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

Civil Appeal
Case No. 25/3789 COA/CIVA
[2026] VUCA 2

BETWEEN: PARMOD ACHARY
Appellant

AND: OMBUDSMAN OF THE REPUBLIC OF VANUATU
Respondent

Date of Hearing:	***2 February 2026***
Before:	***Hon. Chief Justice Vincent Lunabek*** ***Hon. Justice Mark O'Regan*** ***Hon. Justice Michael Wigney*** ***Hon. Justice Oliver Saksakt*** ***Hon. Justice Dudley Aru*** ***Hon. Justice Maree MacKenzie***
Counsel:	***Mr Daniel Yawha for the Appellant*** ***Mr Denny Jonah and Ms Fotouviri Kalsakau for the Respondent***
Date of Decision:	***13 February 2026***

JUDGMENT OF THE COURT

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1. In June 2025, the appellant, Mr Parmod Achary commenced proceedings in the Supreme Court in which he sought damages from the respondent, the Ombudsman of the Republic of Vanuatu, for conduct that he claimed constituted or gave rise to causes of action for abuse of power, an abuse of process, harassment, false imprisonment, negligence and defamation. The conduct that Mr Achary claimed gave rise to those causes of action was, in summary, the Ombudsman's actions in applying for and subsequently serving ex-parte orders made by the Supreme Court which restrained Mr Achary from doing various things, including leaving Vanuatu. He claimed that the service of the ex-parte orders and the events that surrounded that service caused him to suffer hardship, humiliation and embarrassment.

2. The Ombudsman filed a response to Mr Achary's claim in the Supreme Court which indicated that he disputed the claim in its entirety. For reasons that remain unexplained, however, the Ombudsman

did not file a defence. The Ombudsman's failure to file a defence ultimately prompted Mr Achary to file a request for a default judgment. Unfortunately for him he incorrectly requested a default judgment for a fixed amount in circumstances where his claim was clearly for damages to be assessed by the Court.

3. Mr Achary's request for a default judgment was overtaken by events. Before the Court dealt with that request, the Ombudsman filed submissions and a sworn statement in support of an application to strike out Mr Achary's claim. That was despite the fact that, again for reasons that remain unexplained, the Ombudsman had not in fact filed any such application. In any event, the essence of the Ombudsman's submission was that Mr Achary was estopped from bringing his claim because it was based on allegations that had been included in and formed part of an earlier Supreme Court claim in which Mr Achary had sought damages from the Ombudsman for trespass, conversion and "unlawful prosecution". Mr Achary subsequently filed a sworn statement in response to the statement filed by the Ombudsman which made it clear that he opposed the Ombudsman's application.

4. Mr Achary's request for a default judgment and the Ombudsman's submissions and the statements in respect of the striking out of Mr Achary's claim came before the primary judge. The primary judge did not convene a hearing but instead determined the respective applications on the papers.

5. In relation to Mr Achary's request for a default judgment, in orders made on 7 November 2025, the primary judge declined and dismissed the request essentially because the request was made pursuant to the incorrect rule in the Civil Procedure Rules. In relation to the strike out application, on 10 November 2025 the primary judge delivered a judgment and made an order striking out Mr Achary's claim. The primary judge considered the absence of any filed application by the Ombudsman to be an irregularity and, applying rule 18.10(2)(d) and (f) of the *Civil Procedure Rules*, deemed the Ombudsman's submissions to be a strike out application. More substantively, the primary judge concluded that Mr Achary was precluded by the principle of res judicata from bringing his claim because the events surrounding the service of the ex parte orders were part of the chain of events that led to the allegedly unlawful prosecution that was the subject of the earlier proceedings brought by Mr Achary.

6. The appellant appealed to this Court against both the primary judge's refusal to enter default judgment in his favour and the striking out of his claim.

7. As will be explained, the central issue raised by the appeal is whether the primary judge was correct to strike out Mr Achary's claim. Mr Achary's counsel essentially conceded that if that issue was decided adversely to him, it would be unnecessary to consider or determine the other, mostly procedural, issues raised by the appeal.

8. For the reasons that follow, the primary judge was correct to strike out Mr Achary's claim and the appeal must be dismissed with costs.

The course of events underlying the proceedings commenced by Mr Achary

9. It is useful to begin by outlining the course of events that underlies the two sets of proceedings commenced by Mr Achary. The basic facts relating to those events are mostly not in dispute, though the characterisation of some of the facts is contested or contestable.

