

(Civil Jurisdiction)

BETWEEN: PASCAL PAUL

Appellant

AND: SLQ ASSOCIATES LIMITED

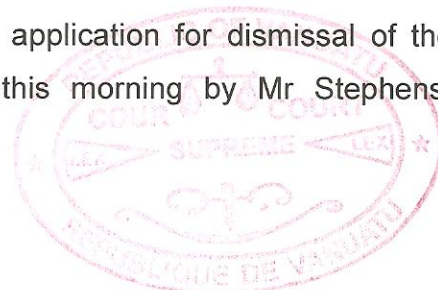
Respondent

**Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk**

**Mr Christopher Tavoia for the Appellant
Mr Saling Stephens for the Respondent/Applicant**

JUDGMENT

1. On 13th August 2009 the Court granted leave to the Appellant to file and serve his appeal out of time. And he was allowed 14 days to file and serve an amended Notice of Appeal and Grounds. In addition, he was required to file and serve Appeal Books and Submissions within the same 14 days.
2. On 29th September when the matter was next called for conference the appellant had not complied with those previous directions. He sought an extension by 7 days and the Court again granted him those 7 days to file and serve Appeal Books with Submissions. The appeal was fixed for hearing by that order for today 11th November 2009.
3. Today Mr Tavoia tells the Court about his efforts and difficulties in trying to locate his client in order to get necessary instructions and comply with the given directions. The Court is told all his efforts have been in vain.
4. Mr Tavoia acknowledges there is an application for dismissal of the appeal which has been filed only this morning by Mr Stephens. Unfortunately he has no instructions.



5. The Court has heard Mr Stephens Submissions in respect to the Application seeking dismissal of the appeal with ancillary orders. The Application is supported by the sworn statement of Stephen Quinto which is taken as read.
6. The Application stands unchallenged. The Appellant has not shown any seriousness on his part to prosecute his appeal. This appeal merely amounts to a frivolous and vexatious action intended perhaps to deny the Respondent from enjoying the fruit of his judgment in the Magistrate's Court. It must be dismissed and with costs against the appellant. He has by commencing this appeal, put the Respondent to unnecessary legal costs.
7. The formal orders of the Court are:-
 - (a) Civil Appeal Case No. 1 of 2009 is hereby dismissed.
 - (b) The Appellant will pay the Respondent's costs of and incidental to this proceeding to be agreed or taxed.
 - (c) The Sheriff of Court is hereby authorized to advertise for sale by public auction a vehicle belonging to the Appellant currently in the custody of the Court Modeled JAC and Registered No. 6063 to recoup monies owing to the Respondent from the Appellant within 14 days from the date of this order.
8. That is the judgment of the Court.

DATED at Luganville this 11th day of November 2009.

BY THE COURT


OLIVER A. SAKSAK
Judge

