

IN THE BANKS/TORRES ISLAND COURT CIVIL CASE NO 2940 OF 2021  
OF THE REPUBLIC OF VANUATU

.....  
(Civil Jurisdiction)

**BETWEEN: ALPHONSE WELIN**

*Claimant*

**AND: DAVID QWELBE**

*Defendant*

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

**Clerk:** *Dimas ARU*

**DOH:** *18<sup>th</sup> October 2021*  
**DOJ:** *18<sup>th</sup> October 2021*

**CASE:** **COMPENSATION CLAIM BLONG 5 STAMPA BLONG KOKONAS**

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**JUDGEMENT**

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**Introduction**

1. Hemia hemi wan claim blong compensation blong 5 stampa blong kokonas we claimant hemi claim se defendant nao hemi bin katem daon olgeta.
2. Claimant hemi askem Court blong I odarem defendant blong hemi pem ol 5 stampa kokonas 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 katem daon ol 5 stampa blong kokonas ia.



- b) Sapos Claimant hemi gat raet long ownership over long ol kokonas 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 5 stampa kokonas blong hem.
5. Matter ya ol chief's oli bin stap handelem long vilij level. Mo igat evidence se defendant nao hemi katem ol kokonas ia, be hemi no acceptem blong compenseitem olgeta.
6. Hemi claim se ol family blong hem I depend plante long ol kokonas ya.

### **Defense & Counter-Claim**

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

### **Appearance**

8. Tugeta party I apia long Court.

### **Discussions**

9. 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**

10. Claimant hemi toktok in support long claim blong hem.
11. Hemi talem se ol kokonas ia oli stap long sem area we ol natangura [long IC 21/2940] oli stap long hem. Mo oli bin katemaot tugeta wetem ol natangura ia.
12. Mo long area ia I nomo gat narafala man I wok long ples ia be defendant nomo. Mo sapos hem hemi katem ol natangura ia, hem nomo hemi katem ol kokonas ia.
13. Long kwesten long saed blong ol land mark, claimant hemi talem se hem wetem papa blong hem I wok long ples ia fastaem. Mo olgeta igat ol property long ples ia.



14. Mo hemi kam blong talem se ol kokonas ia, papa blong hem nao I planem, be ino olsem we defendant hemi stap talem se frut blong ol kokonas I folfoldaon aot long stampa blong kokonas antap long hill mo oli rol I kam daon mo oli gro daon.

15. Claimant hemi gat 3 witness.

Witness # 1; Chief Thompson Paul

16. Hemi kam olsem wan witness blong talem se hem nao I bin stap dil wetem case ia long vilij level.

17. Olgeta oli bin ko mekem saet visit. Mo oli bin faenemaot se I tru wan man I bin katem ol kokonas blong Claimant. Igat 5 stampa every wan.

18. Mo long 15<sup>th</sup> May 2021 hemi bin singaotem wan meeting mo defendant hemi admitim se hem nao hemi katem ol kokonas ia.

Cross-Examination

19. Afta we defense I kwestenem hem, hem still maintenem se defendant hemi bin mekem admission long taem blong meeting long 15<sup>th</sup> May 2021.

Re-Examination

20. Hemi re-affirm se defendant nao hemi katem ol kokonas ia.

Witness # 2; Chief Kones Marstan

21. Hemi kam blong confirm se hem mo Kenedy Welin nao tufala I ko mo mekem site visit mo faenemaot se 5 stampa kokonas ia nao wan man I katem.

22. Hemi se long taem blong meeting long 15<sup>th</sup> May 2021, defendant hemi bin denaeyem. Be oli bin putum long hem long taem ya se natangura mo kokonas tufala I stap tugeta nomo long wan area. Mo sapos hem hemi katem ol natagura, hem nomo ia I katem ol kokonas ia.



Cross-Examination

23. Witniss ia hemi maintenem se defendant nomo ia hemi katem ol kokonas ia, be I no wan kampani olem defendant hemi stap talem.

Re-Examination

24. Hemi re-affirm se defendant nao hemi katem ol kokonas ia.

Witnis # 3; Fred

25. Hemi kam blong confirm se ol kokonas ia oli katem long yia ya nomo, 2021.

26. Mo hemi talem se hem nao hemi luk defendant hemi katem ol kokonas ia.

Cross-Examination

27. Hemi se taem hemi luk defendant hemi stap katem ol kokonas ia, hemi no bin toktok long hem long taem ia.

28. Mo hemi se defendant hemi bin katem ol kokonas ia blong mekem karen long hem long ples ia.

Re-Examination

29. Hemi re-affirm se hem nao hemi lukim defendant hemi stap katem ol kokonas ia.

**Evidence blong Defendant**

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

31. Hemi se kokonas we hemi blong claimant hemi hemia we I stap antap ia nao. Ol kokonas we I stap daon, Claimant hemi no planem be ol frut blong ol kokonas we I stap antap mo I stap foldaon I kam daon.

32. Defendant hemi gat 1 witness.



Witness # 1; Esrom

33. Hemi kam blong sapotem defendant blong talem se defendant hemi no bin katem ol kokonas ia.
34. Mo hemi talem tu se ol kokonas we hemi blong claimant hemi hemia we I stap antap. Ol kokonas we I stap daon, claimant hemi no planem be ol frut blong ol kokonas we I stap antap oli stap folfoldaon mo roll ikam daon mo gro daon.

Cross-Examination

35. Hemi talem se ol kokonas ia, wan boe we I ded finis, hem nao hemi katem, be I no defendant.
36. Mo long taem ia, boy ia wetem sam nara wan oli wok long wan kampani, hemia nao oli katem ol kokonas ia.
37. Mo long kwesten sapos ol natangura mo kokonas I stap tugeta, witness ia hemi talem se olgeta ino stap tugeta.
38. Mo hemi kam blong talem tu se long 15<sup>th</sup> May 2021, defendant hem no bin talem se hem ia nao hemi katem ol kokonas ya.

Re-Examination

39. Hemi kam blong talem se main tingting hemi graon. Mo ol kokonas oli stap insaed long area blong defendant.

Ol findings blong Court

40. Long hearing, Court I faenemaot se defense hemi beis plante long issue blong graon.
41. Findings blong Court hemi olsem;
- a) Sapos I tru se defendant nao hemi bin katem daon ol 5 stampa blong kokonas ia. Answer hemi yes.
  - b) Sapos Claimant hemi gat raet long ownership over long ol kokonas ia. Answer hemi yes.
42. Folem ol faendings ia, hemia hemi decision blong Court;



**DECISION**

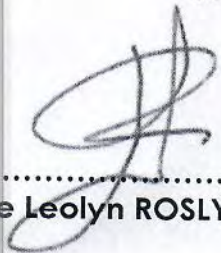
43. Defendant, David Qwelbe, Court hemi stap odarem yu blong pem I ko long claimant wan amount blong 10,000 Vatu olsem compenseisen blong ol 5 stampa blong kokonas ia mo 750 Vatu olsem fee blong tekem case I kam long Court. I mekem wan total blong 10,750 Vatu.
44. Peimen ia yu mas mekem within long wan manis taem, we bae hemi bifo 18<sup>th</sup> November 2021.
45. 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 18<sup>th</sup> October 2021**

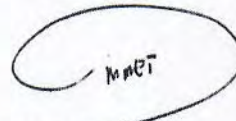
**BY THE COURT**



Justice Raymond SIPLAQ



Justice Leolyn ROSLYN



Justice Keith HOPKINS