10. At the time of the relevant events, Mr Achary was the General Manager of the Vanuatu National Provident Fund.

11. In August 2019, apparently unbeknownst to Mr Achary, the Ombudsman was investigating whether Mr Achary and other members of the Fund's board had committed various serious offences, including misuse of public moneys, undue influence and bribery.

12. On 26 August 2019, the Ombudsman applied to the Magistrate's Court for the issue of a search warrant. That warrant, which was issued by the Magistrates Court, purported to authorise the search of the Fund's offices, including Mr Achary's office, and the seizure of material relevant to the investigation. The warrant was executed at the Fund's offices on the day it was issued. Police and Ombudsman officers attended the Fund's offices and conducted a search. Documents and other material were seized purportedly pursuant to the warrant. During the search, which extended over a period of about three and a half hours, Mr Achary was required to remain in the Fund's conference room.

13. On 11 September 2019, the Ombudsman commenced civil proceedings in the Supreme Court against Mr Achary and applied ex parte for interlocutory orders. Those orders, which were made by the Court on 13 September 2019, restrained Mr Achary from engaging in certain conduct, including: dealing with the Fund's assets; convening a board meeting or initiating discussions with board members concerning the use of the Fund's assets; making any public comment about the search warrant; harassing the Fund's management and staff; leaving the country; and interfering with the Ombudsman's investigation. Those orders, once made, were served on Mr Achary at the Fund's offices.

14. On 18 September 2019, the Ombudsman discontinued the civil proceedings against Mr Achary with the effect that the ex parte orders ceased to operate or have any effect.

15. On 13 October 2019, the Office of the Public Prosecutor laid criminal charges against Mr Achary. On 18 October 2019 the Magistrates Court ordered that various bail conditions be imposed on Mr Achary.

16. On 29 October 2021, the Supreme Court handed down judgment in *August v Ombudsman of the Republic of Vanuatu* [2021] VUSC 293 in which it was held that the Supreme Court was the only court authorised to issue a search warrant to the Ombudsman. It followed that the search warrant issued to the Ombudsman by the Magistrate's Court in that case was found to be invalid. It also followed that it was likely that the search warrant issued to the Ombudsman by the Magistrates Court

in the course of the investigation into Mr Achary would be found to be invalid.

17. On 19 November 2021, this Court handed down judgment in *August v Ombudsman of the Republic of Vanuatu* [2021] VUCA 59. In that judgment, the Court not only upheld the Supreme Court's judgment concerning the validity of search warrants issued to the Ombudsman by the Magistrates Court, but also held that, before applying for a search warrant pursuant to s 24 of the *Ombudsman Act*, the Ombudsman was required to serve a notice under s 22 of that Act. That had not been done in respect of the search warrant obtained by the Ombudsman in the course of the investigation into Mr Achary. That provided another basis for concluding that that warrant was likely to be held to be invalid and unlawful.

18. Following the judgments of the Supreme Court and Court of Appeal in the *August* cases, the Prosecutor withdrew the criminal charges against Mr Achary. The decision to withdraw the charges was no doubt based on the Prosecutor's recognition, following the decisions of the Court to which reference has just been made, that any evidence obtained pursuant to the search warrant had been unlawfully obtained.

Mr Achary's first claim (Civil Case No. 3387 of 2025)

19. Mr Achary's first claim against the Ombudsman arising out the events outlined earlier (Civil Case 1795 of 2025) was filed on 11 December 2023. In his first claim, Mr Achary claimed that the Ombudsman was liable to pay him damages arising from three separate causes of action.

20. The first two causes of action were for trespass and conversion arising from the execution of the unlawful search warrant at the Fund's premises on 26 August 2019 and the seizure of documents pursuant to that warrant. It is unnecessary to consider the details of Mr Achary's pleaded cases in respect of those causes of action. The Ombudsman ultimately conceded liability in respect of the causes of action in trespass and conversion and damages were in due course assessed by the Supreme Court. It might perhaps be noted, however, that the Ombudsman's concession of liability for trespass and conversion might be seen to be somewhat questionable in circumstances where the warrant was executed at the Fund's premises, not Mr Achary's home, and there is no indication that the documents or other materials that were seized were Mr Achary's property, as opposed to the Fund's property.

