

**IN THE SUPREME COURT
OF THE REPUBLIC OF VANUATU**
(Civil Jurisdiction)

**Civil
Case No.18/3127 SC/CIVL**

BETWEEN: NATO TAIWIA

Claimant

AND: THE REPUBLIC OF VANUATU

Defendant

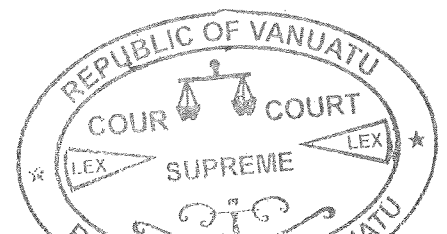
Date of Hearing : *4th July 2019*
Date of Decision: *22nd November 2019*
Before: *Justice Oliver Saksak*
In Attendance: *Robin Tom Kapapa for the Claimant*
Sammy Aron for the Defendant

DECISION

1. The Claim of the Claimant in this proceeding is dismissed with costs.

Reasons

2. The Claimant's claim is res judicata. The claimant filed earlier proceedings against the Electoral Commission in Civil Case No. 31 of 2017 (CC 31/017) claiming the sum of VT 15 million.
3. Despite representations made between the Electoral Office and the Claimant at earlier stages of discussions and negotiations without legal counsel and legal advice, a consent order was executed by Counsel for the claimant and the Attorney General and endorsed by the Court only VT 5 million was payable settlement of the Claimant's claim.
4. The Consent order is dated 15 May 2018. The claimant is bound by his consent and cannot now escape from it by filing another proceeding to claim for the balance of VT 10 million.
5. Mr Kapapa in his written submissions raised 2 issues namely : Whether or not the defendant made presentation to settle the matter? Secondly whether that decision can be altered by a different person?
6. The evidence by Martin Tete in his sworn statement filed on 19th June 2019 shows that there were presentations made to settle the claim. The representations were made without legal advices and without lawyers present. The Attorney General was not



aware and he filed a memorandum stating his concern on 9th January 2018 (See Annexure “MJT 8”).

7. It was after the Electoral Office received the minute of the Court dated 15 December 2017 that they hanged their view and gave instructions to settle the claim at VT 5 million.
8. An offer was made to the Claimant’s lawyer on 15 May 2018 about settling the claim at VT 5 million. The offer was accepted and the consent order was signed and endorsed by the Court. The claimant was paid VT 5 million and that was the end of the matter. The claimant could not sue for the balance in another proceeding.
9. Accordingly this proceeding is dismissed. The Claimant has put the defendant to unnecessary costs. I award costs to the defendant which I now fix at VT 100.000 payable within the next 28 days.

DATED at Port Vila this 22nd day of November 2019

BY THE COURT


OLIVER.A.SAKSAK

Judge

