

IN THE BANKS/TORRES ISLAND COURT CIVIL CASE NO 2941 OF 2021
OF THE REPUBLIC OF VANUATU

.....
(Civil Jurisdiction)

BETWEEN: ALPHONSE WELIN

Claimant

AND: EMMY 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 1 STAMPA BLONG SANDEL WUD

JUDGEMENT

Introduction

1. Hemia hemi wan claim blong compensation blong 1 stampa blong sandel wud we claimant hemi claim se defendant nao hemi bin bonem.
2. Claimant hemi askem Court blong I odarem defendant blong hemi pem 1 stampa sandel wud ia.

Issue:

3. Igat 2 issue I stap bifo long Court blong hemi lukluk long hem;
 - a) Sapos I tru se defendant nao hemi bin bonem stampa blong sandel wud ia.



- b) Sapos Claimant hemi gat raet long ownership over long sandel wud ia.

Claim blong Claimant

4. Claimant hemi claim se samtaem long yia ya, 2021 oli bin faenemaot se sandel wud ia hemi drae, mo faea hemi bonem.
5. Nao chief Kones Marsten hemi bin holem wan meeting mo defendant hemi admitim se hem nao hemi bonem.
6. Defendant hemi se hemi bonem Karen nao I mestem I bonem.
7. Matter ia ol chiefs oli bin stap handelem, be defendant hemi no acceptem blong pem sandel wud ia.

Defense & Counter-Claim

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

Appearance

9. Tugeta party oli kam long Court.

Discussions

10. Defendant hemi denaeyem claim we I stap agensem hem I mekem se case ia hemi ko long trial folem Rule 6(6) blong *Island Courts Civil procedure rules*.

Evidence blong Claimant

11. Claimant hemi toktok in support long claim blong hem. Hemi se sandel wud ia hemi drae long yia ia nomo, 2021.
12. Hemi talem se stampa blong sandel wud ia hemi stap insaed long area blong hem. Hemi long sem area we ol natangura mo kokonas I stap long hem. [IC 21/2940 & IC 21/3352]
13. Hemi talem se brata blong hem (Kenedy) nao hemi luk we defendant hemi bonem. Mo even defendant hemi bin admitim long village court finis.



14. Long kwesten se distance blong fire mo sandel wud ia hemi longwe, claimant hemi talem se wind nao I mekem faea I bonem sandel wud ia.

15. Claimant hemi gat 3 witness.

Witness # 1; Chief Kones Marstan

16. Witnis ia hemi kam blong confirm se long 15th May 2021 hemi bin singaotem wan meeting mo defendant hemi admitim se hemi bin stap bonem garen blong hem, mo I mestem faea I ko kasem sandel wud ia mo bonem.

Cross-Examination

17. Afta we defence I kwestenem hem long distance long ples we defendant hemi bonem mo stampa blong sandel wud ia, hemi talem se distance hemi 3 mita olsem.

Re-Examination

18. Hemi re-affirm se defendant hemi bin admitim long 15th May 2021 miting se faea we hemi mekem nao I kilim sandel wud ia.

Witness # 2; Chief Thompson Paul

19. Hemi tu hemi kam blong witnisim se defendant hemi bin admitim se hem nao hemi bonem sandel wud ia. Taem ia igat fulap man I witnisim we hemi mekem admission ia. Hem mo chief Kones Marstan nao I bin dil wetem case ia.

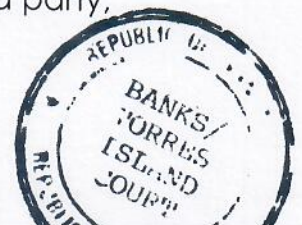
Cross-Examination

20. Witniss ia hemi talem se sandel wud ia hemi stap long sem area we ol natagura mo kokonas blong Claimant I stap long hem.

21. Hemi talem se distance bitwin garen we defendant hemi bonem mo sandel wud ia hemi klosap nomo mo win nao I contribute blong mekem faea I ko mo kasem sandel wud ia mo kilim.

Re-Examination

22. Hemi re-affirm se defendant hemi admitim long village Court se hem nao I bonem sandel wud ia. Long taem ia igat ol chiefs, tufala party, mo plante man mo woman I stap long miting.



Witness # 3; Fred

23. Hemi toktok in support long claim blong claimant.

Cross-Examination

24. Hemi talem se sandel wud ia hemi stap aotsaed long Karen blong claimant. Taem we faea hemi bonem, hemi long wan drae sisen. Mo hem nao hemi stap mo hemi luk we faea we defendant hemi mekem I bonem sandel wud ia.

