

**IN THE BANKS/TORRES ISLAND COURT CIVIL CASE NO 2060 OF 2021
OF THE REPUBLIC OF VANUATU**

.....
(Civil Jurisdiction)

BETWEEN: ROSE GOROS

Claimant

AND: ELTON LEVI

Defendant

**CORAM: Justice Raymond SIPLAQ
 Justice Patrom WOSEI
 Justice Keith HOPKINS**

Clerk: Dimas ARU

DOH: 23rd July 2021

DOJ: 23rd July 2021

CASE: APPLICATION FOR COMPENSATION [PRIDE PRIZE PART PAYMENT]

JUDGEMENT

Introduction

1. This is a compensation claim lodged by the claimant against the defendant. The defendant is related to the claimant as her biological brother.
2. It was claimed by the claimant that her son and the defendant's daughter were once having affairs. Upon agreements, a custom marriage ceremony was conducted together with the pride prize payment which was made by their (claimants) family to the defendant's family. And the duo lived together. The sum paid as pride prize was 80,000 vatu.



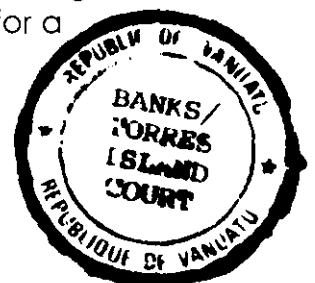
3. However, due to the involvement of the defendant (and his families) on certain arising issues between the couple (the claimants son and the defendants daughter), they later separated.
4. Therefore the claimant now seek for the refund of part payment of the pride prize, which is 40,000 vatu together with the court fee.
5. This matter has been heard together with civil case No 21/2062 IC/CIVL, in the reason that both cases are related.

Issue:

6. Whether or not a pride prize payment been made by the claimant (and their family) to the defendant (and their family) which is for the defendants daughter?
7. If such separation warrants a refund of the moneys paid, and if it is the defendant who is to be held responsible to make such repayment?

Claimant's Facts

8. The claimant claims that this case is related to the relationship between her son, Silee and the defendant's daughter, Zimon.
9. Following such relationship, a custom marriage ceremony was conducted which is in accordance to custom to bind the duo. It was around September 2020. On that same date, pride prize was also handed over by the claimant and their family to the defendant and their family (payment of Zimon). It was an amount of 80,000 Vatu.
10. However, on April this year, 2021 after some internal issues between Silee and Zimon, the defendant and his wife decided not to return Zimon to the claimant's son, Silee.
11. The claimant claims that all attempts were made to settle the matter between them to reunite the duo, but all offers were rejected by the defendant and his wife.
12. She also claimed that on the decision not to return their (defendant's) daughter, the defendant had say so to refund the monies paid as pride prize (to be on 6th April 2021). The defendant later changed his mind, and agreed for the matter to go before the court for a determination.



13. The claimant therefore submit for the defendant to compensate them at an amount of 40,000 vatu as part payment of the pride prize and 1,000 vatu as filing fee.

Defense & Counter-Claim

14. Upon receiving the claim, the defendant file his response together with a counterclaim.

15. In his response, the defendant dispute part of the claim.

16. He denied the claimants claim on the full pride prize, and claims that they (defendant and their families) have also contributed towards such payment, which is in accordance to the custom.

17. He submitted for the court to consider his contributions as part of the payments claimed, as set-off.

18. The claimant also submit to add a new party to the case. The new party to be Silee Albert (the claimants son)

Appearance

19. Both parties are present in Court.

Discussions

20. A trial has been conducted pursuant to Rule 6(6) of the Island Courts [Civil procedure] rules, after the defendant dispute part of the claim.

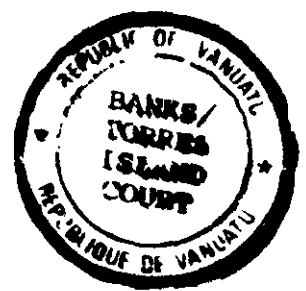
Evidence for the Claimant

21. The claimant spoke in support of her claim.

22. When cross-examined, the claimant states that the defendant had agreed to repay the pride prize. However, failed.

Claimants Witness:

23. This witness came to confirm his involvement on the issue between the parties.



24. He also confirmed that the defendant had pronounce to refund the monies as claimed by the claimant. And he also confirmed that the defendant later refuse to refund as demanded and (he) agreed for the claimant to pursue this matter to court for determination.

Evidence for the Defendant

25. The defendant spoke in support of his defense statement.

26. He agreed that a pride prize has been paid to them. He also agreed that his daughter is at the moment not living with the claimant's son.

27. He continued that his family has had some consensus for this matter to be sort out but not at the time of the claimants demand. For such reason. First, is since his daughter was still having pain in her body at the time, (which is caused by the claimant's son's actions) thus to have this matter fixed during that time was not appropriate them. Secondly, he has no plans to have the matter sorted at that time since the claimant's son has demanded for the refund of the monies paid to them as the pride prize, therefore to have the matter settled and to reunite the couple would not be proper to them.

28. Upon cross-examination, the defendant states that he had say so to repay the amount as claimed but was done during 'raorao', and it was not an agreement.

Court Findings

29. The Court finds out that:

30. Firstly, in answer to the issue, "Whether or not a pride prize payment been made by the claimant (and their family) to the defendant (and their family) which is for the defendants daughter?" The answer is yes.

31. The claimant's son, Silee and the defendant's daughter, Zimon had now separated. In the view of the court, this warrants a refund. However, who is to be responsible is a question which need to be determined.

32. Throughout the hearing, it was also found out the defendant had 'say so' at some stage in their 'raorao' that he will refund the monies paid as pride prize. Therefore in the view of the court in regard to the issue, "If such separation warrants a refund of the moneys paid, and if it is the defendant who is to be held responsible to make such repayment?" Yes the defendant is to be held responsible.



33. After considering all facts, the court made the following Orders:

COURT DECISION & ORDER

- 34. Defendant, Levi Elton, you are ordered to compensate the Claimant an amount of 25,000 Vatu as compensation claim and 1,000 vatu as court fee. Total amount to be paid is 26,000 Vatu.
- 35. Payments should be completed within 4 months, which is before the 23rd of November 2021.
- 36. The claimant's full claim was refused by Court.
- 37. Liberty is given to both parties to appeal within 30 days if they are not satisfied with this decision.

Dated at Sola- VANUA LAVA, this 23rd July 2021

BY THE COURT


.....
Justice Raymond SIPLAQ

Patrom - Wosei

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Justice Patrom WOSEI




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Justice Keith HOPKINS