

IN THE MATTER OF : ANTI- MONEY LAUNDERING AND COUNTER
TERROSIM FINANCIAL ACT NO. 13 OF 2014

BETWEEN: REPUBLIC OF VANUATU
Applicant

AND: BOARD OF THE RESERVE BANK VANUATU
First Respondent

AND: AUGUST LETLET, GOVERNOR OF RESERVE
BANK OF VANUATU
Second Respondent

AND: KENSEN SERI
First Interested Party

AND: NOEL VARI
Second Interested Party

Date of Hearing: 1st day of April 2025

Date of Oral Decision: 1st day of April 2025

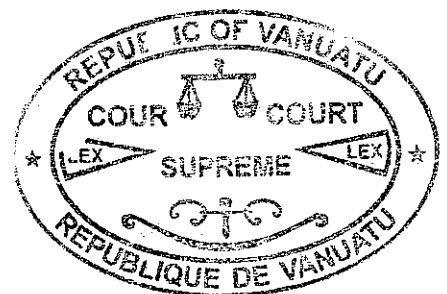
Date of Written Decision: 2nd day of April 2025

Before: Hon. Justice Oliver A. Saksak

Counsel: Mr Garry Blake for the Second Respondent as applicant
Mr Sammy Aron for the Applicant as the respondent
No appearance for the First and Second Interested Parties

DECISION

1. Having heard both Mr Blake and Mr Aron in relation to-
 - a) The Second Respondent's application to vacate the exparte orders dated 7th March 2025, and
 - b) The Supreme Court claim filed by the Applicant on 28 March 2025, and
 - c) The Application by the Applicant filed on 1st April 2025 to amend the Supreme Court claim, and
 - d) costs

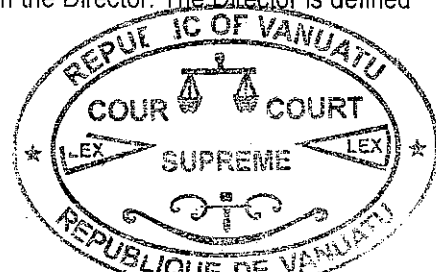


I handed down my oral decision.

- a) Allowing the application of the Second Respondent and vacating the orders dated 7th March 2025,
 - b) Refusing the Applicant's application to amend the Supreme Court claim, and
 - c) Striking out the claim.
2. I now publish the reasons for those decisions

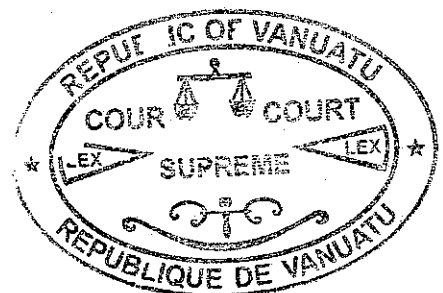
Background

3. On 7th March 2025 at 4:30pm the Office of the Attorney General filed an urgent ex parte application seeking interlocutory orders pursuant to Rules 7.5 and 7.6 of the Civil Procedure Rules and sections 50F (3) and (4) and 50G (3) and (4) of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014 (the AML Act).
4. The application was filed together with a memorandum as to damages, a sworn statement as to urgency deposed to by Teddy Garae with a sworn statement in support.
5. The Court sat in chambers at 5:25pm on 7th March 2025 to hear the application ex parte. Having heard Mr Aron, the Court allowed the urgent application and issued the ex parte orders. The First Interested Party was present at the chambers hearing but took no part or was not heard, as it had appeared to me that the application was made on behalf of the Interested Parties as well.
6. On 18th March 2025 Mr Blake filed an urgent application on behalf of the Second Respondent seeking orders to set aside the 7th March orders, and costs. He also filed the sworn statement of August Letlet in support of the application together with the application.
7. On 31st March 2025 Mr Blake prepared written submissions which he filed at 11:00am on 1st April 2025. These submissions consist of 57 paragraphs in 12 pages. Mr Blake spoke to those submissions and relied on them.
8. Mr Aron informed the Court he had filed written submissions which he referred to and placed reliance on them. These were not before me at the hearing although my associate attempted to find them in the system. At the time of publishing the reason, I still had not seen any written submissions.
9. Be that as it may I now provide reasons as follows-
 - a. Firstly the application made on 7th March 2025 by the Republic is misconceived and is an abuse of process. The applicant relied on sections 50F and 50G of the AML Act. This section places the discretionary power to apply on the Director. The Director is defined



in the Act. To mean the Director of the Financial Intelligence Unit (FIU). The application was not made by the Director and the FIU is not a party to the application.


- b. Secondly, the Supreme Court claim filed on 28 March 2025 has not been lodged by the Director of the FIU as should have been if reliance was placed on sections 50F and 50G of the AML Act.
 - c. Thirdly, the reliefs sought in the application made by the Republic was to be for the benefit of the First and Second Interested Parties. As such and as individual officers, they should be named as the claimants (either First and Second Claimants or Second and Third Claimants/ as the stay orders concerned their suspensions. The orders did not directly concern the Republic.
 - d. Fourthly as Interested Parties and more appropriately in my view the claimants, they should be represented separately by legal counsel. But that was not the case on 7th March 2025 and even at today's hearing.
 - e. Fifthly, the application to amend the claim, even if allowed has not remedied the current errors vis-à-vis (a) that the action is not brought by the Director and (b) the aggrieved officers are not the claimants as they should be.
 - f. Sixthly, the claim filed seeks reliefs normally sought under Judicial review actions, not by a normal civil action.
10. For the given reasons, I accepted the extensive submissions made by Mr Blake on behalf of the Second Respondent. I agree with Counsel that the application was misconceived and is an abuse of process.
11. In the circumstances I came to the conclusion the application to vacate the orders of 7th March 2025 was appropriately made and was allowed. Having reached that decision it followed that the application to amend the Supreme Court claim filed on 1st April 2025 should and must be refused and dismissed. It followed further that the Supreme Court claim filed on 28 March 2025 should and must hereby be struck out.
12. Mr Blake asked for costs specifically for VT 500,000. Mr Aron submitted this was excessive and submitted the reasonable costs should be VT 150,000. I disagreed.
13. Mr Blake filed a Notice of Beginning to Act on 18th March 2025 on the same date he filed the urgent application to set aside the 7th March 2025 orders. On the same date Counsel filed a sworn statement of Mr Letlet containing 20 paragraphs and three Annexures including the Reserve Bank Staff Policy with 60 pages long. Further on 1st April Mr Blake filed a length submissions of 12 pages long with 57 paragraphs.



14. Those documents indicate the amount of work and preparations put into the application by Mr Blake. In my view the reasonable costs should be VT 300,000. I order the Applicant to pay the Second Respondent's costs at VT 300,000 within 28 days from the date of this Decision and order.

DATED at Luganville this 2nd day of April 2025

BY THE COURT


Hon. Oliver A Saksak

Judge

