

(Civil Jurisdiction)

Between: John wasarak

Claimant

And: Norman Dickson

Defendant

In the matter of payment of fine for breadfruit trees and Taboo damaged in the sum of 8000 plus Court fee VT 1000.

Coram: Justice Alfred Welsam
Justice David Mesigtel tok
Justice Keith Hopkins

Clerk: Fredington Aru

Date of hearing: 12th October 2011

Appearance:

Both parties are served with notices and have appeared before the Court when it sat to determine the matter.

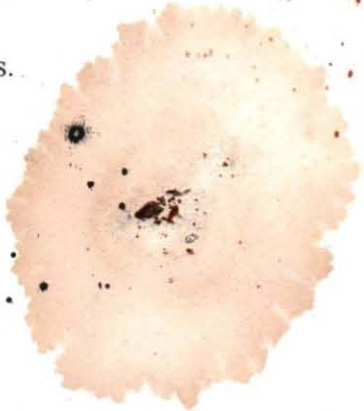
Decision

This Court sat at Sola to determine the claim filed by Mr. John Wasarak against the defendant Mr. Norman Dickson.

The claimant Mr. Wasarak stated on his claim that the defendant Norman Dickson felled 4 of his 'stamba' breadfruit. Upon noticing this, he put namele leave (tabu) on the trees to avoid further felling by defendant Norman. He claimed that after he had placed the namele leave on the trees, he returned to the garden next time and found out that another 'stamba' had been felled again. This time it accumulates the total number of trees felled to 5 'stamba'.

It is subsequent reason that made him so unhappy and so he decided to lodge a claim before this Court.

Given the brief background we will now look at the party's evidences.



Evidences:

The Claimant Mr. wasarak testified that he put the namele leave (tabu) to avoid further felling of trees by defendant Dickson since 5 trees had already been felled by him. He returned to the garden the next time and realizes that another 'stamba blong bredfrut' had been cut down again after he had placed the tabu.

He suspected that it must be defendant Dickson again who did the felling of that one 'stamba' breadfruit.

The defendant Norman Dickson admitted in Court that it was him who felled the 4 'stamba blong bredfrut' as stated by the claimant Mr. Wasarak. The other 'stamba' however was not felled by him and that he cannot agree with the Claimant Mr. wasarak over the fifth tree which is being felled. He said the area the trees are situated in is a public road and the person cutting down the fifth tree could be anyone out of those people who are using the road.

After hearing both parties and their evidence we in our view would like to make the following points:

1. This Case concerns a customary issue of custom tabu which in our view, we reckon that it would be much appropriate for this case to be dealt with by the village chiefs with the custom chiefs in the area the issue arose.
2. We would like to point out that the fifth tree which was felled could be an activity by any of those using the area as a road and we could not point a finger of blame on the defendant Dickson as there is no concrete evidence to prove it.
3. We take into account the fact that defendant Dickson had admitted to have felled 4 'stamba' breadfruits belonging to Mr. Wasarak. The chiefs are to decide on the fine Dickson will pay to Mr. Wasarak over the trees felled.

With these we hereby give the following orders

Orders:

- (1) The matter is referred back to the village chiefs and the custom chiefs in the area the issue arose to deal with the issue as it involves customary issue of damage to tabu.
- (2) Any party who is not satisfied with this decision is free to lodge an appeal to the Magistrates Court within 30 days as of today 12th of October 2011.

DATED AT SOLA THIS 12TH OF OCTOBER 2011

Alfred Welsam

Justice Alfred Welsam

David Mesigtok

Justice David Mesigtok

K. Hopkins

Justice Keith Hopkins

