

IN THE BANKS/TORRES ISLAND COURT CIVIL CASE NO 2293 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: 23rd July 2021
DOJ: 23rd July 2021

CASE: APPLICATION FOR COMPENSATION TO CATTLE [SLAUGHTERED]

JUDGEMENT

Introduction

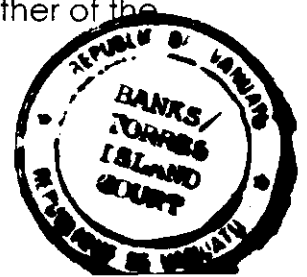
1. This claim was lodged by the claimant against the defendant, seeking court for an order for compensation of a cattle (owned by the claimant), alleged to be slaughtered by the defendant.

Issue:

2. If the defendant had slaughter a cattle inside the claimants cattle paddock around the month of August 2017?

Claimant's Facts

3. The defendant in this proceeding is the son of the elder brother of the claimant.



4. It was claimed by the claimant that on the month of August 2017, the defendant slew one of his pregnant cattle inside his cattle yard.
5. This slaughtered cattle was found two days later, and upon the claimant's investigation on the incident the defendant came to confirmed that he (the defendant) was the one responsible.
6. On that admission, the claimant had ask the defendant to sort the matter, however, no attempts has been made to settle the issue.
7. The claimant even seek assistance from the Police, and the department of Livestock. And on the 4th 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.
8. 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

9. The defendant submitted his defense verbally during the hearing.

Appearance

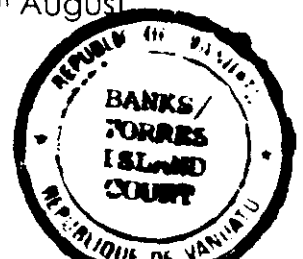
10. Both parties are present in Court.

Discussions

11. 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

12. The claimant spoke in support of his claim.
13. Upon cross-examination, the claimant gave three different dates claimed to be the dates the defendant had slaughter his cattle. His first date was 14th August 2017. He later change the date to 16th August



2017 and finally he gave the 11th of August 2017 to be the correct date.

Evidence for the Defendant

14. The defendant maintained that he has slaughtered only one cattle but not two as claimed by the claimant.

Court Findings

15. The Court finds out that:

16. The claimant has failed to prove his case on a balance of probability. In summary, he has failed to prove that the defendant had slaughtered a cattle inside his (claimant's) cattle paddock around the month of August 2017. Therefore the answer to the issue is no.

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

COURT DECISION & ORDER

18. This matter is dismissed accordingly.

19. No orders as to costs.

20. 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
.....
Justice Patrom WOSEI


met
.....
Justice Keith HOPKINS