21. The second cause of action, or asserted cause of action, was said to be a cause of action for the "unlawful laying of charges and prosecution" or "unlawful and unwarranted prosecution" of Mr Achary. Mr Achary's pleading of that cause of action commenced with the following allegations (at [27] and [28] of the claim):

> 27. *On 11th September 2019, Defendant registered civil proceeding described as Ombudsman v Parmod Achary Civil Case No. 2461 of 2019 restraining Claimant by ex parte orders from travelling overseas for official meeting in his capacity as*

General Manager of VNPF and prohibited claimant to travel.

28. On 18th October 2019, Defendant discontinued the Civil case 2461 of 2019 proceeding, nevertheless the Claimant suffered loss and inconvenience not to attend overseas meeting by virtue of the restraining orders.

22. As can readily be seen, Mr Achary not only relied on the events relating to the obtaining and service of the ex parte orders, but also claimed to have suffered loss and inconvenience as a result of those events. That becomes even more apparent in a later paragraph of the pleading.

23. After pleading various events concerning the laying of criminal charges against Mr Achary and the pursuit of the ensuing prosecution until its discontinuance, the pleading alleges as follows (at [34]):

> *34. The Claimant repeats **paragraph 27, 28**, 29 and 30 of the claims above of failure of the Conduct of the Defendant which has resulted in unlawful prosecution against him for 3 years 6 months wherein the charges were finally dismissed because the Magistrate does not have the Jurisdiction in the first place to issue the search warrant on 26 August 2019.*
>
> *(Emphasis added)*

24. It can be seen that Mr Achary relied on the conduct relating to the ex parte orders (pleaded in [27] and [28]) as part of the overall conduct which resulted in the allegedly unlawful prosecution.

25. The damages Mr Achary claimed for the alleged unlawful and unwarranted prosecution were separate and distinct from the damages he sought for trespass and conversion arising from the execution of the search warrant.

Mr Achary's second claim (Civil Case No. 1795 of 2025)

26. Mr Achary filed his second claim against the Ombudsman on 24 June 2025, over 18 months after he filed his first claim. It should also perhaps be noted that he filed the claim after the hearing in the Supreme Court concerning the assessment of damages in respect of Mr Achary's first claim, but before judgment was handed down. It is the second claim that was the subject of the strike out order that is subject of this appeal.

27. In the second claim, Mr Achary claimed damages for what he asserted were the torts of: abuse of power by Public Authority being the Ombudsman's Office; abuse of process by Public Authority being the Ombudsman's Office; harassment by Ombudsman Officers; restraint of his freedom of movement/false imprisonment; Negligence; and Defamation being in both forms, libel and slander.

28. It might immediately be observed that pleading of those causes of action in the claim was manifestly deficient and defective. There is no recognised tort of abuse of power. There is a common law tort

of misfeasance in public office, though it requires proof of malice. Mr Achary did not clearly plead malice, though he did plead bad faith. Similarly, while there is a common law tort of abuse of process, it generally requires proof that the process in question was employed for a collateral purpose. That was not clearly alleged by Mr Achary. There is no generally recognised tort of harassment. There is a cause of action for unlawful imprisonment, though it generally requires proof of restraint or detainment. The pleading alleges that Mr Achary was prevented from travelling overseas, but that could scarcely be said to constitute detention or restraint. Finally, while there are recognised torts in negligence and defamation, the claim failed to properly plead any of the essential elements of those torts.

29. Those deficiencies might perhaps have provided grounds for a separate application to strike out the claim, though they did not provide the basis for either the Ombudsman's strike out application or the primary judge's judgment.

30. The second claim focussed almost entirely on the events surrounding and following the service of the ex parte orders. All the pleaded causes of action were alleged to flow from the impact that the service of the ex parte orders allegedly had on Mr Achary. The abuse of power, abuse of process, harassment and negligence on the part of the Ombudsman's office was essentially said to flow from or be evidenced by the fact that the civil proceedings in which the ex parte orders were obtained were subsequently discontinued. Mr Achary claimed that the ex parte orders prevented him from travelling overseas and caused him to suffer hardship, embarrassment and shame. He also claimed that the service of the orders in front of the Fund's staff defamed him.

31. Curiously, while the claim focussed on the Ombudsman's actions in obtaining and serving the ex parte orders, the claim also refers to the Ombudsman's concession of liability in respect of the unlawful search warrant in the first proceeding and the fact that he was charged and subjected to bail conditions. That tends to suggest that Mr Achary was aware that the ex parte orders formed part of the broader course of events leading to his prosecution as alleged in the first claim. Indeed, the claim goes so far as to allege that the Ombudsman obtained the ex parte orders based on the unlawful search warrant. The overlap between the two sets of proceedings was and is obvious.

