

(Civil Jurisdiction)

Between: John Wasarak

Claimant

And: Vogos

Defendant

In the matter of Payment of fine in the sum of VT 10.000 for unlawfully entering plantation and Producing Copra without permission.

Coram: Justice Alfred Welsam
Justice David Mesigtelok
Justice Keith Hopkins

Clerk: Fredington Aru

Date of Hearing: 12th October 2011

Appearance:

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

Decision

This case was registered before this Court on the 27th of September 2011.

On his statement of claim, the claimant Mr. Wasarak claimed that the defendant Vogos unlawfully entered his coconut plantation in a place called Vetras (West Vanua Lava) and produced copra.

He stated that he had come to know about this after Vogos had sold the Copra's which he had produced from his (Wasarak's) plantation.

It was this that prompted him to lodge before this Court this Case.

The relief sought over the issue by Mr. Wasarak is, that Vogos must pay him compensation in the sum of 10,000 vatu plus the Court fee which is 1000 vatu.

With the brief outline of the case, we will look at the parties evidences:

Evidences:

Mr. Wasarak testified in Court that Vogos entered his plantation at a place called Vetras and produce copra without asking permission from him. He said the plantation belongs to her daughter Welevia and was at date under his care and control.

The defendant Mr. Vogos also testified in Court that it was true he entered the plantation. He said he produced copra after consulting Welevia (Wasaraks daughter) who is the owner of the plantation. He further testified that he entered the plantation and produce copra after obtaining consent from Welevia.

Mr. Wasarak further testified that Vogos lied that he had consulted Welevia. He said he has talked with Welevia and had been informed by her that she did not know about Vogos's entry into the plantation at Vetras.

The defendant Vogos merely relied on the fact that he produces Copra after asking permission from Welevia. He said that it was him and others who planted the plantation and are laboring for Welevia.

Mr. Wasarak however, maintained that what he said is real fact and that Vogos lied.

Nonetheless Vogos insists on saying that Welevia had given him permission to enter and produced copra from coconut in the plantation.

After hearing both parties in this case, we have seen that both have maintained to rely on their one evidence to prove their case which from our view could not be supported by another's evidence. The Court therefore will not accept their given evidences to decide a final verdict.

Therefore we hereby give the following orders:

Orders:

- (1) That this case is sent back the village chiefs in the area the issue occurred to determine according to substantial justice which they see fit.
- (2) Any parties aggrieved by this order have liberty to appeal to the Magistrates Court within 30 days as of the date of this order.

DATED AT SOLA THIS 12TH OF OCTOBER 2011



Justice Alfred Welsam



Justice David Mesigtel tok



Justice Keith Hopkins