

IN THE BANKS/TORRES ISLAND COURT CIVIL CASE NO 3352 OF 2021
OF THE REPUBLIC OF VANUATU

.....
(Civil Jurisdiction)

BETWEEN: KENEDY WELIN

Claimant

AND: DAVID QWELBE

Defendant

CORAM: *Justice Raymond SIPLAQ*
Justice Leolyn ROSLYN
Justice Keith HOPKINS

Clerk: *Dimas ARU*

DOH: *18th October 2021*

DOJ: *18th October 2021*

CASE: **COMPENSATION CLAIM BLONG 14 STAMPA BLONG NATANGURA**

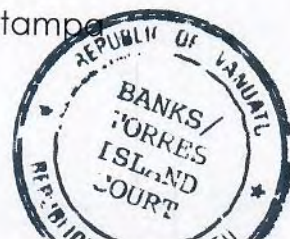
JUDGEMENT

Introduction

1. Hemia hemi wan claim blong compensation blong 14 stampa blong natangura. Claimant hemi claim se ol natangura ya hemi blong hem mo defendant nao hemi bin katem daon olgeta.
2. Claimant hemi askem Court blong l odarem defendant blong hemi pem ol 14 stampa natangura ia.

Issue:

3. Igat 2 issue l stap bifo long Court blong hemi lukluk long hem;
 - a) Sapos l tru se defendant nao hemi bin katem daon ol 14 stampa blong natangura ia.



- b) Sapos Claimant hemi gat raet long ownership over long ol natangura ia.

Claim blong Claimant

4. Claimant hemi claim se samtaem long yia ya, 2021 oli bin faenemaot se wan man hemi bin katem daon ol 14 stampa natangura blong hem.
5. Matter ya ol chief's oli bin stap handelem long vilij level. Mo igat evidence se defendant nao hemi katem ol natangura ia, be hemi no acceptem blong compensateitem olgeta.
6. Hemi claim se ol family blong hem I depend plante long ol natangura ia.

Defense & Counter-Claim

7. Defendant hemi no faelem any response, defense or Counter-claim.

Appearance

8. Tugeta party I stap long Court.

Discussions

9. Case ya hemi ko long trial folem Rule 6(6) blong *Island Courts Civil procedure rules*, afta we defendant hemi denaeyem claim we I stap agensem hem.

Evidence blong Claimant

10. Claimant hemi toktok in support long claim blong hem.
11. Hemi talem se tru long wan meeting we ol chiefs I arenjem, nao defendant hemi admitim se hem nao hemi katem ol natangura ia. Hemi katem blong mekem garen long ples ia.
12. Mo long taem blong meeting ia, uncle blong defendant I bin talem se bae hem I pem ol natangura ia, be I never mekem any payment I mekem case ia I kam kasem Court.
13. Taem we defendant hemi kwestenem hem, hem I talem se ol natangura ia oli stap daon. Hemi planem antap kasem daon.
14. Long kwesten long saed blong ol land mark, claimant hemi talem se igat wan creek we I seraotem olgeta. Olgeta I wok narasaed mo



defendant wetem ol family blong hem narasaed. Be defendant oli bin wok I over long creek ia mo wok I kam narasaed long ples blong olgeta.

15. Claimant hemi kam blong ansarem defendant se ol natangura ia, hem nao hemi planem [samwe long 2014] be ino olsem we defendant hemi stap talem se frut blong ol natangura I folfoldaon aot long stampa antap long hill mo oli rol I kam daon mo oli gro daon.
16. Long saed blong graon, claimant hemi talem se graon hemi blong John Lapan, mo ol property ia hemi hemi gat ownership long hem.
17. Claimant hemi gat 2 witness.

Witnis # 1; Chief Kones Marstan

18. Hemi kam olsem wan witnis blong talem se hem nao I bin stap dil wetem case ia long vilij level. Hemia long Wasaka vilij.
19. Taem claimant I kam luk hem from ol natangura ia, nao olgeta I bin ko mekem saet visit. Mo oli bin faenemaot se I tru wan man I bin katem ol natangura blong Claimant. I gat 14 stampa every wan.
20. Mo long 15th May 2021 hemi bin singaotem wan meeting mo defendant hemi admitim se hem nao hemi katem ol natangura ia. Hemi se hemi klinim ples ia blong mekem garen long hem.
21. Folem admission blong defendant, ol chiefs I bin traem blong putum wan faen, we hemi 70,000 Vatu, be defendant hemi talem se amount ia I bigwan tumas.
22. Nao from we olgeta I olsem wan family nomo, amount ia oli bin ridiusum I kam long 14,000 Vatu. 1,000 Vatu long wan stampa. Be still defendant hemi se hemi bigwan tumas yet.
23. Nao amount ya I ko daon long 7,000 Vatu. Hemia nao oli agree long hem. Be kasem tede we klosap 5 manis I pas defendant hemi no mekem eni attempt blong pem ol natangura ia.

