

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

Civil Case No. 38 of 2015

BETWEEN: JOHN ENOCK REEMAN & FAMILY
First Claimants

AND: KALSAL DAVID AND LUKE KALSAL
Second Claimants

AND: APIA CHARLIE AND FAMILY
Third Claimants

**AND: SAUL ENOCK AND FAMILY, ROBSON AND
FAMILY, TITU MAISON AND FAMILY, JAMES
PAKOA RUBEN AND FAMILY, TATEY T AND
FAMILY SAM REISON AND FAMILY, JOHN
STANLEY, KEN STANLEY, KALSAL MAEL
AND FAMILY, TERRY TULANG AND FAMILY,
BOB MANSES AND FAMILY, MOSES WALTER
AND FAMILY, MAWA AWELL AND FAMILY,
TONY JOANA AND FAMILY, GRAHAM YOAN
AND FAMILY, REUBEN AWELL AND FAMILY**
Fourth Claimants

**AND: PAUL MAKI AND FAMILY, SABI BETUEL AND
FAMILY KETES HARRY AND FAMILY, BOB
HOMU AND FAMILY, HUNGAI HOMU AND
FAMILY AND JERENIMO ESRON AND FAMILY**
Fifth Claimants

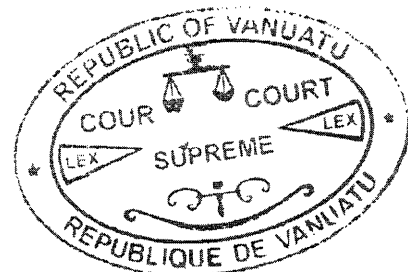
**AND: ALBEA DAVID AND COUNCIL (EMIL MAEL,
PERTHA JACKSON, NORMAN SAMULE,
FRANK TOVO, GEORGE SIMELUM AND MAKI
SIMELUM**
First Defendants

AND: REPUBLIC OF VANUATU
Second Defendant

Coram: Mr. Justice Oliver A. Saksak

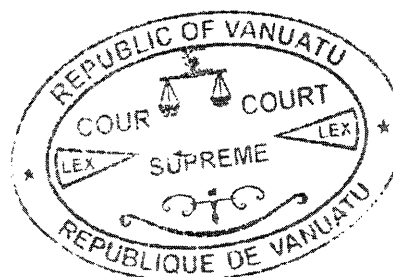
*Counsel: No appearance by the First, Second, Third, Fourth, fifth and Sixth Claimants
(Tom.J.Botleng)
Felix Laumae for the First Defendants
Kent Tari for the Second Defendant*

Date: 15th March 2016



JUDGMENT

1. By Order dated 1st March 2016 this matter was adjourned to today for the hearing of the Republic's application to have the claimant's claims and proceeding struck out. The claimants and the First Defendants were required to have filed their responses and evidence by sworn statements within 14 days.
2. The claimants have not complied with that direction. Mr Laumae for the First Defendants tells the Court today that his clients support the application by the State to have this proceeding and claims struck out with costs.
3. The State filed the application on 25th February 2016 together with the supporting evidence by sworn statement of Jean Marc Pierre. Service was effected on 3rd March 2016.
4. The grounds of the application are that (a) the claimants are not the custom land owners of the land comprised in the two leases the subject of this proceedings and (b) they have no registerable interest. The State relies on the evidence of Jean Marc Pierre and the Court of Appeal cases of **Ratua Development Ltd.v. Ndai** [2007] VUCA 23 at [15-20] with particular emphasis on [19], and on **Naru.v. Kalorib & others** Civil Appeal Case No.31 of 2003.
5. Mr Laumae supports the application and seeks costs against the Claimants. Counsel alludes the Court to another proceeding currently before the Chief Justice but which has been stayed pending the determination of the Claimants claim in this proceeding.
6. I have read the sworn statement of Jean Marc Pierre. I have read the judgments of the Court of Appeal in the cases of **Ratua** and **Naru**.



7. I am not satisfied the Claimants have any evidence to show they have been declared as custom owners of the land comprised in the two leases in question. Further I am not satisfied the Claimants have any evidence to show they have any registerable interests in the land in the two leases concerned.
8. The Court of Appeal has laid down clear authorities on the matter. I therefore accept Mr Tari's submissions as supported by Mr Laumae that all these Claimants have no standing to institute their claims and this proceedings. I therefore dismiss all their claims and this proceeding in their entirety.
9. Their claims are misconceived. The application by the State is unchallenged and it is allowed.
10. The First and Second Defendants are entitled to their costs of and incidental to this proceeding against the Claimants on the standard basis as agreed or taxed by the Master.

DATED at Port Vila this 15th day of March 2016

BY THE COURT


OLIVER A. SAKSAK

Judge

