

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**  
*(Civil Jurisdiction)*

**Civil**  
**Case No. 20/1144 SC/CIVL**

**BETWEEN: Isaac Campbell and Family**  
Claimants

**AND: Samson John Nerei**  
First Defendant

**AND: Noel James**  
Second Defendant

**AND: Lua Tom lakao**  
Third Defendant

*Date of Hearing:* 20 August 2021  
*Before:* Justice V.M. Trief  
*In Attendance:* Claimants – Mr E. Molbaleh  
Defendants – no appearance (Mr G. Takau)  
*Date of Decision:* 30 August 2021

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**JUDGMENT AS TO QUANTUM OF DAMAGES**

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A. Introduction

1. The Defendants Samson John Nerei, Noel James and Lua Tom lakao did not file a defence. Default judgment was entered for an amount to be determined.
2. This matter proceeded to a hearing to assess damages. No one appeared at that hearing. This decision sets out my assessment.

B. Discussion

3. The Claimants Isaac Campbell and Family allege in the Claim that:
  - a) On 12 May 2020, the Defendants trespassed onto the Claimants' residence holding knives and damaged their property;
  - b) On 13 May 2020 at 3am, the Defendants and their associates burned down the Claimants' houses;
  - c) In fear, the Claimants fled to nearby villages where they sought refuge;
  - d) Isaac Campbell's wife fainted and was rushed to a nearby clinic; and



- e) The Defendants caused the Claimants the following loss and damage: their fully equipped fishing boat, 3 concrete block houses with corrugated iron roofs, and the machines, tools and money kept inside the houses.

4. Mr Isaac Campbell evidenced that:

- a. He was in his house at Lowpali village at Whitesands on Tanna in the early morning of 12 May 2020 when the Defendants arrived and cut his 3 gallon containers of water, the flowers in his yard, slaughtered his pig and swore at him and his family;
- b. At around 3.30am on 13 May 2021, the Defendants and a group of men came to his house at Lowpali and burnt his houses and a fishing boat. The houses contained electric tools and his passport – all that was destroyed by fire.

5. Mrs Lily Nalau evidenced that:

- a. She is Mr Campbell's wife;
- b. At dawn on 12 May 2020, she was awoken by noises in their yard at Lowpali village at Whitesands on Tanna;
- c. She went outside and saw the Defendants Noel James holding axes, Samson John Nerei holding a knife and Tom Luan standing with them;
- d. The Defendants then cut their water gallon drums, cut their dishes and destroyed their outdoor water tap;
- e. In terror, she woke their daughter and they fled to a nearby village;
- f. They realized that the Defendants had burnt their homes when they saw smoke in the air. All their houses, kitchens and son's fishing boat were burnt by the Defendants;
- g. The cash of over VT300,000 which she kept hidden in their dwelling house was burnt. She had earned the money doing hair braiding at Friendly Beach Resort and conducting tour operator services to the volcano. Also destroyed were 2 sewing machines, several teaching books, five mattresses, three suitcases full of clothes, her Vanwods pass book, kitchen wear, cutlery, 5 plastic chairs, tables, electrical tools including a chainsaw, grinder, hammer, circular saw and electric drill.
- h. Mrs Nalau felt very sad and worried and her appetite lessened. She fainted and was rushed to Lenakel Hospital where she was admitted for many days. She spent another 10 days at Vila Central Hospital where she was diagnosed in June 2020 with high blood pressure.

6. Mr Sergio Noal evidenced that:

- a. He is Mr Campbell's older son;
- b. On 5 August 2019, after returning from RSE seasonal work in New Zealand, he purchased a Yamaha boat model W23 from Asco Motors. It cost VT990,000

and Mr Noal attached a copy of the receipt of payment. It cost VT54,000 to transport the boat to Lowpali village. He also bought a solar battery from Savvy Solar for VT22,500. The boat, a Chinese bag containing clothes, another Chinese bag containing an anchor, rope, 8 life jackets, 1 torch, snorkel and diving mask, and the solar battery were all destroyed by the fire set by the Defendants.

7. Without evidence to the contrary, I accept Mr Campbell, Mrs Nalau and Mr Noal's evidence.
8. The Claimants are entitled to the general damages sought for:
  - a. The loss of their property valued at VT3,000,000; and
  - b. Pain and suffering assessed at VT100,000.

C. Result

9. I accordingly enter judgment against the Defendants in the sum of VT3,100,000 (the 'judgment sum') being general damages awarded for:

Loss of property	VT3,000,000; and
Pain and suffering	VT100,000

10. Interest is to be paid on the judgment sum until fully paid, at the Supreme Court rate of 5% p.a.
11. The Claimant is entitled to the costs of this action. I set that at VT70,000. The costs are to be paid within 21 days.

D. Enforcement

12. This matter is listed for Conference, including by phone link to the Tanna Court House, **at 8.20am on 24 September 2021** for the Defendants to advise the Court: (i) that they have paid the judgment sum and the costs awarded, or (ii) to explain how they intend to do so. If there is no satisfactory conclusion, the file will be transferred to the Master for enforcement action.
13. For that purpose, this judgment must be personally served on the Defendants and proof of service filed.

**DATED at Port Vila this 30<sup>th</sup> day of August 2021  
BY THE COURT**

*VM Trief*  
Justice Viran Molisa Trief

