

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

Land Appeal
Case No. 11/4 SC/LNDA

BETWEEN: FAMILY NORMAN WONA
Appellant

AND: JOHNIS PAUL
Respondent

Date of Hearing: 10th September 2019

Coram: Justice Aru

Assessors: Abel Patison
Dick Rockliff

Counsel: Mr. D. Yawha for the Appellant (Family Norman Wona) no
appearance- Jimmy Wona in person
Respondent (Johnis Paul)-no-appearance

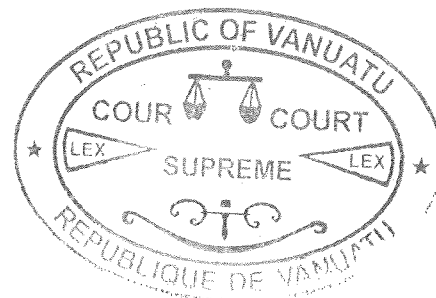
JUDGMENT

Introduction

1. This is a land appeal from a decision of the Banks/Torres Island Court dated 26 August 2011. Initially there were 8 parties disputing custom ownership of an area of land called "SEBER". Following the judgment only one of the parties appealed and that is Family Norman Wona. Their appeal only relates to declarations made to family Johnis Paul. Both parties are from the same clan of Seber. Primary ownership rights were declared to descendants of Mathew Vusqal represented by Johnis Paul. Secondary rights were declared to descendants of Ropapliger represented by Norman Wona.

Background

2. Family Norman Wona filed their notice of appeal on 28 September 2011. Grounds of appeal were only filed on 21 August 2013. A response was filed by Johnis Paul on 18 June 2014.
3. From 2014 onwards the matter was managed by Fatiaki J. On 8 September 2014 with both parties in attendance, Mr B Yosef of Yahwa & Associates for the appellant and the respondent in person, the appellant was directed to file and serve the Appeal Book by 30 October 2014. The hearing was adjourned to a date to be notified by the parties.



4. At a conference on 3 July 2019, Mr Yahwa appeared as counsel on record for the appellant. There was no appearance from the respondent. Orders were issued (3 July orders) directing the appellant again to file and serve the Appeal Book within 28 days. Another 7 days was allowed to file and serve their written submissions and a hearing date was fixed for 9.00 am on 9 September 2019 at Sola, Vanua Lava.
5. The respondent was also allowed time to file and serve his written submissions in response upon being served and the Island Court clerk was directed to serve a copy of those orders immediately on the respondent.
6. Both parties were served with a copy of the 3 July Orders on 17 July 2019 by the island Court clerk at Sola, Vanua Lava as deposed by Mr. Robson Iapsai in his sworn statement of service dated 22nd July 2019.

Consideration

7. When this matter was called, there was no appearance from Mr. Yahwa. Mr. Jim Wona appeared in person for the appellant. He said they had sent funds to Mr. Yawha for his airfare for the hearing and VT16, 000 to prepare and file the appeal book. They were not aware why he was not in Court. The Court was not informed of the reasons for Mr. Yawha's non-attendance. The appellant had also not filed any appeal book as directed and no written submissions were filed. Mr. Wona requested more time be given to the appellant.
8. From the date of Fatiaki J's directions to date, 5 years has now lapsed and still the appellant has not filed any appeal book. Roughly a month was given on 3 July 2019 to the appellant to file it with his written submissions and nothing was filed.
9. The request for a further extension of time is refused. So much time had lapsed with the appellant doing nothing. Full grounds of appeal were filed on 21 August 2013 and after 6 years the appellant has still not filed any appeal book and written submissions despite clear directions from this Court.

Result

10. The appeal is dismissed and is hereby struck out. No order as to costs.

DATED at Sola Vanua Lava this 10th day of September, 2019

BY THE COURT

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D. Aru
Judge

