

BETWEEN: Poita Kasiken

Applicant

AND: John Nalwang

First Respondent

AND: Kasaru Tribe Council/ Ipikagian Nakamal

Second Respondents

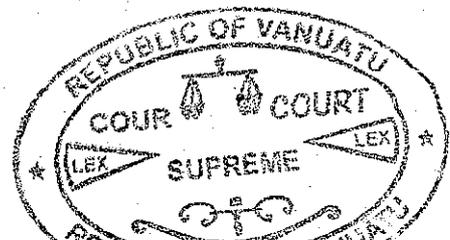
AND: Peter Tafla & Nakamal Family

Third Respondents

Date of CONFERENCE: 28th day of January, 2025 at 8:15 AM
Before: Justice Oliver Saksak
In Attendance: Mr Sakiusa Kalsakau for the Claimant – Excused
Mr Jonah Mesao for First Defendant
No appearance for Second Defendat- Ms Nadya Robert
No appearance for Third Defendant- Mr Nigel Morison

RULING

1. By Notice issued on 6th January 2025 this matter was made returnable for conference at 8:15am today (28 January 2025).
2. I am informed by Mr Mesao that Mr Kalsakau is unwell and seeks to be excused. Ms Robert and Mr Morrison, Counsel for second and Third defendants did not appear without any explanation.
3. In any event Mr Mesao informed the Court that the First Defendant has conceded the claim of the claimant.
4. The concession by the First Defendant is enough to end this proceeding in which the claimant seeks in the main, a quashing order in relation to the Certificate of registered interested issued by the First Defendant on 9th December 2023. Further the claimant



seeks a quashing order against the decision of the Second Defendant of 14th November 2017.

5. Rule 17.4 (2) of the Civil Procedure Rules states-

17.4 (1) A person claiming judicial review may file a claim claiming:

(a) a declaration about an enactment; or

(b) a mandatory order, a prohibiting order or a quashing order about a decision.

(2) The claim must name as defendant:

(a) for a declaration, the Attorney General; and

(b) for an order about a decision, the person who made or should have made the decision.

(3) The claim must:

(a) set out the grounds for making the claim; and

(b) have with it a sworn statement in support of the claim; and

(c) be in Form 34.

6. The person who made decisions under challenge are the First and Second Defendants. The third named Defendants are not concerned and should not have been made a party.

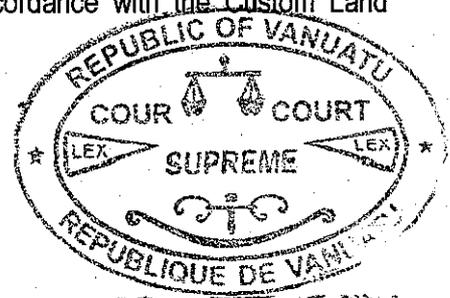
7. The First Defendant made his decision based on the decision of the Second defendant which, from the evidence available was made fraudulently and in the absence of the claimant who were advised the meeting would not take place, yet it occurred without them. They were denied natural justice.

8. Accordingly I rule that the claims be allowed and the claimant be entitled to the following orders-

a) The First Defendant's decision dated 8th December 2023 to issue a Certificate of Recorded Interest in Lautapas Land to the Third Defendants, including the Certificate itself dated 11th December 2023, are hereby brought up and quashed.

b) The Second Defendant's decision dated 14 November 2017 is hereby brought up and quashed.

c) The Lautapas Land Dispute be referred back to an appropriate and relevant Nakamal for hearing and determination in accordance with the Custom Land Management Act.



- d) The First and Second Defendants are to pay the Claimant's costs of this proceeding on the standard basis as agreed or taxed.

DATED at Port Vila this 28th day of January, 2025.

BY THE COURT


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Hon. Oliver Saksak
Judge

