms Raikatalau sought costs at VT 20,000.
10. The Court noted that as Counsel had not filed any responding submissions, there should be no order as to costs.
11. The Court reminded Counsel about their obligation to comply with Court directions concerning the filing of submissions in response even when an appellant has not done so. Doing so is of valuable assistance to the Court.
12. In summary the appeal is struck out. There is no order as to costs.

DATED at Port Vila, this 7th day of November 2024.

BY THE COURT



Hon. Chief Justice Vincent Lunabe