

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

Civil Case No. 31 of 2011

BETWEEN: ABONG MARCELLIN representing Family Abong
First Claimant

AND: LITOUNG LUCIEN representing Family Tiosah
Second Claimant

AND: BLAISE TEMAKON representing Family Toktok
Third Claimant

AND: KOUBAK MARTIN, KOUBAK MARCEL AND
KOUBAK RONO representing Family Koubak
First Defendants

AND: FIDEL VANUSOKSOK representing Family
Vanusoksok
Second Defendant

AND: ALEX MELEUN AND AIME MELEUN
Third Defendants

AND: REPUBLIC OF VANUATU
Fourth Defendant

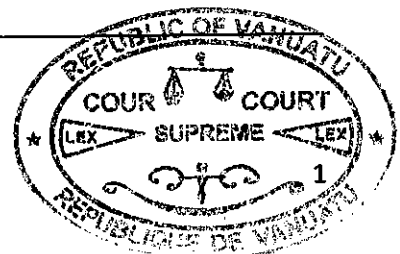
AND: FRANCOIS BATICK
Prospective Fifth Defendant

Date: *Wednesday 1 April 2015*

By: *Justice Stephen Harrop*

Distribution: *Evelyne Robert for Claimants
John Timakata (but now James Tari) for First Defendants
Colin Leo for Second Defendant
George Boar for Third Defendant
Florence Williams (SLO) for Fourth Defendant*

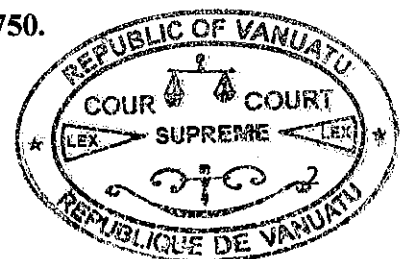
**RESERVED JUDGMENT OF JUSTICE SM HARROP
AS TO COSTS**



1. At paragraphs 45 to 48 of my judgment of 27 November 2014 I made observations about costs. I reserved the opportunity for the parties to make further submissions and to file bills of costs for taxation if agreement could not be reached.
2. No agreement has been reached and the issue was discussed at the conference on 12 February 2015. Subsequently Ms Robert, Mr Leo and Mr Boar have filed their bills of costs for consideration and taxation.
3. This a case where the claimants and second and third defendants are entitled to costs on a standard, or party and party, basis. In accordance with usual practice in this court and following the Court of Appeal judgment in *Hurley v. Law Council of Vanuatu* [2000] VUCA 10, counsel have submitted those their bills costs based on the rate of Vt10,000 per hour (plus value added tax).
4. Having considered these bills I give judgment for costs as follows.

Claimants

5. For the claimants Ms Robert has submitted a bill of costs claiming a professional fee of Vt862,000, calculated of the rate of Vt10,000 per hour.
6. I uphold this claim and award it, together with VAT of Vt107,750 ,disbursements for the filing fee (Vt20,000) and a global figure for photocopying and other sundry disbursements of Vt10,000, making a total of **Vt 999,750** costs awarded against the first defendants.
7. In addition the Republic of Vanuatu, the fourth defendant, is ordered to pay the claimants 20% of this sum, namely **Vt 199,950**, for the reasons set out in paragraphs 47 and 48 of my judgment of 27 November 2014.
8. Obviously the award of costs in favour of the claimants against the first defendants and the Republic is on the basis that the claimants are entitled to recover no more than the full amount of the costs awarded, namely **Vt 999,750**.



Second Defendant

9. Mr Leo has claimed Vt 298,333 but his bill of costs does not refer to VAT. The appropriate award is Vt10,000 per hour *plus* V.A.T. I therefore award the second defendant costs against the first defendants in the total sum of **Vt 323,499** made up as follows:-

	Vt Amount	Sub Total
Fees	291,333	291,333
V.A.T	35,166	316,499
Disbursements	7,000	323,499

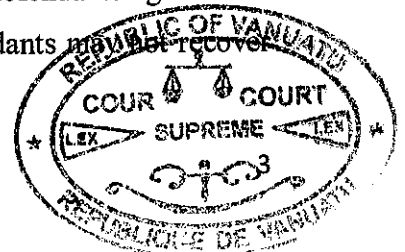
10. I see no reason why 20% of these costs should not be awarded against the Republic, the fourth defendant, for the same reasons as that award has been made in favour of the claimants. Accordingly the Republic is ordered to pay the second defendant **Vt 64,699** but again on the basis that the second defendant may only recover a maximum of Vt 323,499.

Third Defendants

11. Mr Boar claims vt431,330, again apparently excluding V.A.T but including vt20,000 for disbursements.

12. I consider this claim excessive having regard to the amount claimed by the claimants, who had to do most of the work in this case (the second and third defendants adopted a position supportive of the claimants) and having regard to Mr Leo's claim. I see no particular reason to differentiate between the second defendants and third defendants and accordingly award to the third defendants costs against the first defendants in the same sum as awarded to the second defendant namely **Vt 323,499**, calculated on the same basis.

13. Again, I award 20% of that namely **Vt 64,699** to the third defendants against the fourth defendants, but again on the basis that the third defendants may only recover more than Vt 323,499 overall.



14. Finally, I record that there were no submissions as to costs made by either the first defendants or the fourth defendants.

15. The costs awarded are to be paid by the defendants in question by 30 April 2015.

BY THE COURT

Stephen Harrop J

STEPHEN HARROP

Judge

