

**BETWEEN:** MALNAIM PATRICK

**Claimant**

**AND:** MARTIN MALTOCK & TITO MALTOCK

**Defendants**

*Date of Hearing:* 28 May 2020  
*Date of Judgment:* 28 May 2020  
*Before Justices:* Douglas FADAL (Chairperson), Joses LINGI, Lorna BONGVIVI  
*Clerk:* Collyne Tete Maki  
*In Attendance:* Claimant – Present  
Defendant – Present

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**JUDGMENT**

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Kes ia emi registered bifo long Malekula aelan kot follem *Island Courts ACT CAP 167 section 10. Application of customary law: Subject to the provisions of this Act an island court shall administer the customary law prevailing within the territorial jurisdiction of the court so far as the same is not in conflict with any written law and is not contrary to justice, morality and good order mo tu;*

*Guided by the Island Courts (Civil Procedure) No 28 of 2005 Rule 1 subsection 1 to 7 stated” Starting of a civil claim”*



## **ISSUE BIFO LONG KOT:**

1. *I tru se tufala defendan tufala I killem pig blong claimant?*
2. *From nao tufala I killem pig blong claimant?*

## **BACKGROUND BLONG CASE**

Mr Patrick Malnaim blong Rano vilij northeast Malekula emi filem kes agensem tufala defendan Mr Marting Maltock mo son blong em Mr Tito Maltock blong Rano vilij, Northeast Malekula.

## **CLAIM BLONG CLAIMANT**

Claimant emi filem kes blong em I kam long kot long namba 20 April 2020 mo statem se long namba 15 April 2020 emi realisem robe long leg blong pig blong em samples long morning. Emi statem se long aftenun blong semak dei emi singaotem pig blong I kam bak blong I fasem leg blong em taem we emi singaot pig I nomo kam bak. Emi statem se emi lukaot olbaot long semak dei ia blong luk se I kaikai long wan long ol Karen be no gat nomo.

Long Friday 17 April 2020 son blong em Armand em nao I ko askem long Ose se oli no luk or harem se anyone I killem pig nao Ose I se Tito I killem wan pig we emi Black mo white mo oli kaikai. Emi statem bakgegen se nara son blong em Pascal emi ko mo askem long Salavina we emi wife blong Mickeal and Salavina emi se emi harem wan pig I cry long eria we emi bitwin em mo ol defendan. Later on Tito I ko passem wan pis meat long em.

Claiman emi kleim blong defendan emi pem bak pig blong em wan amount blong VT 50,000 from we emi wan natamape.

## **RESPONSE BLONG DEFENDANT**

Defendan Martin Maltock emi response on behalf blong em mo son blong em Tito mo talem se em mo son blong em I killem wan pig be emi no Black mo waet be emi full black mo smol waet nomo long neck blong pig. Emi talem se bifo TC Harold I kasem yumi oli stap ronem wan pig finis we I stap destroy long Karen kasem we oli kasem pig mo killem mo sherem long evriman we pig I stap kaikai long Karen blong olgeta.

Mr Martin Maltock emi talem se pig I stap destroy amas taem long Karen blong em mo ol family blong em mo oli stap passem toktok olbaot long vilij se wan pig I stap kaikai long Karen blong olgeta be neva wan I kam blong talem maot long olgeta se pig blong em. Taem we son blong em I killem pig emi no save se pig emi blong claimant from we emi neva save se claimant emi stap realism pig blong em mo even taem oli stap passem toktok se wan pig stap kaikai long ol Karen claiman emi neva kam bifo olgeta blong talem long olgeta se emi stap realism pig blong em, emi save nomo long wan smol pig we emi blong claiman we I stap wokbaot olbaot long ol yard be emi no save long bigfala pig ia we claiman emi claim from.

Defedan emi talem tu se from we TC Harold I spollem kaikai blong ol man em olsem wan jif emi letem community I save se sapos wan pig I kam maot mo kaikai long Karen blong emi man bae oli mas killem from emi destroy long Karen.

Afta we kot I harem toktok blong claimant mo lukluk tru long ol response blong defendan kot I mekem ol findings olsem:-



## COURT FINDINGS

- Kot I faenem maot se yes I tru I gat wan bigfala pig I kill long 15 Apeil 2020
- Kot I faenem maot se pig emi wan natamape
- Kot I harem se color blong pig emi black mo white olsem we claimant I talem mo defendant emi talem se emi full black pig mo smol white long neck
- Kot I faenem maot se claiman em i no luk color blong pig we defendan oli killem
- Kot I faenem maot se claiman emi talem se emi harem toktok se Tito emi killem wan pig be emi no luk color blong pig ia
- Claiman emi no talem long statmen blong em se pig emi full black mo white long face, chest wetem bell
- Witness blong claiman emi talem long kot se emi harem pig I cry long aftenun be emi no luk color blong pig mo tu emi no luk se pig ia emi wan natamape or no
- Witness blong claiman emi no save tu se claiman emi realisem pig long morning
- Witness blong claiman emi talem tu se emi luk Salavina mo Salavina I talem se defendan oli killem wan pig be emi no luk color blong pig
- Kot I faenem maot se pig we ol defendan oli killem emi semak pig we oli bin luk long ol pass manis we I stap wokbaot long karen blong olgeta emia nao oli killem
- Witness blong defendan Ms Salavina we Son blong claiman I bin ko luk em emi harem pig I cry be em I no luk color blong pig mo emi no save se wan bigfala pig (natamape) or wan smol pig
- Kot I faenem maot se Tito I killem wan pig be no save se emi wan bigfala pig or smol pig mo color blong em I full black mo smol white be I no olsem we claiman emi talem se black & white pig
- Kot I faenem maot tu se afta we pig I ded I nomo gat any mo damage long Karen
- Witness blong defendan emi talem se ol pig I stap kaikai wild yam blong em mekem se Tito I ko gem wan pis meat tu long em
- Kot I faenem maot tu se pig we Tito I killem I no gat mak blong rob long leg blong pig
- Claiman wetem witness tufala I no pruvum long kot se pig we defendan I killem emi pig we claiman emi claim claim from.

Afta we kot I mekem ol findings ia kot I mekem oda olsem: -

## COURT ODA

1. Civil case 902 of 2020 emi dismissed
2. Sapos any long ol parties I no agri long ol oda ia oli gat 30 dei blong apeil I ko long Magistrate kot



DATED 28 MAY 2020 AT LAKATORO, MALEKULA

BY THE COURT

JUSTICE LORNA BONGVIVI

  
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JUSTICE JOSES LINGI

  
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JUSTICE DOUGLAS FADAL (chairperson)

  
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