

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

Civil
Case No. 25/1595 SC/CIVL

BETWEEN: JOSEPH LIVO
Claimant

AND: REPUBLIC OF VANUATU
First Defendant

**AND: PHILEMON LOY, Administrator of the
Estate of Daniel Loy**
Second Defendant

AND: FAMILY LOY
Third Defendant

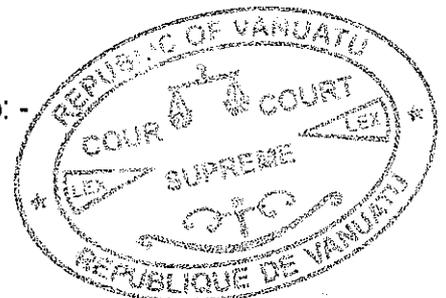
Before: *Hon. Justice Oliver A. Saksak*

Counsel: *Collin B Leo for the Claimant/Respondent*
Jelinda T Tari for the First Defendant
Tom J Botleng for the Second Defendant/Applicant
Justin Ngwele for the Third Defendant/Applicant

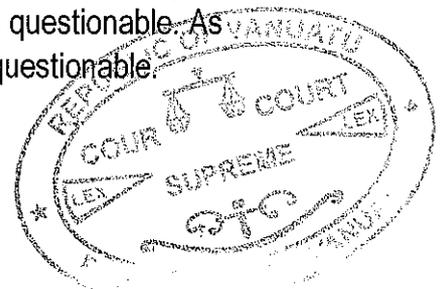
Date of Hearing: *13 October 2025*
Date of Decision: *27 November 2025*

DECISION

1. On 13 October 2025 I heard Counsel for these parties in relation to three (3) separate applications namely an application to add Family Loy as a party to this proceeding, applications seeking security for costs and a strike out application.
2. The application for security for costs and for a strike out were deferred pending written submissions.
3. In determining the two applications I have had regard to -



- (a) the amended claim filed on 12 September 2025 by Mr Leo for the Claimant;
 - (b) the defence filed by Mr Botleng on 2 October 2025;
 - (c) a memorandum filed on 10 November 2025 by Mr Ngwele;
 - (d) a memorandum filed on 13 October 2025 by Mr Ngwele;
 - (e) written submissions filed on 13 October 2025 by Mr Ngwele;
 - (f) written submissions on costs filed by Mr Botleng on 13 October 2025;
 - (g) the Claimant's response to the strike out application filed on 11 November 2025; and
 - (h) the reply submissions filed by Third Defendant on 21 November 2025.
4. Mr Leo has filed late submissions on 17 November 2025. His client's position seen from the submissions that he is opposed to the strike out application.
 5. If the Court allows the strike out application, the application for security for costs will not need to be decided.
 6. I consider first the strike out application. Looking at the amended claim filed on 12 September 2025 I should be able to ascertain –
 - (a) that Joseph Livo as the Claimant in the proceeding has standing to bring the claim; and
 - (b) that he has a cause of action against the defendants.
 7. The Claimant does not specify in what capacity he acts as the Claimant. From paragraph 5, if he is acting as representative of the families of the Claimant, he should specify that he does.
 8. The reliefs he seeks in paragraph 14 is about the deed of release and the payment of VT45,960,000 paid by the Republic allegedly made in bad faith.
 9. To be entitled to any of the reliefs sought, the Claimant must establish he was a party to the deed. Land Case L 2 of 1986 was a case between Daniel Loy (as appellant) and Timothy Molbarav, Paul Livo and Tangis Sisi as respondents. He must establish he is acting as the representative of Paul Livo and/or as administrator of his estate. As things stand, he is acting as an individual litigant. It appears to me that his standing is questionable. As such his cause of action against the defendants is also questionable.



10. These are adequate to accept the submissions by Mr Botleng and Mr Ngwele that the amended claim should be struck out at this stage.
11. Accordingly, I allow the application by Mr Botleng and Mr Ngwele. The proceeding is hereby struck out.
12. It is therefore not necessary to deal with the application for security for costs.
13. The Claimant must however pay the costs of the applications to the Second and Third Defendants on the standard basis as agreed, or taxed failing agreement.

DATED at Port Vila this 27th day of November, 2025.

BY THE COURT

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Hon. Justice Oliver A. Saksak

