

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

Civil Appeal  
Case No. 25/1996 COA/CIVA  
[2025] VUCA 32

BETWEEN: JOSHUA KALSAKAU  
*Appellant*

AND: STEPHEN KALSAKAU  
*Respondent*

Date of Hearing: 7 August 2025

Before: Hon Chief Justice Vincent Lunabek  
Hon Justice Mark O'Regan  
Hon Justice Anthony Besanko  
Hon Justice Oliver Saksak  
Hon Justice Dudley Aru  
Hon Justice Viran Molisa Trief  
Hon Justice Maree MacKenzie

Counsel: Mr C Leo for the Appellant  
The Respondent in person

Date of Decision: 14 August 2025

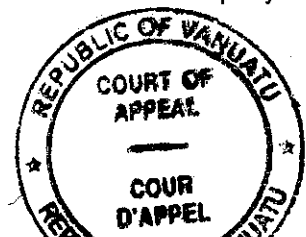
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## JUDGMENT OF THE COURT

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### Introduction

1. The appellant, Joshua Kalsakau (Joshua) and the respondent Stephen Kalsakau (Stephen) are members of the same family group, the Warkali Kalsakau (the Family). The Family has an interest in Ifira Trustees Ltd (the Company). The Family has the right to elect a representative to serve as a director of the Company. The Company notified the Family that the term of the Family's previous director was coming to an end and asked the Family to meet and elect the person the Family wished to be their representative on the Board of the Company. The Family does not have any corporate or other legal structure.
2. The process of electing the Family's representative did not go smoothly. In fact, both Joshua and Stephen claim they were elected to represent the Family on the Board of Directors of the Company.



The Company has recognised Stephen as the Family's representative and he was appointed as a Director of the Company and has held that office since November 2021.

### **Joshua's claim**

3. Joshua commenced proceedings in the Supreme Court seeking a declaration that Stephen's election as the Family's representative on the Board of the Company was invalid. The claim came before the Supreme Court and was dismissed. Joshua appeals to this Court against that decision.

### **Background**

4. In summary, the background to the dispute is that Stephen claimed that he was elected as the Family's representative at a Family meeting on 22 October 2021. That meeting had been preceded by a meeting on 9 October 2021 and a similar meeting on 18 October 2021, which was adjourned until 22 October 2021. Stephen says that those present at the 22 October 2021 meeting elected him. However, there were very few Family members present at the meeting. One reason for this was the restrictions resulting from the COVID-19 pandemic.
5. Joshua says that he was elected at a duly convened meeting of the Family on 26 November 2021, in which a much larger number of Family members were present.

### **Supreme Court decision**

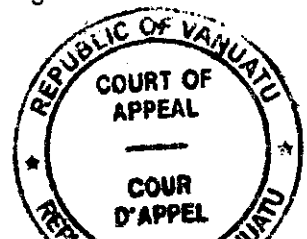
6. There was much evidence about the processes involved in the convening and conduct of these meetings and about the persons who actually convened them and chaired them and whether they were entitled to undertake those functions. But the Primary Judge did not consider he could adjudicate on the propriety or otherwise of these meetings. As he put it:

This is a family process, and families are entitled to make their own rules. Those rules are not prescribed in law.

7. Later the Judge added:

[Joshua] asks the Court to accept and apply the principles of democracy to the dealings of his family, even though there is no evidence that the Family wishes to apply those democratic principles.

8. In the hearing before us, Mr Leo accepted that the complaints about the convening and conduct of



the various meetings were not founded on any legal requirement. He referred us to a document in the record that appeared to be a draft constitution for the family, but accepted there was no evidence members of the Family had agreed to be bound by it.

### **Result**


9. We see no error in the Primary Judge's conclusion that there was no legal basis on which a declaration that Stephen's election was invalid could be made. We therefore dismiss the appeal.

### **Costs**

10. As Stephen was appearing in person (and was not required to respond to the appellant's submissions), we make no award of costs.

**DATED at Port Vila, this 14<sup>th</sup> day of August 2025**

**BY THE COURT**

  
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Hon Chief Justice Vincent Lunabek

