

**IN THE COURT OF APPEAL OF
THE REPUBLIC OF VANUATU**
(Civil Appellate Jurisdiction)

Civil Appeal
Case No. 24/3140 COA/CIVA
[2025] VUCA 14

BETWEEN: FAMILY VUTINASUPE ROPO & ORS
First Appellants

AND: FAMIY LIVONACOPA ROPO & ORS
Second Appellants

AND: FAMILY JOHN SAKSAK & ORS
Third Appellants

**AND: PRESBYTERIAN CHURCH OF NEW HEBRIDES
ASSOCIATION**
First Respondents

AND: FAMILY VIJINAKARAI VUTILOLO & ORS Second
Respondent

AND: FAMILY JAMES VUTI & ORS
Third Respondent

**AND: FAMILY HOE MELE trading as EMILE HOE
ASSOCIATES**
Fourth Respondent

AND: FAMILY HOE MELE
Fifth Respondent

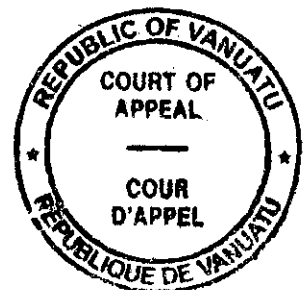
AND: FAMILY SOCEPOJIJI & ORS
Sixth Respondent

Date of Hearing: 06 May 2025

Before: Hon. Chief Justice V. Lunabek
Hon. Justice J. Mansfield
Hon. Justice R. Asher
Hon. Justice O.A. Saksak
Hon. Justice V. M. Trief
Hon. Justice E.P. Goldsbrough

Counsel: Mr F. Loughman for the First, Second and Third Appellants
Ms T. Harrison for the First Respondent
No appearance for the Second, Third, Fourth, Fifth and Sixth Respondents

Date of Decision: 16 May 2025



JUDGMENT OF THE COURT

Introduction

1. This is an application by the Appellants (Applicants) to reinstate the Appellants' Application for extension of time to appeal the judgment of the Supreme Court against the Appellants dated 6th August 2024, which was struck out by this Court on 14 February 2025 in *Ropo v Presbyterian Church of New Hebrides Association* [2025] VUCA 4; Civil Appeal case 3140 of 2024 (14 February 2025).

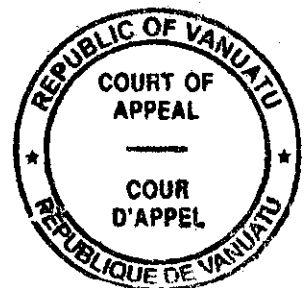
Issue and Submissions

2. The applicants say that the basis of their application is the exceptional circumstances they were facing that prevented them from complying, the arguable merits of the appeal, and the disproportionate prejudice to them should they be denied the opportunity to be heard.
3. The issue in this case is whether or not the Court of Appeal has the power (jurisdiction) to revisit its own earlier decision.
4. The Appellants submit that the Court of Appeal possesses inherent powers pursuant to section 65 of the Judicial Services and Courts Act [Cap 270] to carry out their functions. They rely on the Judgment of this Court in *Stage Four Ltd (as Trustee for the Montreal Trust) -v- 100% Pure Fun Ltd* [2024] VUCA 3, where this Court recognised the inherent powers of the Supreme Court to set aside its own orders, following the principle in *Taylor v Taylor* [1979] HCA 38; (1979) 143 CLR 1.
5. The First respondent opposes the application and submits that the Court of Appeal has no power to reinstate its earlier decision striking out the Appellants' application to extend time to appeal the judgment of the Supreme Court dated 6th August 2024.

Discussion

6. Section 65 of the Judicial Services and Courts Act [Cap 270] is the relevant provision. It provides as follows: -

65. ***Inherent powers of Supreme Court and Court of Appeal, ...***
 - (1) *The Supreme Court and the Court of Appeal have such inherent powers as are necessary to carry out their functions. The powers are subject to:*
 - (a) *the Constitution; and*
 - (b) *any other written law; and*
 - (c) *the limitations of each Court's jurisdiction.*



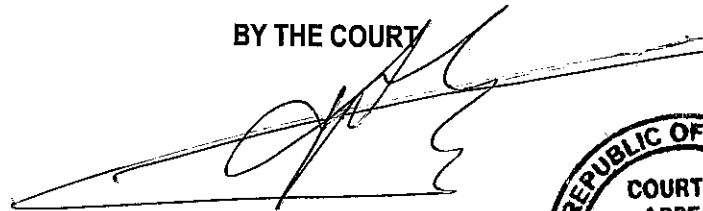
7. The Court of Appeal, being the superior Court of record, has an inherent power to revisit its own orders in line with the principle in *Taylor v Taylor* [1979] HCA 38, (1979) 143 CLR 1 at 7. The existence of the Court of Appeal's inherent jurisdiction is confirmed by section 65 of the Judicial Services and Courts Act. We agree with the Appellants' submission that the Court of Appeal may revisit its earlier decision.
8. The question is whether or not, in the circumstances of the present case, we should exercise that power (jurisdiction) to revisit the earlier decision of this Court dated 14th February 2025, striking out the Application to extend time to appeal against the decision of the Supreme Court of 6th August 2024.
9. In the present case, the Appellants do not provide the Court with material to justify the need for this Court to overturn its decision of 14th February 2025.
10. The two sworn statements of Julian Wells and Rex Ropo, which were both filed on 17th April 2025, contained explanations from the Appellants that should have been before this Court in February 2025 before the judgment issued on 14 February 2025. No explanation was provided as to why that material was not made available in February 2025 at the earlier hearing. However, having now considered that material, we find that there is still no material justifying the need for this Court to change its decision striking out the earlier application to extend the time to appeal the Supreme Court's decision dated August 6, 2025.

Decision

11. We are of the view that the Appellants' Application to reinstate the Appellants' Application for extension of time to appeal, which this Court struck out on 14th February 2025, has to be dismissed. It is, therefore, dismissed.
12. Costs of VT 50,000 are ordered to be paid by the Appellants/Applicants to the First Respondent.

DATED at Port Vila, this 16th day of May, 2025.

BY THE COURT



Hon. Chief Justice V. Lunabek

