

**IN THE BANKS/TORRES ISLAND COURT    CIVIL CASE NO 372 OF 2021  
OF THE REPUBLIC OF VANUATU**

.....  
*(Civil Jurisdiction)*

**BETWEEN: SMITH PAUL & GRACETELLA SMITH**  
Sola Area, Vanua Lava  
Contact; 5685791/7375359  
Claimants

**AND: ANSEL BAET**  
Sola Area, Vanua Lava  
Contact; 7644437  
Defendant

**CORAM:**        *Justice Raymond SIPLAQ*  
                  *Justice Hosea WORAS*  
                  *Justice Franklin WOLEG*

**DOH:**            *30<sup>th</sup> March 2021*  
**DOJ:**            *30<sup>th</sup> March 2021*

**CASE:**            APPLICATION FOR COMPENSATION TO PROPERTIES

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**JUDGEMENT**

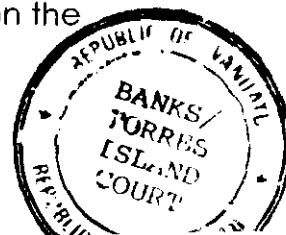
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Issue:

1. Whether or not the kava crops belonging to the Claimants were uprooted by the defendant?

Introduction

2. This case has been heard together with five other cases, in the reason that they are all related. These cases are namely; 21/364 IC/CIVL, 21/366 IC/CIVL, 21/367 IC/CIVL, 21/368 IC/CIVL & 21/370 IC/CIVL.
3. It was claimed by the claimants that on 19<sup>th</sup> of December 2020, in the morning, two of their boys, Charlie Pride and Craig Vusqal we on their way to Letiqwel for kava hands. Upon reaching the claimants garden, they notice that all kava plants (232 plants) that were planted on the



garden were all uprooted. The boys were informed on the same day by Bill that it was the defendant that uprooted the crops.

4. It was confirmed by Timothy Policap on 22<sup>nd</sup> December, confirming that it was the defendant who destroyed the crops. It was later admitted by the defendant to the chiefs that he is responsible of the actions but gave no reasons for such actions.
5. Attempts have been made to settle this matter between the parties with no success.

### **Claimant's Application**

6. In this application, the claimants are seeking for compensation of 12 kava crops out of the 232 total crops uprooted. Based on valuation rates provided by the department of Agriculture, each kava plants is worth 1,125 vatu. The Claimants are claiming an amount 13,500 vatu as compensation for the 12 crops.
7. A 25,000 vatu compensation for kava cutting for planting is claimed. Also Labor cost of 8,000 vatu with 1,000 vatu as court fee. Total claim is 47,500 vatu.

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

8. Upon receiving the claim, a counterclaim was filed by the defendant on 18<sup>th</sup> February 2021.
9. In his response, the defendant admitted that he had uprooted the kava plants. However claims that he has uprooted the crops to avoid further dispute over the land. He claims that the land concern is a declared land, declared to them [including both parties]. Upon the declaration, an agreement has been made between them over the land allocation for possession by each party.
10. He further stated that this agreement was made between them [the defendant's side] and one John Wasarak. His actions was due to the breach of this agreement.

### **Defendants Application**

11. No application submitted.

### **Appearance**

12. All parties are present in Court.



## **Discussions**

13. A trial has been conducted pursuant to Rule 6(6) of the Island Courts civil procedure rule, after the defendant dispute part of the claim.
14. After considering the counterclaim lodged by the defendant, this application has been established by the court to be a response and not a counterclaim. Therefore both applications were heard together during the trial.

### **Evidence for the Claimant**

15. The Claimants spoke in support of their claim.
16. Upon question, the claimants states that they have never heard of an agreement. What they do know is the land declaration, declaring equal share between the parties.
17. Their witness, Charlie Pride, spoke in support of the claim.

### **Evidence for the Defendant**

18. The defendant spoke in support of his counterclaim.
19. Upon question, the defendant states that this is a land issue. He further states that this matter would have not end up in court if the claimants have respected their agreement.
20. His witness, spoke in support of the counterclaim.

## **Court Findings**

21. The Court finds out that:
22. The claimants have proved their case on a balance of probability. Admission of the claim was also entered as an agreed fact.
23. The defendant had uprooted the kava crops, as a result of a dispute over a declared land. This is a matter for consideration by the court on discounting the total claims.
24. Whether or not the kava crops belonging to the Claimants were uprooted by the defendant? The answer is yes.
25. After considering all facts, the court made the following Orders:



**COURT DECISION & ORDER**

- 26. Defendant, Ansel Baet, you are ordered to compensate the Claimants an amount of 25,000 vatu as loss to kava cuttings, 8,000 vatu as labor cost and 1,000 vatu filing fee. Total payment is 34,000 vatu to be due by 30<sup>th</sup> July 2021.
- 27. The claimant's full claim was refused by court.
- 28. Parties are advised to see the Court clerk and chiefs to assist in sorting out land boundaries which should be possessed by each party to maintain peace.
- 29. No Orders as to cost.
- 30. Liberty is given to all parties to appeal within 30 days if they are not satisfied with this decision.

**Dated at Sola- VANUA LAVA, this 30<sup>th</sup> March 2021**

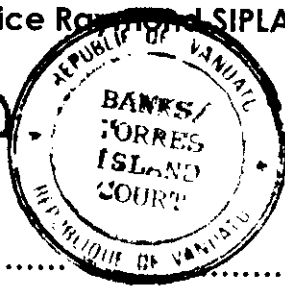
**BY THE COURT**



Justice Raymond SIPLAQ



Justice Hosea WORAS



Justice Franklin WOLEG