Procedural issues

32. As was noted at the outset, while the Ombudsman filed a response indicating that it disputed the claim, inexplicably no defence to the second claim was filed. Instead, the Ombudsman filed submissions in support of an application to strike out the claim, despite the fact that no such application had in fact been filed. No reasonable explanation was given for those manifest procedural deficiencies.

33. The Ombudsman's failure to file a defence prompted Mr Achary, quite reasonably, to file a request to enter a default judgment. Unfortunately for him, however, he relied on the wrong rule and filed the incorrect form for such a request. Mr Achary's request was filed pursuant to rule 9.2 of the *Civil*

Procedure Rules. While rule 9.2 is stated to apply where the claim is for a "fixed amount", when construed in the context of rule 9.3, it is readily apparent that it only applies where the claim is for a liquidated amount, such a claim for an outstanding debt. It does not apply where the claim is a claim for damages, even if the claimant seeks damages in a specified sum. To the extent that Mr Achary submitted otherwise in his written submissions, that submission must be rejected.

34. Rule 9.3 applies if the claim is for an amount of damages to be decided by the Court. It is the applicable rule where the cause of action in the claim is one where the appropriate relief is an award of damages to be assessed by the Court. It applies even if the claimant specifies in the claim a figure for the amount of the damages that the claimant contends should be awarded by the Court.

35. The claim in question in this matter was plainly a claim for damages to be assessed by the Court, even though the claim specified amounts that Mr Achary contended the Court should award for damages. Mr Achary was not entitled to default judgment for the amounts he claimed were due to him by way of damages in his claim. The most that he was entitled to was default judgment for an amount to be determined under rule 9.3(4)(a) of the Rules. His problem was that he filed the incorrect form under rule 9.2. To the extent that Mr Achary submitted in his written submissions that it would have been open to the primary judge to give default judgment under rule 9.2 for the full amount claimed by him in his claim, that submission must be rejected.

36. It was accordingly open to the primary judge to decline and dismiss Mr Achary's request for a default judgment.

37. Mr Achary's notice of appeal and submissions included a contention that the primary judge erred because she should have applied rule 18.10(2)(d) of the Rules and in effect declared that Mr Achary's request for a default judgment was a request for default judgment under rule 9.3.

38. It might perhaps be accepted that it would have been open to the primary judge to take that course. It is, however, at best very doubtful that it could be said that the primary judge was *bound* to take that course, or that she erred in law in not taking, or not considering taking, that course. It is, however, unnecessary to dwell on or determine that question. That is essentially because the issue in respect of default judgment was and has been entirely overtaken by events, in particular the striking out of the claim. It could not seriously be suggested that, if the Court concluded that the primary judge was correct to strike out the claim, the Court should nonetheless consider either entering default judgment under rule 9.3, or remitting the matter to the primary judge to determine whether to enter default judgment under that rule, simply because the judge should have proceeded under rule 18.2(d) of the Rules. It should also be noted that it was almost inevitable that if default judgment had been entered, the Ombudsman would have applied to set aside the default judgment.

39. At the hearing of the appeal, Mr Achary's counsel effectively conceded that his arguments concerning the request for default judgment and the potential application of rule r 18.2(d) did not need to be determined and that the Court should focus on the substantive question of whether the primary judge was correct to strike out the claim.

40. The same can be said concerning Mr Achary's grounds of appeal and submissions concerning the primary judge's application of rule 18.2(d) and (f) of the Rules to the Ombudsman's strike out application. As adverted to earlier, the primary judge applied those rules in respect of the Ombudsman's submissions in support of striking out the claim and effectively deemed those submissions to be an application for the striking out of the claim.

41. Subject to one important qualification, it perhaps might be said that it was open to the primary judge to apply rule 18.2(d) and (f) in the way she did.

42. The important qualification is this. It would have been preferable for the primary judge to have advised the parties that she was considering applying rule 18.2 of the Rules to the Ombudsman's submissions so as to deem those submissions to be a strike out application, and then given the parties the opportunity to make submissions in relation to that proposed course. That is particularly the case given that a potential outcome of the strike out application was the effective termination of the claim.

