

IN THE MALEKULA ISLAND COURT  
OF THE REPUBLIC OF VANUATU  
(Criminal Jurisdiction)

Civil  
Case No. 18/001 IC/CIVL

BETWEEN:

**JOHN RAPSARI**

Claimant

AND:

**ELDER WILTON KALORY**

Defendant

*Date of Hearing:* 16 April 2018

*Venue:* Lakatoro Court House

*Before:* Justice Douglas Fadal, Justice Joses Lingi, Justice Patisson Peter

*Clerk:* Collyne Tete Maki

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### JUDGMENT

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The matter registered before the Island was civil claim filed by Mr John Rapsari originally from Tulwei village, Northwest Malekula against the defendant Mr Wilton Kalory of Tulwei village, Northwest Malekula.

The application was filed on the 9<sup>th</sup> day of April 2018 claiming against the defendant that his pig had trespassed and damaged to the claimants yard and destroyed local food and a few sandal woods. He stated that he approached the defendant three times through his eldest brother Mr Sethy Kalory whom is the chief to the defendant but the defendant failed to pay for the damages and his pig kept on destroying his garden, he further stated that at times after his garden being destroyed if he send a message to the defendant to inform him that his crops are being damaged again he would often see the defendant with the help of dogs and few boys would chase the pig and the pig would still run through his yard, he described the colour of the pig as red. He is frustrated and decided to file the matter before the island court. He claimed for the defendant to repay his damage in accordance to the Agricultural valuation form.

During cross examination his first witnesses Mr Nobert Nori from Livet village Northwest Malekula stated in court that he and the claimant went to look at the damages made to his crops and followed the pigs' foot track and it leads to the defendants pig. He mentioned the reason why they did not approach the defendant to tell about the damage was because the



defendant is under the responsibility of a chief whom is the defendants' eldest brother. But even this approaches the defendant still failed to pay for the claimants damages

The second witness to the claimant Mr Jack Rapsari of Tulwei village Northwest Malekula mentioned in court that he and the claimant and three others went to look at the damage. On the day that they went it was planned for the defendant to follow them. But the defendant decided to go by himself and left early in the morning to look at the damages and the witness and the claimant and the two others were not aware that the defendant went to observe all by himself.

He further mentioned that this is not the first time the claimant complains of the defendants' pig destroying his garden it has been so long of the defendants pig destroying it has also been spread among the villages or community that made them talk about it.

The defendant responded to the claim and mentioned in court that it wasn't his pig that destroyed the claimants' crops. He confirmed he had seen the Lakatoro Police letter to warn him to tie his pig but failed to meet the defendant and sort out the issue of his pigs. He confirmed in court that he has two mother pigs whose colours are red and they are both tied up with ropes and not out in pig fences.

Mr Lesta Nori the first witness and nephew to the defendant mentioned in court that his pigs were tight up with Japanese robe. Further stated during cross examination that a few times within the community that the defendants' pigs were destroying the claimants crops and if the defendant is informed he would tie up the pigs. He also confirmed in court that a few times within the community he would hear the claimants' garden being destroyed by the defendants' pigs. He further described the robe the pigs being tied up was a Japanese robe.

The second witness to the defendant Mr William Daniel stated in court that he saw the defendants pig always tied up with a robe. He confirmed that a few times within the community there's an issue with the claimant and the defendant of pigs destroying gardens.

The second witness to the defendant Mr Wilken Daniel mentioned in court during cross examination that he is the caretaker of the pigs when the defendant is away in Santo for church mission. He further stated that at times the pigs would come out of their robes and walk around. He further described the robe the pigs being tied up was a mosquito net.

### COURT FINDINGS

1. The claimant described the color of the defendants pig as the color red. Even the defendant also stated in court the color of his pig as the color red;
2. The claimant stated that it is not the first time the defendants pigs damaged his local food. Even the witnesses to the defendants confirmed in court that at sometimes around the community rumors of the claimants garden being destroyed by the defendants pigs;
3. The claimant stated in court that whenever there were damages made to his garden he always tried hard to let the defendant know about it, but the defendant never responded to him. The



defendant also confirmed that he received the Police letter and messages from few chiefs but failed to approach the claimant to sort out the issue;

4. The claimant stated that the defendants pig usually sleeps under his house whenever the robes tied to them is broken they travel and settle by the claimants' house;
5. The claimant stated in court that the defendants pigs are tied up with a robe that usually tore's off, this was confirmed by the defendant and his witnesses that the pigs are tied up with robes and not put in fences;
6. ***Guided by the Island courts Act CAP 167 section 13 Subsection (a) stated "In civil proceedings an island court in addition to any other power it may have may make any or a combination of the following orders (a) an order for the payment of money by way of compensation, costs or otherwise.***

Upon the findings the court hereby makes the following orders;

#### ORDERS

1. The defendant will pay a total amount of VT 26,510 for the damages made by his pigs. The amount of VT 1,000 will be for the court fee and VT 23,110 will go towards the damages, VT 2,400 for the transportation;
2. The payment to be completed within two months. First payment VT 13,255 to be made to be made on the 19<sup>th</sup> day of May 2018 and the second in completion of the payment to be made on the 19<sup>th</sup> day of June 2018 an amount of VT 13,255;
3. Within 30 days if the defendant FAILED to comply with the orders 1 to 2 the claimant has the right to file an Enforcement before the island court;
4. In accordance to the Island Court ACT CAP 167 section 22 states "***Any person aggrieved or not happy by an order or decision of an island court may within 30 days from the date of such orders to appeal to the Magistrate Court***".



Dated at Lakatoro this 16<sup>th</sup> day of April 2018

BY THE COURT

Justice Douglas Fadal

Justice Patisson Peter



Justice Joses Lingi