

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

Civil
Case No. 19/2721 SC/CIVL

BETWEEN: **Lui Mael**
Claimant

AND: **Silentworld Shipping & Logistics
(Vanuatu) Limited**
Defendant

Date of Trial: 17 June 2022
Before: Justice V.M. Trief
In Attendance: Claimants – Mr J. Garae, via video link from Luganville Court House
Defendants – Mr N. Morrison, via video link from Luganville Court House
Date of Decision: 26 September 2022

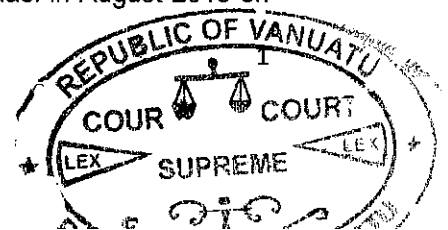
JUDGMENT

A. Introduction

1. The Claimant Lui Mael seeks payment for services including allegedly dangerous work rendered to the Defendant Silentworld Shipping & Logistics Vanuatu Limited ('Silentworld') but never paid.
2. This is the judgment.

B. Discussion

3. Mr Mael is a welder. Silentworld had employed him previously to work on its ships the MV Tina 1 and MV Brisk.
4. Mr Mael alleged in the Claim that in June 2018, Trent Thomas, Silentworld's Operations Manager requested that he repair the MV Tina 1's fuel tank. He alleged that this was dangerous work. Further, that he completed the repairs but was refused payment when he presented his invoice of VT3,500,000 and that he has never been paid.
5. The Claim is disputed. Silentworld alleged that Mr Mael was not a reliable worker so his employment of one time ceased and from time to time, some work was supplied to him but with reluctance. It alleged that some work was given to Mr Mael in August 2018 on



MV Tina 1 for which he was paid VT50,000 for 48 hours work and which Mr Mael accepted. It alleged that the payment of VT50,000 was fair for the work done. It denied that the work was dangerous.

6. In a claim for breach of contract, the claimant must establish that the parties had a contract and that it was breached. Mr Mael admitted in cross-examination that he and Silentworld did not have any contract for him to repair the ship MV Tina 1 in return for payment of VT3,500,000. He accepted that there was no written contract. He accepted that he had not even adduced into evidence a copy of his invoice to Silentworld. I find that the parties did not have a contract for VT3,500,000 as alleged.
7. As for whether or not the work was dangerous, it is accepted that the work Mr Mael completed was welding to the ship's fuel tank. Mr Mael's evidence was set out in **Exhibits C1 and C2**. He did not have any independent evidence to prove that that work was dangerous.
8. On the other hand, Mr Thomas gave detailed evidence about the work that Mr Mael did and what it entailed [**Exhibit D1**]. He described it as taking 48 hours to complete, to replace a 4mm topside walkway which was also the top of a 4000L diesel day tank on the MV Tina 1. Further, that this was not dangerous as the tank was empty and had water put inside it before any work was started. Finally, that diesel is not explosive like benzene and is very safe to work around as Mr Mael should know as he also has a side business at his home where he builds copra smokers using old 200L fuel drums.
9. I accept that Mr Thomas is an experienced shipping operations manager. I considered that he was a witness of truth and accept his evidence that the work was not dangerous. I consider that Mr Mael exaggerated what he did to justify seeking judgment in the sum of VT3,550,000.
10. Finally, Mr Mael accepted that he received VT50,000 payment from Mr Thomas for his work.
11. Mr Mael has failed to prove his Claim on the balance of probabilities.

C. Result and Decision

12. The Claim is **dismissed**.
13. The Claimant is to pay the Defendant's costs fixed summarily at VT75,000, to be paid within 28 days of service of this judgment on him.

DATED at Port Vila this 26th day of September 2022
BY THE COURT

VM Trief
Justice Viran Molisa Trief

