

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

Judicial Review
Case No. 25/1116 SC/JUDR

**BETWEEN: Family Tatuna Totowa and Family
Tousi represented by Charley David**
Claimants

AND: Minister of Lands
First Defendant

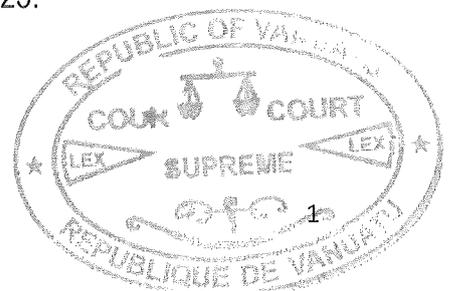
AND: Republic of Vanuatu
Second Defendant

**AND: Sion Nariawa, John Lorry Kappa, Joe
Iautu Ture, Dick Taseru**
Third Defendants

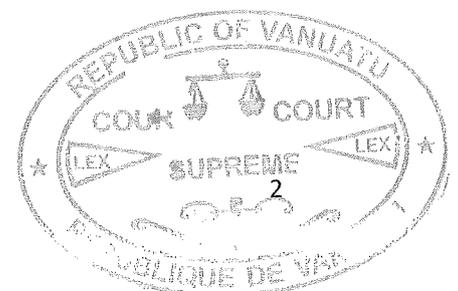
Date of Rule 17.8 Conference: 3 March 2026
Before: Justice V.M. Trief
In Attendance: Claimants – Mr A. Bal
1st & 2nd Defendants – Mr D. Jonah
3rd Defendants – no appearance (in person)

DECISION AS TO RULE 17.8 MATTERS

1. On 23 April 2025, the Claimants Family Tatuna Totowa and Family Tousi represented by Charley David filed the Judicial Review Claim seeking judicial review of the First Defendant the Minister of Lands' issuance of a certificate of registered negotiator to the Third Defendants Sion Nariawa, John Lorry Kappa, Joe Iautu Ture and Dick Taseru in respect of Sura custom land at Imasa village on Aniwa island. On 3 July 2025, the Claimants filed the Sworn statement of Charley David in support of the grounds of the Claim on 3 July 2025.



2. On 27 February 2026, the First and Second Defendants filed Defence. On 3 March 2026, they filed the Sworn statement of Gordon Willie filed in support of the grounds of the Defence.
3. The Third Defendants have not filed a Defence.
4. Rule 17.8(3) of the *Civil Procedure Rules* ('CPR') provides that the judge will not hear the claim unless he or she is satisfied as to all four matters set out in that rule:
 - (i) the Claimants have an arguable case (rule 17.8(3)(a), CPR);
 - (ii) the Claimants are directly affected by the decision under challenge (rule 17.8(3)(b), CPR);
 - (iii) there has been no undue delay in making the Claim (rule 17.8(3)(c), CPR); and
 - (iv) there is no other available remedy which resolves the matter fully and directly (rule 17.8(3)(d), CPR).
5. Having considered the pleadings, sworn statements, and having heard counsel, I am satisfied as to the following:
 - a. That by the Claim, the Claimants are seeking judicial review of the issuance of the Certificate of Registered Negotiator Rural Land dated 22 November 2024 to the Third Defendants;
 - b. That the First and Second Defendants' case is that that Certificate of Registered Negotiator expired on 22 November 2025;
 - c. Given that the Certificate of Registered Negotiator under challenge in the Claim has expired, it no longer has any legal effect and there is no longer any arguable case for the Claimants;
 - d. As there is no arguable case, the Court need not consider the balance of the matters under rule 17.8(3) of the CPR and must decline to hear the Claim and strike it out.
6. For the reasons given, I decline to hear the Claim and the Claim is **struck out**.
7. It took nearly 11 months from the filing of the Claim to the First and Second Defendants filing their Defence. In the meantime, there were five conferences and/or hearings in this matter. Mr Bal has been retained that entire time. The Claimants have incurred costs in having to file the Claim and await the State's



response to the Claim. They have been put to costs and are entitled to the costs of the proceeding.

8. Mr Bal submitted that VT200,000 was a reasonable amount for costs. Mr Jonah submitted that the quantum sought was excessive and that VT30,000 for costs was reasonable. Given that the fee for filing a Claim is VT20,000, I reject Mr Jonah's submissions that VT30,000 costs for the entirety of the proceedings is reasonable. Given the five listings in the matter, the Claimants' sworn statements and an application for restraining orders, and perusal of the Defence and Mr Willie's sworn statement, I order costs in the sum of VT180,000. Accordingly, the First and Second Defendants are to pay to the Claimants costs in the sum of VT180,000 **by 4pm on 25 March 2026.**
9. The Restraining Orders dated 24 June 2025 are **discharged** and set aside.
10. The Certificate of Registered Negotiator Rural Land dated 22 November 2024 which was issued to the Third Defendants has **expired** and is no longer of any legal effect.

**DATED at Port Vila this 3rd day of March, 2026
BY THE COURT**


Justice Viran Molisa Trief

