

IN THE BANKS/TORRES ISLAND COURT CIVIL CASE NO 2291 OF 2021  
OF THE REPUBLIC OF VANUATU

.....  
(Civil Jurisdiction)

**BETWEEN: FRANK HAPPE**

Claimant

**AND: TOMAN ELWIN**

Defendant

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

**Clerk: Dimas ARU**

**DOH: 23<sup>rd</sup> July 2021  
DOJ: 23<sup>rd</sup> July 2021**

**CASE: APPLICATION FOR COMPENSATION TO CATTLE [SLAUGHTERED]**

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**JUDGEMENT**

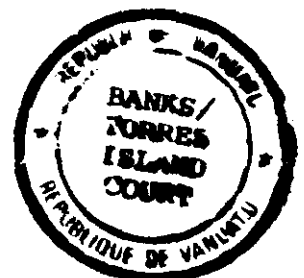
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**Introduction**

1. This claim was lodged by the claimant against the defendant, seeking court for an order for compensation of a cattle (owned by the claimant), alleged to be slaughtered by the defendant.

**Issue:**

2. If the defendant had slaughter a cattle on or around 13<sup>th</sup> August 2017?
3. If so, then whether or not the cattle belonged to the claimant?



### **Claimant's Facts**

4. The defendant in this proceeding is the son of the elder brother of the claimant.
5. It was claimed by the claimant that on or around 13<sup>th</sup> of August 2017, the defendant slew one of his cattle (a cow).
6. This was confirmed directly by the defendant to the claimant upon the claimant's investigation on the incident. The defendant had conveyed to the claimant the reason of such action being due to the cattle damage on their garden crops.
7. On that admission, the claimant had ask the defendant to sort the matter, however, no attempts has been made to settle the issue.
8. The claimant even seek assistance from the Police, and the department of Livestock. And on the 4<sup>th</sup> of September 2017, the department of Livestock issued a letter to the defendant to compensate the cattle which is to be paid to the claimant. The defendant was fined also for breaching the order prohibiting the slaughtering of female cattle's issue by the Minister responsible of livestock. No response was made by the defendant since then.
9. The claimant therefore submit for the defendant to compensate his cattle at an amount 40,000 Vatu together with the filing fee.

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

10. The defendant submitted his defense during the hearing.
11. As part of his response, the defendant submit a letter written by chiefs of some communities to support the defendant that they have witnessed the incident. They confirm that it is the claimant that failed to maintain his fences, which leads to the cattle's moving out of the paddock and destroying garden crops.
12. It has been a disaster to several communities of Mota Lava.
13. The defendant therefore submit for the court to consider the damages in which the claimant's cattle's has been causing in their community including his garden.



### **Appearance**

14. Both parties are present in Court.

### **Discussions**

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

#### **Evidence for the Claimant**

16. The claimant spoke in support of his claim.

17. Upon cross-examination, the claimant re-affirm that the defendant had confirm to him that he was the one that slew the cattle.

#### **Evidence for the Defendant**

18. The defendant relied on the letter from the chiefs.

19. When cross examined, the defendant agreed that it is he that slaughtered the claimant's cattle, and it is a cow. His reason was because the said cattle had damaged crops in his garden.

### **Court Findings**

20. The Court finds out that:

21. Firstly, in answer to the issue, *If the defendant had slaughter a cattle on or around 13<sup>th</sup> August 2017?* The answer is yes. This was confirmed by the defendant during cross-examination.

22. It was also established that 'yes' the cattle belongs to the claimant. However the court view that granting the full claim would not be appropriate since the cattle had also entered the defendant's garden and damaged some of his crops.

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

### **COURT DECISION & ORDER**

24. The defendant, Toman Elwin, is ordered to compensate the Claimant an amount of 30,000 Vatu as compensation claim and 1,000 vatu as court fee. Total amount to be paid is 31,000 Vatu. The court refused to grant the claimant's full claim as outlined in its findings.



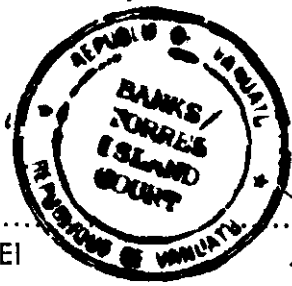

25. Payments should be completed within 3 months, which is before the 23<sup>rd</sup> of October 2021.

26. 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 23<sup>rd</sup> July 2021**

**BY THE COURT**

  
.....  
Justice Raymond SIPLAQ

*Patrom - Wosei*    
.....  
Justice Patrom WOSEI Justice Keith HOPKINS