Cross-Examination

24. Witnis ia hemi bin talem se folem site visit, oli bin faenemaot se ol natangura ia oli stap long area we Claimant I stap wok long hem. Mo



area ia hemi blong John Lapan. Mo John Lapan hemi bin stap wok long ples ia bifo I kam. Igat mak we I sepereitem olgeta.

25. Hemi steitem se case ia hemi blong property mo hemi no blong graon.

Re-Examination

26. Claimant hemi no re-examaenem witness blong hem.

Witnis # 2; Chief Thompson Paul

27. Hemi kam blong confirm se long 15th May 2021, hem wetem Chief Kones Marstan tufala I bin holem wan meeting mo defendant hemi admitim se hem nao hemi katem ol natangura ia.

Cross-Examination

28. Wetem ol kwestens we I reis long hem, witness ia hemi continue blong beis long admission we defendant hemi bin mekem long 15th May 2021.

29. Mo blong confirm se ol natagura ia oli blong claimant o no, witness ia hemi talem se hem tu I bin folem fes site visit, mo oli bin faenemaot se ol natangura ia oli blong Claimant.

Re-Examination

30. Claimant hemi no re-examaenem witness blong hem.

Evidence blong Defendant

31. Defendant tru long spokesman blong hem, hemi toktok blong dinaeyem claim ia.

32. Hemi talem se main issue hemi graon. Graon ia hemi blong pupu blong defendant mo hemi bin kivim part blong graon ia long John Lapan. Area we hemi blong John Lapan hemi stap antap, mo blong pupu blong defendant we hem hemi stap wok long hem I stap daon.

33. Mo natangura we hemi blong claimant hemi hemia we I stap antap ia nao. Ol natangura we I stap daon, claimant hemi no planem be ol frut blong ol natangura we I stap antap.



34. Mo from we oli natangura ia I foldaon I kam daon long area blong defendant, naoia bae oli kam ol property blong defendant. Area ia defendant hemi bin stap wok long hem 10 - 15 yia finis.
35. Defendant hemi talem se ol natangura ia oli gro wild. Mo oli heap up tugeta long wan ples. Mo oli gro tugeta wetem ol bush.

Witnis # 1; Esrom

36. Hemi kam blong sapotem defendant blong talem se defendant hemi no bin katem ol natangura ia.
37. Mo hemi talem tu se ol natangura we hemi blong claimant hemi hemia we I stap antap. Ol natangura we I stap daon, claimant hemi no planem be ol frut blong ol natangura we I stap antap. Blong pruvum, ol natangura ia oli gro wild, mo hemi talem se bigfala sista blong hem [we hemi mama blong defendant] nao hemi stap klinim.

Cross-Examination

38. Hemi maintenem se defendant hemi no katem ol natangura ia. Be taem we Court I kwestenem hem, hemi kam blong talemaot se defendant hemi bin katem ol natangura we I stap daon, mo hemia claimant hemi no planem. Hemia we claimant hemi planem, defendant hemi no katem.

Re-Examination

39. Taem we defendant hemi kwestenem witniss ia, hemi talem se ol natangura ia oli stap daon. Mo claimant hemi no save claim from.

Ol findings blong Court

40. Long hearing, Court I faenemaot se defense hemi beis plante long issue blong graon.
41. Court I faenemaot tu se defendant hemi bin admitim long village court finis se hem nao hemi katem ol natangura ia.
42. Mo I gat admission tu long wan witness blong defendant be hemi denaeyem se hemi blong claimant from we oli natangura ia claimant hemi no planem.
43. Wetem ol findings ia, Court hemi ansarem ol issues olsem;



a) Sapos I tru se defendant nao hemi bin katem daon ol 14 stampa blong natangura ia. Answer hemi yes.

b) Sapos Claimant hemi gat raet long ownership over long ol natangura ia. Answer hemi yes.

44. Folem ol faendings ia, hemia hemi decision blong Court;

DECISION

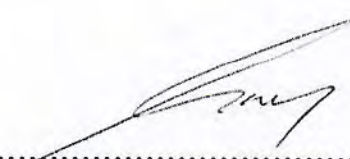
45. Defendant, David Qwelbe, Court hemi stap odarem yu blong pem I ko long claimant wan amount blong 10,000 Vatu olsem compensateisen blong ol 14 stampa natangura mo 750 Vatu olsem fee blong tekem case I kam long Court. I mekem wan total blong 10,750 Vatu.

46. Peimen ia yu mas mekem within long wan manis taem, we bae hemi bifo 18th November 2021.

47. Sapos anywan we I no agree wetem decision ia, hemi save apil within 30 days long date we judgment ia hemi kamaot.


Dated long Sola- VANUA LAVA, this 18th October 2021

BY THE COURT


.....
Justice Raymond SIPLAQ


.....
Justice Leolyn ROSLYN




.....
Justice Keith HOPKINS