

**BETWEEN:** DICKINSON TEVI  
Applicant

**AND:** GIBSON BARRY BANI  
(as representative of the late Samson Bani)  
Respondent

**Date of Hearing:** 3 February 2026

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

**Counsel:** Mr R Rongo for the Applicant  
Mr C B Leo for the Respondent

**Date of Judgment:** 13 February 2026

---

## JUDGMENT OF THE COURT

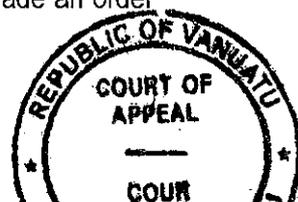
---

### Introduction

1. The applicant, Dickinson Tevi, applies for an extension of time to appeal against a judgment of the Supreme Court delivered on 16 October 2023 (*Bani v Tevi* [2023] VUSC 232). The application is made under rule 9 of the Court of Appeal Rules 1973, which empowers the Court to enlarge the time for the doing of anything to which the Rules apply.

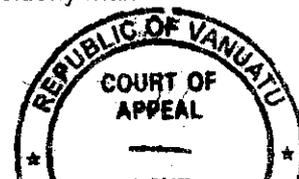
### Representation

2. The claimant in the Supreme Court proceeding (and the initial respondent to the present application), Samson Bani, died on 12 January 2026. His son, Gibson Barry Bani applied to this court for an order that he be substituted as a party as the personal representative of Samson Bani under rule 3.10(2)(a) of the Civil Procedure Rules. There was no objection to that from the applicant. We made an order to that effect at the commencement of the hearing.



### Extension of time

3. The application for an extension of time of appeal was filed on 16 December 2025, which is two years and two months after the date of delivery of the Supreme Court judgment, and two years and one month after the expiry of the 30-day period during which the appeal should have been filed (as provided in rule 20 of the Court of Appeal Rules).
4. 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.
5. We address these factors in turn.
6. The length of delay in this case is significant: over two years after the expiry of the appeal period.
7. The two reasons for the delay given by the appellant were that his previous lawyer did not inform him of the delivery of the Supreme Court judgment until “*around February 2024*”, which was almost four months after the date on which the judgment was delivered and that he did not obtain timely legal advice. The applicant says he asked his previous lawyer to file an appeal but that lawyer told him to find another lawyer to act for him, hence the need for the applicant to obtain advice from another lawyer. The applicant’s counsel, Mr Rongo, argued that the delay was not deliberate or contumelious.
8. We do not find these reasons convincing. It is easy to blame a lawyer who is no longer acting and who cannot respond without a waiver of privilege, which has not been offered in this case. In any event, even if the previous lawyer was at fault, this explains only four months of the two-year delay. The twenty-two months that elapsed after the applicant became aware of the judgment are explained only by the failure of the applicant to obtain legal advice. His explanation for his failure to obtain timely legal advice was: “*I was quite busy with the schedules in my work place*” (the applicant holds a senior management position with a national organisation). That simply indicates that the applicant chose to give priority to his work over the need to pursue his appeal rights.
9. Mr Rongo argued the proposed appeal had real prospects of success. He provided only a brief outline of the proposed appeal points, one of which was a challenge to the primary Judge’s credibility finding. It is difficult to evaluate the chances of success on the information before us but at best we can say the appeal may have some merit, but on the information we have we cannot say it has real prospects of success.
10. The claimant in the Supreme Court (and the sole witness in support of the claim) was an elderly man



who, as indicated earlier, has now died. For over two years after the Supreme Court decision was delivered and the appeal period expired, he was entitled to consider that the Supreme Court judgment resolved the dispute with the applicant. If an extension of time were granted, the appeal would proceed without Samson Bani's participation. There is clear prejudice to Samson Bani's estate arising from the delay in pursuing an appeal.

11. Having considered these factors, we consider that it is not in the interests of justice to grant the extension of time sought by the applicant. The length of the delay, the meagre reasons for the delay and the prejudice to the estate of Samson Bani all count against an extension of time being granted. We do not see the proposed appeal grounds as sufficiently strong to counterbalance those factors.

### **Result**

12. The application for an extension of time to appeal is dismissed.
13. We award costs of VT 50,000 to the respondent. These costs must be paid by the applicant within 28 days.

**DATED this 13<sup>th</sup> day of February 2026**

**BY THE COURT**



**Honourable Chief Justice Vincent Lunaber**

