

IN THE MALEKULA ISLAND COURT
OF THE REPUBLIC OF VANUATU
(Other Jurisdiction)

Civil case 822 of 2019

BETWEEN: EDDIE JOHN

Claimant

AND: NOAH SAM, PETER SAM, DAVID SAM,
TOM SAM, DICKSON SAM, KELEP SITOL
& SAM SITOL

Defendants

Date of Hearing: 25 February 2020
Date of Judgment: 25 February 2020
Before Justices: Alina Lienmal (Chairperson), Kalangis Mele, Robert Niptick
Clerk: Collyne Tete Maki
In Attendance: Claimant – Eddy John
Defendants – Noah Sam, David Sam,
Tom Sam, Kelep Sitol & Sam Sitol,
Peter Sam (Absent), Dickson Sam
(Absent)

JUDGMENT

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 we I stap bifo long kot emi:

1. Whu long olgeta defendants ia emi katem 6 stampa blong cocoa blong plaintiff?
2. From wanem nao ol defendants oli cuttem stampa blong cocoa blong plaintiff?
3. Whu long ol defendants nao emi faet?
4. From wanem risen nao ol defendants oli faetem plaintiff mo ol brata blong em?

BACKGROUND BLONG KES

Long jifs dei blong namba 5 Maj 2019 brata blong plaintiff emi wokbaot long early moning blong ko long ol cocoa blong olgeta mo finem maot se I gat 6 stampa cocoa we wan man I cuttem maot. Long wei blong em blong ko long moning ia emi mitim Noah Sam nomo mo I nomo gat wan nara man we emi mitim long rod. Emi ko bak long haus mo talem maot long plaintiff we plaintiff mo big brata blong em mo wan mo brata blong tufala oli ko long haus blong Noah Sam blong mo askem long em 3 taem se whu I cuttem stampa blong cocoa mo Noah emi se emi no save se whu I cuttem. Afta we oli askem 3 taem long Noah, Noah emi talem long olgeta blong oli muv I ko antap long haus blong brata blong em. (*We emi decsibem long kot se antap long mango*)

Plaintiff emi continue blong talem se cocoa ia emi no blong em be emi blong brata blong em Talivo we I stap long Pentecost aelan. Emi talem tu se taem oli ko antap long haus blong brata blong Noah then long ples ia nao oli faetem olgeta.

Defendant emi respond on behaf blong em wetem ol nara defendan mo talem se yes emi tru smol brata blong plaintiff emi luk em be long moning ia em wetem wan smol boe tufala I ko from breadfruit be smol boe ia I fraet blong attendem kot tudei. Emi further talem se emi wetem smol boe ia I ko blong stikim breadfruit mo karem I kam long haus mo mekem nalot long em. Emi talem tu se emi no katem cocoa ia emi no save tu se whu I cuttem cocoa ia. Emi talem tu se risen why emi talem blong oli ko long yard blong bigfala brata blong em blong ol sortem maot issue blong cocoa ia. Be taem emi stap long yet long haus blong em emi harem plaintiff mo ol brata blong em ol stap shout strong long yard blong brata blong em mekem emi ko mo faetem Massing brata blong Plaintiff.

Afta we kot I harem toktok blong ol parties, kot I faenem maot se: -



COURT FINDINGS

Plaintiff –

1. I no gat wan eye witness we I luk se whu ia long ol defendants nao emi katem stampa blong cocoa ia.
2. Owna blong cocoa ia emi blong Talivo we emi stap long Pentecost mo em nao emi should kam kleim
3. Man we emi luk Noah Sam long moning emi no Eddy John be brata blong em we I no stap long kot tedei long moning
4. Kes ia emi adjourn wan taem finis afta we sam long ol defendan ia oli no bin attendem kot we long taem ia Eddy John emi present mo emi should tekem smol brata blong em blong kam witness long kot

Defendan –

1. Noah Sam emi faetem Massing brata blong plaintiff
2. No gat wan eye witness blong confemem long kot se em nao I cuttem ol stampa blong cococa ia

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


COURT ORDER

1. Noah Sam bae yu mekem wan reconciliation I ko long Massing blong talem sorry long em from we yu killem em long wan amount blong VT 2,000 long foret blong wan jif long vilij blong yufala.
2. Claim blong compensatem damage cocoa ia kot I dismissem
3. Any parties emi no agri long kot decision ia emi gat 30 dei blong emi apil I ko long Magistrate kot.

DATED 25 FEBRUARY 2020 AT LAKATORO, MALEKULA

BY THE COURT

Justice Alina Lienimal (Chairperson)



Justice Kalangis Mele



Justice Robert Niptick