43. Perhaps more significantly, if the primary judge was proposing to deal with the application on the papers, as she effectively did, she should have advised the parties that she proposed to take that course and given them an opportunity to make submissions about it. Given the gravity and potential outcome of a strike out application, the parties should ordinarily be given the opportunity of an oral hearing unless they agree to have the application dealt with on the papers. Moreover, in this case, while Mr Achary had filed a sworn statement in opposition to the strike out application, he had not filed any written submissions.

44. It is, however, again unnecessary to dwell on those issues or determine whether the primary judge's determination of the strike out application miscarried because she dealt with the application on the papers in the way she did. That is because, if there were found to be any procedural deficiencies in the course adopted by the primary judge, the appropriate course would be to remit the matter to the primary judge for redetermination. That would be an entirely pointless exercise if this Court determined the substantive issue concerning the strike out application and concluded that the primary judge was correct to strike out the claim.

45. Counsel for Mr Achary once again sensibly agreed that it would, in all the circumstances, be appropriate for this Court to focus on and determine the substantive issue of whether the primary judge was correct to strike out the claim. That was, as has been said, plainly the central issue on the appeal.

The judgment of the primary judge in respect of the strike out

46. In determining that Mr Achary's second claim should be struck out, the primary judge referred to the fact that the events the subject of the second claim - the obtaining and service of the ex parte orders

– were mentioned in paragraphs 27 and 28 of the first claim and that the first claim included a claim for damages for unlawful and unwarranted prosecution: J [8 (a) and (b)]). More significantly, the primary judge concluded, in effect, that the events relating to the ex parte orders were "part of the chain of events and facts leading to the prosecution of Mr Achary which was part of his first claim and if any claim arose from those events it should have been included in the first set of proceedings: J [8 (d)]. The primary judge reasoned that it followed that the principle of res judicata applied because that principle extended to arguments or issues which should properly have been determined in earlier proceedings. The judgments of this *Court in Republic of Vanuatu v FR8 Logistics Ltd* [2020] VUCA 15 at [15]-[19], *Family Kalmet v Kalmet* [2017] VUCA 20 at [31]-[35] and *Nalpini v President of the Republic of Vanuatu* [2019] VUCA 68 were cited in support of that proposition.

Appeal grounds and submissions

47. The essence of Mr Achary's appeal grounds and submissions concerning the substantive question of whether the judge erred in striking out the second claim was that the principles of res judicata did not apply to the two claims because res judicata only applied where the same parties litigate the same cause of action and the same issues have been finally determined. In this case, so it was submitted, the two claims were separate cases and, while they involved the same parties, they pleaded separate or different causes of action. The first claim concerned actions of trespass and conversion arising from the execution of the unlawful search warrant and the ex parte orders were only mentioned as part of the background or chain of events that led to the prosecution. The second claim, the claim in question, was said to involved different causes of action arising from the ex parte orders.

Did the primary judge err in striking out Mr Achary's later claim?

48. The primary judge did not err in striking out Mr Achary's claim.

49. This Court has previously affirmed that the rule which is commonly referred to as the rule in *Henderson v Henderson* applies, or may apply, in circumstances like those under consideration: see for example *Family Farm Development Ltd v Nichols* [2014] VUCA 28; *Nalpini v President of the Republic of Vanuatu* [2019] VUCA 68 at [56].

50. In *Henderson v Henderson* [1843] EngR 917; (1843) 3 Hase 100 (ER 313), Sgram VC stated that:

> The Court requires the parties to that litigation to bring forward their whole Case, and will not (except under special circumstances) permit the same parties to open the same subject of the litigation in respect of a matter which might have been brought forward as part of the subject in contest, but which was not brought forward only because they have, from negligence, inadvertence, or even accident, omitted part of their case.

51. A modern statement of the rule in *Henderson v Henderson* which has also found favour in decision of this Court (see *Nalpini* at [56]) is commonly referred to as Anshun estoppel: cf *Port of Melbourne Authority v Anshun Pty Ltd* (1981) 147 CLR 589; [1981] HCA 45. This form of estoppel operates to preclude the assertion of a claim, or the raising of an issue of fact or law, if that claim or issue was so connected with the subject matter of the first proceeding as to have made it unreasonable in the context of that first proceeding for the claim not to have been made or the issue not to have been raised in that proceeding: see *Tomlinson v Ramsay Food Processing Pty Ltd* (2015) 256 CLR 507; [2015] HCA 28 at [22]. While it has been said that Anshun estoppel is not a form of res judicata in the strict sense, it is unnecessary in the circumstances of this case to consider that jurisprudential debate. Anshun estoppel, when it applies, has the same practical effect as res judicata.

