

BETWEEN: MARK TARINU, LPAKO TARINU, TELWIN OLIVE,
LENA OLIVE, MICHEL TOARA, LEWI TOARA, MARK
PAUL, MARIE PAUL, MOSES NALIU, REIJIM NALIU,
PETER TOM NALIU AND IASIMUT NALIU
Applicants

AND: LOVITE SIMAIMA KALSONG
Respondent

Date of Hearing: 4 February 2026

Before: Hon. Chief Justice Vincent Lunabek
Hon. Justice Mark O'Regan
Hon. Justice Oliver A Saksak
Hon. Justice Michael Wigney
Hon. Justice Dudley Aru
Hon. Justice Maree MacKenzie
Hon. Justice Beverleigh K Joshua

Counsel: Mr Colin B Leo for the Applicants
Mr Daniel Yawha for the Respondent

Date of Judgment: 13 February 2026

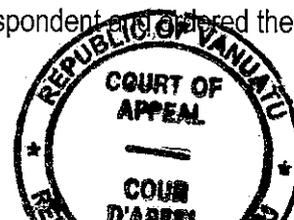
JUDGMENT OF THE COURT

Introduction

1. The applicants are a group of twelve Individuals who wish to appeal against decisions of a Judge of the Supreme Court dated 16th July 2024 and 2nd August 2024.

Background

2. The applicants were the defendants in Civil Case No. 23/2145 where the respondent was the claimant. The respondent sought an order to evict the applicants from a parcel of leasehold land. The applicant's defence and counter-claim was struck out by the judge on 16th July 2024. On 2nd August 2024, after a formal proof hearing the Judge gave judgment in favour of the respondent and ordered the applicants to remove themselves from the Leasehold land within 30 days.



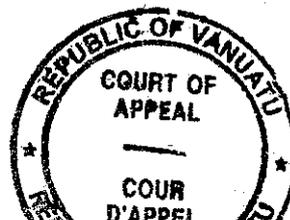
3. The applicants sought a stay of the 2nd August 2024 judgment but the Judge refused the application and issued the reasons for her decision on 28th November 2024.
4. The applicants applied for an extension of time to appeal against the 28th November 2024 decision. The Court of Appeal in May 2025 refused to grant the extension of time. The Court of Appeal made reference to the 16th July and 2nd August decisions in paragraph 2 of its judgment. The Court referred to those two decisions in paragraphs 3 and 4 of the judgment. In [5] the Court said:

"There was no appeal by the Applicants from that decision on 16th July 2024 or from the judgment given on 2nd August 2024."

5. The applicants now apply for an extension of time to appeal against the 16th July 2024 and the 2nd August 2024 judgments.
6. The original notice of appeal (which we treat as an application for an extension of time to appeal) was filed on 27th November 2025 some 15 months outside the 30 days period for appealing. An amended notice of appeal was filed only on 2nd February 2026, some 18 months outside the appeal period.

Discussion

7. In *Laho v QBE Insurance Vanuatu Ltd* [2003] VUCA 26, this Court set out the factors that should be taken into account in deciding whether or not to grant an extension of time to appeal. These factors are:
 - a) The length of the delay;
 - b) The reasons for the delay;
 - c) The chances of the appeal succeeding if time for appealing is extended; and
 - d) The degree of prejudice to the potential respondent if the application is granted.
8. We address these factors in turn.
 - a) The length of delay in this case is significant: 15 months after the expiry of the appeal period. That counts against the grant of an extension of time, and that is amplified in the present case by the fact that the applicants could have appealed against the July 2024 and August 2024 decisions when they attempted to appeal against the November 2024 decision, in which a stay of the August 2024 decision was refused. There was no adequate explanation of why they failed to do so.



- b) No adequate reason was given for the delay. Counsel for the applicants sought to blame the applicants' previous lawyer but did not specify how that lawyer was to blame. We see the delay as essentially unexplained.
- c) Mr Leo argued the proposed appeal had real prospects of success, but his summary of the points to be pursued on appeal did not appear to us to indicate the appeal points have merit. He complained that the Judge did not allow the applicants to amend their claim, but we note they did not appeal against that ruling.
- d) The prejudice to the respondent is that, having had judgment in their favour in the Court of Appeal's May 2025 decision, they were entitled to believe that the challenge to the evictions was over. It would be prejudicial to them to have to go through another Court of Appeal process, having already resisted the applicants' earlier Court of Appeal challenge.

Result

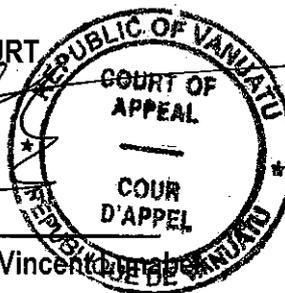
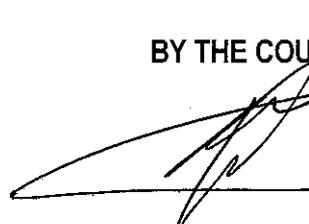
- 9. Having considered these factors, we consider that it is not in the interests of justice to grant the extension of time sought by the applicants. The application is dismissed.

Costs

- 10. In relation to costs, we accept Mr Yawha's submission that the respondent is entitled to costs on an indemnity basis. We are informed the applicants have been evicted from the respondent's lease but that they have not paid costs in the Supreme Court at VT 100,000 and in the Court of Appeal of another VT 100,000.
- 11. We therefore order that the applicants pay the respondents costs of the application on an indemnity basis within 28 days.

DATED at Port Vila, this 13th day of February 2026

BY THE COURT



Honourable Chief Justice Vincent Natape