

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

Judicial Review
Case No. 24/3658 SC/JUDR

BETWEEN: FAMILY FRANK ANDREW
Applicant

AND: FAMILY SANGARY
First Respondent

AND: NATIONAL COORDINATOR OF THE CUSTOM
LAND MANAGEMENT OFFICE
Second Respondent

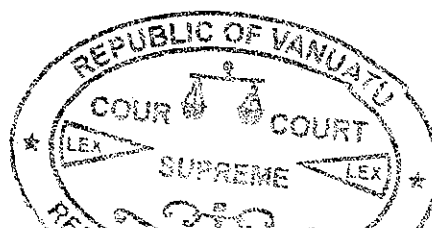
Counsel: R Tevi for the Applicant
N Robert for the Second Respondent
First Respondent – no appearance

JUDGMENT

1. An Urgent Application for interlocutory orders filed on 14 November 2024 with sworn statement in support filed on the same date.
2. The Applicant applies for:
 - (i) An order to stop the hearing of Buoro Custom Land boundary at Aore island in Sanma Province with immediate effect;
 - (ii) An order to transfer the hearing of Buoro Custom Land boundary from UNDO BOE South East Santo Area Land Tribunal;
 - (iii) Costs of this application;
 - (iv) Such orders deemed just and reasonable.

UPON THE GROUNDS:

- (a) There was no disclosure of the name of the chairman, the members and the secretary prior to the hearing; for parties to give their approval as avoid any issue of a conflict of interest;
- (b) Most of the members are related to Family Sangary who is a party in this proceeding;
- (c) The hearing began on 12 November 2024 and is ongoing until next week;
- (d) It is necessary that orders sought are granted to avoid wasting of time and resources because it is evident that any given decision will be challenged in the Island Court Land;
- (e) The justice of the case demands it;



(f) *As contained in the sworn statement in support.*

3. I sit as the Duty Judge and hear this application on Monday 18 November 2024 at 8:30am o'clock in the morning.
4. I note that the interlocutory orders are sought in the Supreme Court without a substantive cause of action to substantiate these interlocutory orders sought.
5. I note also that the interlocutory orders are sought in the Supreme Court to avoid wasting of time and resources as the Applicants acknowledge that any given decision by the custom land court will be challenged in the Island Court (Land).
6. The Custom Land Management Act (CLMA) set out a regime of custom land court to hear and determine the custom ownership of custom lands.
7. In this case, the Buoro custom land boundary at Aore Island in the Sanma Province is currently conducted its hearing over that custom land.
8. Any party who does not like or is not satisfied with the decision of the custom land court and in particular the processes and the manner as to how, the custom land court conducted its hearings, may challenge it before the Island Court (Land) under Section 45 of the CLMA.
9. Under the CLMA, the Supreme Court on limited grounds may only intervene against a decision of the Island Court (Land) under Section 47 of the CLMA.
10. In this case, there is no decision of an Island Court (Land) which is challenged.
11. In such circumstances, the Supreme Court cannot assist the Applicants.
12. The Court makes the following orders:
 - (a) The Urgent Application for interlocutory orders is struck out;
 - (b) The Second Respondent is entitled to costs assessed at VT5,000 against the Applicants;
 - (c) The Applicants shall pay the costs of VT5,000 to the Second Respondents by 7 days ie. 25 November 2024.

DATED at Port Vila, this 18th day of November, 2024.

BY THE COURT

Hon. Chief Justice Vincent Lunabe

