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IN THE SUPREME COURT OF NAURU



G. L. CHOPRA
REGISTRAR, SUPREME
COURT

CIVIL ACTION NO. 13/98

BETWEEN : KABOTAU TABAI

PLAINTIFF

AND : KAMERE NABETARI

DEFENDANT

DECISION OF DONNE C.J.

Having seen and heard the witnesses, I have been satisfied by the de facto wife of Ezekiel that the boat in question was given to the Plaintiff in 1994. I am also satisfied the Plaintiff did not sell or part with possession of the boat which was unlawfully taken on 1995 by person or persons unknown. The Defendant is not very clear about how he came into

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possession of the boat but it is probable it was sold first to his friend and then the Defendant who was present at the time paid the \$200 for it. Whatever may be the true position, I am quite satisfied the boat was not purchased from the Plaintiff to whom it belonged. Furthermore, if the Defendant or his friend did in fact pay \$200 for it to a person whom they did not know and did not enquire as to his name, when it must have been obvious the boat was of a value greatly in excess of the price paid. They should have been suspicious as to how the Solomon Island seller had obtained the boat. Consequently I do not accept that the Defendant, if he did witness the sale of the boat, did not know the identity of the seller, I reject his version of how he came to possess the boat. It clearly belongs to the Plaintiff and he is entitled to the possession of it. The Defendant's defence and counterclaim are rejected.

As to the Plaintiff's claim of a loss of business as a fisherman, no evidence was adduced presenting any accounts of sales ~~on~~ the real extent of the alleged business – an assessment is not enough. What is clear he did not use the boat in commercial fishing for the 6 months he had it prior to its disappearance in 1994. He, however, has been deprived of the use of the boat and should receive some compensation.

Order made as recorded on Court record. 17 4/2/98 (99) *nd*



CHIEF JUSTICE