

IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU  
(Civil jurisdiction)

Civil  
Case No. 20/3583 SC/CIVL

**BETWEEN:** Vanuatu Rural Services  
Co-operative

Claimant

**AND:** Government of the  
Republic of Vanuatu  
Department of Energy

Defendant

*Date:* 1 February 2021  
*Before:* Justice G.A. Andrée Wiltens  
*Counsel:* Mr J. Boe for the Claimant  
No appearance by or for the Defendant

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**Judgment**

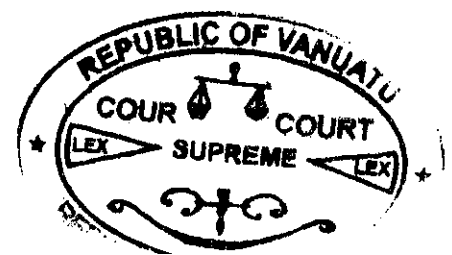
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A. Introduction

1. This is a Claim for breach of contract.

B. Background

2. In May 2017, the Vanuatu Rural Services Co-operative ("Vanuatu RSC") signed a contract with the Department of Energy ("DoE") relating to the sale of solar energy solutions to those in rural, off-grid locations. The contract provided for Vanuatu RSC to supply such goods in return for which the Department of Energy would pay a subsidy towards the purchase price through World Bank and New Zealand Government funding for this purpose.
3. In the event, the DoE is alleged to have reneged on paying the subsidy agreed.



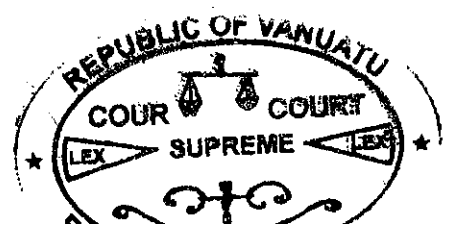
4. In October 2020, Vanuatu RSC sent a Letter of demand for VT 52.295 million to the DoE. That sum was made up from the sale of 3,309 units, and the provision of a further 1,632 units to agents and 926 units to a storage Warehouse. There was a small credit for damaged or faulty goods.
5. There was no response to the letter. Accordingly, on 30 October 2020, Mr Boe sent an e-mail to Mr H. Tabi at the State Law Office ("SLO") advising of an intended Claim, which Notice was sent to comply with the provisions of the State Proceedings Act.
6. The Claim was subsequently filed on 21 December 2020, together with a sworn statement in support from Mr P. Hannon. Both documents were served 3 days later, with a copy of each also served on the SLO on 6 January 2021.
7. Mr Boe wrote a letter dated 13 January 2021 to the DoE warning that as no response or defence had been filed he was likely to apply for default judgment. He wrote a further letter to the Solicitor General on 25 January 2021 indicating a lack of steps in response to the Claim.
8. There has been no response or any steps taken by DoE or SLO. Accordingly, on 29 January 2021, Mr Boe filed an application for judgment by default, together with a further sworn statement by Mr Hannon.
9. The application seeks judgment in the sum of VT 52,295,686 together with damages for breach of contract and exemplary damages for misrepresentation, interest and costs.

C. Discussion

10. Unfortunately there is no copy of the contract provided in support of the Claim or the application for judgment by default.
11. Accordingly, the Court is not in a position to ascertain whether there was agreement that units supplied to agents but not sold, and units put into storage but also not sold, were to be the subject of a subsidy payment. In those circumstances I am not presently minded to grant judgment in respect of those units.
12. There is no evidence before the Court evidencing any loss or prejudice to the Claimants to justify damages or exemplary damages.

D. Result

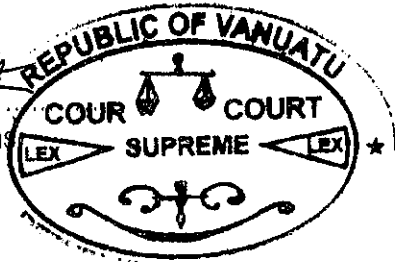
13. Judgement by default is granted in the sum of VT 29,591,324. Interest is payable on that amount from 21 December 2020 until fully paid at the rate of 5% per annum. Vanuatu RSC is also entitled to the costs of this action, which I set at VT 70,000. Those costs are to be paid within 21 days.
14. A further conference is scheduled for 8.30am on 19 February 2021 for the DoE to advise the Court: (i) that it has paid the judgment sum including interest and costs awarded, or (ii) to explain how it intends to do so. If there is no satisfactory conclusion, the file will be transferred to the Master for immediate enforcement action to be pursued.



15. In order for this to occur, a copy of this judgment must be served on DoE, with a proof of service provided.
16. At the conference, Vanuatu RSC has liberty to attempt to establish by evidence that the other units claimed placed in storage or with agents should also be the subject of subsidy.

Dated at Port Vila this 1st day of February 2021  
BY THE COURT

*Gardie Will*  
Justice G.A. Andrée Willens



The seal of the Republic of Vanuatu Supreme Court is circular. It features a central scale of justice. The words "REPUBLIC OF VANUATU" are written along the top inner edge. Below the scale, the words "COUR" and "COURT" are written on either side, with "SUPREME" in the center. At the bottom, the word "LEX" is written on both sides, flanking a central decorative flourish. A small star is visible on the right side of the seal.