52. As has already been noted, previous decisions of this Court have confirmed the applicable principles in respect of Anshun estoppel apply in this jurisdiction. The relevant question in this case, therefore, is whether Mr Achary was precluded from advancing, in the second proceedings, claims based on the ex parte orders, or raising issues of fact or law in those proceedings relating to the ex parte orders, because those claims, or those issues, are so connected with the subject matter of the first claim as to have made it unreasonable not to have made those claims, or raised those issues, in that earlier proceeding. Put in simpler terms, was it unreasonable in all the circumstances for Mr Achary to fail or refrain from pleading, in his first claim, the causes of action and issues of fact and law relating to the ex parte orders that he now pleads or pursues in the second proceeding?

53. The short answer to that question is "yes". It was unreasonable in all the circumstances for Mr Achary not to advance those causes of action, or raise those issues of fact and law, in the first proceeding. As discussed in detail earlier, in the first claim Mr Achary pleaded facts or allegations concerning the issue and service of the ex parte orders and the effect that it had on him. He relied on those facts and allegations in support of his claim for damages for what he claimed was a cause of action for unlawful prosecution. He clearly refrained from claiming that those facts and allegations gave rise to the various causes of action that he relies on in his second claim. The causes of action that he pleads in the second claim are said to arise from essentially the same facts as those pleaded in the first claim.

54. In his sworn statement filed below in opposition to the strike out application, Mr Achary simply states that he "wanted the matter [his claims based on the ex parte orders] to be dealt with separately from the unlawful search warrant and prosecution claim [the first]". The fact that Mr Achary wanted those claims to be dealt with separately does not assist him. The question is whether his apparent decision not to include the claims specifically based on the ex parte orders in the first claim was unreasonable. In our view it plainly was unreasonable. If Mr Achary wanted to plead causes of action or seek damages arising specifically from the ex parte orders, he should have done so in his first claim. That is all the more so given that Mr Achary's claim in respect of unlawful prosecution, which included his allegations concerning the ex parte orders, has now been determined adversely to him in the context of the assessment of damages in respect of his first claim. The trial judge who determined the first claim held that Mr Achary was not entitled to damages arising from the allegedly unlawful prosecution.

(including the ex parte orders) because there was no recognised cause of action for unlawful (as opposed to malicious) prosecution.

55. It should finally be noted, for completeness, that Mr Achary's submission to the effect that his second claim was separate and distinct from his first claim has no merit and in any event does not assist him. As explained in detail earlier, there could be no question that Mr Achary relied on the events surrounding the ex parte orders in support of his claim for damages for unlawful prosecution in the first proceeding. He seeks to rely on those same events in support of the causes of action in his second claim. While the causes of action he pleads in the second claim (to the extent that they could be said to be causes of action) may be different, they are said to arise from the same facts. It was unreasonable in all the circumstances for Mr Achary not to pursue those claims in the first claim.

56. It follows, as noted earlier, that the primary judge was correct to strike out the claim.

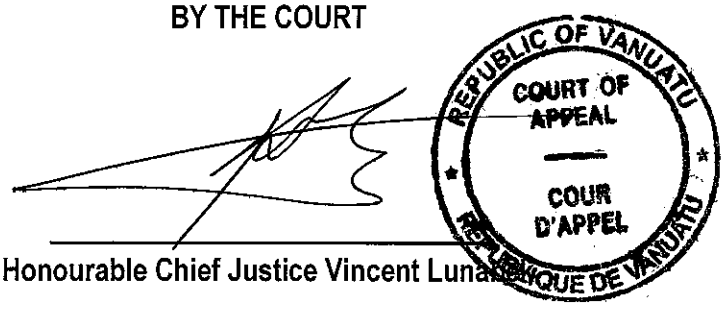
Conclusion and disposition

57. Mr Achary has failed to demonstrate that the primary judge erred in striking out his claim. It is unnecessary to resolve the other grounds of appeal and submissions advanced by Mr Achary in support of his appeal. The appeal must be dismissed.

58. There is no reason why costs should not follow the event. Mr Achary will be ordered to pay the Ombudsman's costs assessed at VT50,000.

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

BY THE COURT



Honourable Chief Justice Vincent Lunabek