

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

**Civil
Case No. 21/1631 SC/CIVL**

BETWEEN: Philimon Loy
Claimant

AND: The Republic of Vanuatu
Defendant

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

**Civil
Case No. 21/1393 SC/CIVL**

BETWEEN: Pauline Loy
Claimant

AND: The Republic of Vanuatu
Defendant

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

**Civil
Case No. 21/1713
SC/CIVL**

**BETWEEN: Family Molbarav represented by Timothy Molbarav,
Kerry Molbarav & Jason Molbarav**
Claimants

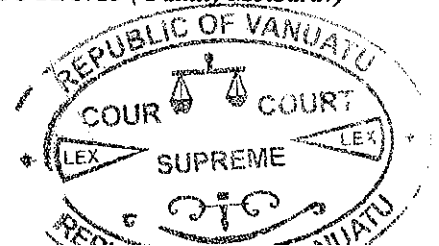
AND: The Republic of Vanuatu
First Defendant

**AND: Family Loy and Administrator of Estate of Daniel
Loy**
Second Defendants

Date of Hearing 27th January 2022
Date of Decision 28th April 2022

Coram: Justice Oliver A Saksak

Counsel: Mr Daniel Yawha for Claimant, Philimon Loy in CC 21/1631
Mrs Marisan Vire for Claimant, Pauline Loy in CC 21/1393 and
Second Defendant in CC 21/1713
Mr Philip Fiuka for Claimant in CC 21/1713 (Family Molbarav)
No appearance for Republic

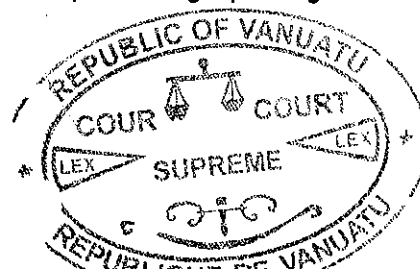


DECISION

1. The application filed by Mrs Vire on 25th November 2021 on behalf of the Second Defendant in Civil Case No. 21/1713 is hereby dismissed.
2. The applicant will pay the claimant's costs of the application as agreed or taxed.

Background

3. The parties in CC 21/1713 are Family Molbarav as claimant and the Republic as First Defendant and Family Loy and Administrator of the Estate of Daniel Loy as Second Defendant.
4. The parties in CC 21/1631 are Philimon Loy as claimant and the Republic as defendant.
5. The parties in CC 21/1393 are Pauline Loy as claimant and the Republic as the defendant.
6. Mr Daniel Yawha is the lawyer on record for Philimon Loy in CC 21/1631.
7. Mr Justin Ngwele is the lawyer on record for Pauline Loy in CC 21/1393.
8. Mrs Vire now represents the Family Loy and Administrator of the Estate of Daniel Loy instead of Mr Ngwele.
9. It is not immediately clear whether Mr Ngwele has ceased acting for the Family Loy and the Estate as there appears no Notice to Cease Acting has been filed. If it is, it is not on the Court's file.
10. Mr Ngwele filed a defence in CC 21/1713 on 13th August 2021 together with an urgent application seeking orders to strike out the claim and the interlocutory orders issued on July 2021.
11. On 15th October 2021 the Court stayed all applications and these proceedings pending the determination of the Santo/Malo Island Court.



12. The Court granted liberty to the claimants to seek a relisting of the proceedings should circumstances permit.

Discussion

13. Pauline Loy, Claimant in CC 21/1393 did not apply to relist this matter, instead she applied for the same orders sought by Mr Ngwele in the application filed on 13th August 2021.
14. The application filed by Mrs Vire on 25th November 2021 is therefore contemptuous and is an abuse of process.
15. On 27th January 2022 the Court issued directions to Counsel to file submissions to assist the Court formulate its decision on the papers.
16. The Republic, Mr Yawha and Mrs Vire have not complied with those directions. Only Mr Fiuka filed written submissions on 15th February 2022 which should have been filed on 9th February 2022.
17. I have read those submissions and entirely agree with them.
18. Accordingly the application is dismissed with standard costs as agreed or taxed, to be paid by Pauline Loy to the Claimant within 21 days after agreement or taxation.
19. The Orders of 15th October 2021 continue to apply.

DATED at Port Vila this 28th day of April 2022

BY THE COURT


OLIVER A. SAKSAK

Judge

