

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

**Civil
Case No. 21/957 SC/CIVL**

**BETWEEN: Daisy Tulang
Claimant**

**AND: Telecom Vanuatu Limited
Defendant**

Coram: *Dudley Aru*

Counsel: *Mr Sakiusa Kalsakau for the Claimant (no-appearance)
Mrs Corrine Hamer for the Defendant*

JUDGEMENT

1. This is an application by the defendant for the claimant to show cause why the amended claim should not be struck out.
2. The application supported by a sworn statement of C Bona is made pursuant to rule 18 .11 of the Civil Procedure Rules.

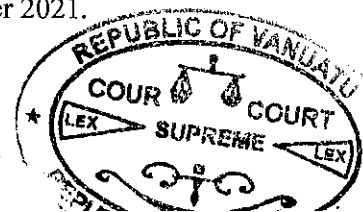
"18.11 Failure to comply with an order

(1) This rule applies if a party fails to comply with an order made in a proceeding dealing with the progress of the proceeding or steps to be taken in the proceeding.

(2) A party who is entitled to the benefit of the order may require the non-complying party to show cause why an order should not be made against him or her.

.... "

3. The grounds for the application were that the claimant has not complied with Court directions to progress their claim. On 7 September 2021, orders (First Order) were issued giving the claimant 21 days to file and serve a reply and defence to the defendant's counterclaim with their sworn statements. A pre-trial conference was then listed for 3 November.
4. At the 3 November 2021 conference, there was no appearance from the claimant and nothing was filed as directed. A further Order (Second Order) was issued for the claimant to appear and show cause at the next conference being 1 December 2021.



5. On 1 December 2021 at the conference, there was no appearance from the claimant to show cause. Further orders (Third Order) were issued giving the claimant a further 14 days to file and serve a defence to the counterclaim and the defendant was allowed liberty to apply to have the claim struck out.
6. The First, Second and Third Orders have not been complied with. The application to show cause was filed and served on 8 December 2021. No response to the application has been filed. There was also no appearance from the claimant this morning or her counsel to show cause why the matter should not be struck out.
7. The claimant submits that the amended claim must be struck for non-compliance with the court directions and failure to show cause.

Result

8. Having considered the Application and sworn statement in support and hearing Mrs Hamer, I am satisfied that the claimant has consistently failed to comply with the Court directions and failed to show cause why the matter should not be struck out. The claim is therefore struck out.
9. The defendant is entitled to costs in the sum of VT 50,000 to be paid within 14 days.

DATED at Port Vila this 28 day of January, 2022.

BY THE COURT OF VANUATU
REPUBLIC OF VANUATU
COURT SUPREME
LEX SUPREME LEX
Dudley
Judge
REPUBLIQUE DE VANUATU

