

(Civil Jurisdiction)

BETWEEN: JOHN TITI

Applicant

**AND: SUPENATAVUITANO COUNCIL OF
CHIEVES of Sanma Province, Santo**

First Respondent

AND: CHIEF MICHAEL MIKE

Second Respondent

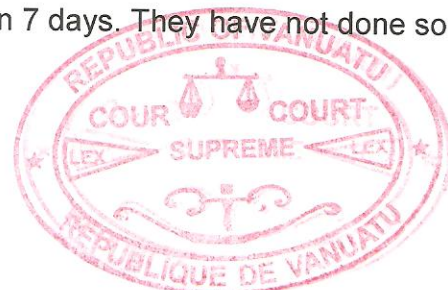
Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Mrs Marisan P. Vire for the Claimant
No appearances by the Defendants

Date of Hearing and Oral Decision: 23rd March 2010

ORAL DECISION

1. Since 4th February 2010 when this Court granted leave to Claimants to file their Judicial Review Application out of time the Court directed –
 - (a) The Claimants to file/serve Amended Judicial Review Claim within 14 days. This was done only on 16th March 2010. This was served on Mr Boar on 17th March 2010 by Marina Moli (see statement of 17th March). The Claimants had filed their Original Judicial Review Claim on 20th February 2010.
 - (b) The Respondents to respond within 7 days. They have not done so.



(c) The Parties to pay Hearing Fees of VT15.000 each, within 7 days prior to hearing date. The Claimants paid fees on 12th February 2010. The Respondents have not paid their fees to date.

(d) The hearing was listed for today 23rd March 2010 at 0830 hours. The Claimants are present ready for trial. The Respondents are not present by themselves in persons or by legal counsel. The Second Respondent has requested an adjournment by handwritten letter of 19th March 2010. The request is declined. There is no sufficient excuse why such an adjournment should be granted.

2. The Court has heard evidence from John Titi, Tavi Mele and Chief Komi Tasi. The Court has admitted the evidence of Nicholas Kolan, Clerk of Island Court. All evidence stand unchallenged and uncontested. These are tendered as Exhibit C1, C2, C3 and C4.

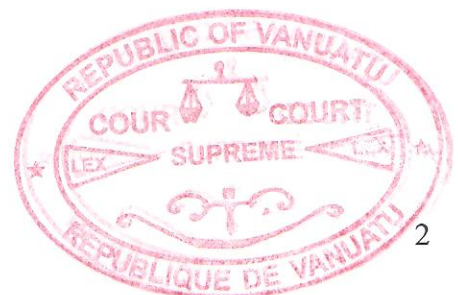
3. Findings

From the evidence presented, the Court finds and is satisfied that –

(a) The First Respondent lacks jurisdiction to make the decision of 1998. The decision is therefore declared null and void and of no legal effect. Equally the Endorsement of 24th November 2004 is null and void and of no legal effect.

The Court accepts Counsel's submissions concerning lack of jurisdiction.

(b) The claims or dispute concerning kerनावुरा land is still pending before the Lands Tribunal and should be dealt with as soon as practicable. (Exhibit C4).



4. Orders

- (a) There be judgment in favour of the Claimants.

- (b) The decisions of the First Respondent of 1998 which was endorsed on 24th November 2004 be hereby revoked.

- (c) This order be served on the Director of Land Records.

- (d) All payments to the 2nd Respondent are to cease and funds are to be continued to be paid into COTA pending determination of the dispute by Lands Tribunal.

- (e) The Second Respondent to pay for Claimants Costs of and incidental to this Action to be agreed or taxed.

DATED at Luganville this 23rd day of March 2010.

BY THE COURT


OLIVER A. SAKSAK

Judge