25. Mo hemi talem tu se ol nara wud we I stap kolosap oli bon tu, mo I no olsem we defendant hemi stap talem.

Re-Examination

26. Hemi confirmem bakeken se hem hemi stap long taem ia we faea I stap laet mo I bonem sandel wud ia.

27. Mo hemi confem tu se hem tu hemi stap long miting long 15th May 2021 mo defendant hemi bin admitim se hemi nao I bonem sandel wud ia. Fulap man I witnisim admission ia.

Evidence blong Defendant

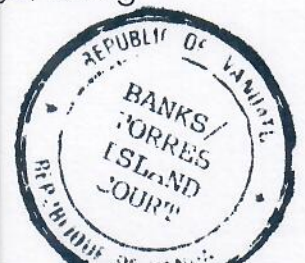
28. Defendant tru long spokesman blong hem, hemi toktok blong dinaeyem claim ia.

29. Fes defense blong hem, hemi se garen we oli stap tokbaot, hem hemi bonem be hemi long 2012. Mo faea long taem ia I no bonem sandel wud ia.

30. Mo Karen blong defendant hemi stap long wan difren ples mo sandel wud ia hemi stap long wan difren eria. Oli no stap long sem ples. Hemi samwe 10 mita olsem.

31. Hemi se long taem blong meeting, hem hemi bin confemem nomo se hemi bin bonem garen, be hemi no bin admitim se hemi bonem sandel wud ia.

32. Mo hemi talem se hemi gud blong case ia I kobak long village, blong oli stretem ol graon bifo case I save kam long Court.



33. Defense saed I gat 1 witness.

Witness # 1; Esrom

34. Hemi kam blong talem se claim ia hemi no gat proof. Mo hemi koet blong talem se hem wetem 13 nara man oli bin ko blong mekem wan site visit mo hemi talem se I gat plante samting we I stap long mitel blong garen we defendant hemi bin bonem mo sandel wud ia we I ded. Hemi se I gat ol grass, ol paenapol, mo ol nara samting I laef I stap. Oli no ded.

Cross-Examination

35. Long kwestening, hemi se sapos sandel wud ia wan difren samting nomo hemi mekem I ded. From sapos I tru from wanem ol nara samting we I stap in bitwin long garen mo sandel ia oli no bon.

36. Mo hemi kam blong talem tu se long 15th May 2021, defendant hemi no bin talem se hemi nao I bonem sandel wud ia. Be hemi bin talem nomo se hemi bin bonem garen blong hem.

37. Long kwesten from wanem oli no save stretem bifo I kam long Court, witnis ia hemi talem se oli bin agri blong stretem issue ia long level blong famli mo vilij level be oli risivim ol summons mekem oli leko blong court bae hemi dil wetem.

Re-Examination

38. Hemi kam blong talem se distance blong garen we defendant hemi bonem mo sandel wud ia hemi 10 mita.

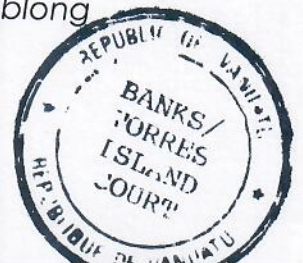
Ol findings blong Court

39. Long hearing, Court I faenemaot se defendant hemi bin admidim long 15th May 2021 mitng se hem nao hemi bonem sandel wud ia.

40. Court I faenem tu se hemi wan mistake nomo we faea I bonem sandel wud ia. Mo win nao I mekem faea I kasem.

41. Findings blong Court hemi olsem;

a) Sapos I tru se defendant nao hemi bin bonem stampa blong sandel wud ia. Yes



Be defendant hemi no gat intention blong bonem. From we action blong defendant hemi no intended, bae court hemi no save grantem full claim blong claimant.

b) *Sapos Claimant hemi gat raet long ownership over long snadel wud ia. Yes*

Folem ol faendings ia, hemia hemi decision blong Court;

DECISION

42. Defendant, Emmy Qwelbe, Court hemi stap odarem yu blong pem I ko long claimant wan amount blong 2,000 Vatu olsem compenseisen blong sandel wud ia mo 750 Vatu olsem fee blong tekem case I kam long Court. I mekem wan total blong 2,750 Vatu.

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

44. 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