

**BETWEEN:** Antuan Shedrack  
Claimant  
**AND:** Samuel Shedrack  
Defendant

*Date of Trial:* 14 April 2023  
*Before:* Justice V.M. Trief  
*In Attendance:* Claimant – Mr G. Takau, via video link from Port Vila Supreme Court Registry  
Defendant – Mr L. Tevi  
*Date of Decision:* 17 April 2023

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**JUDGMENT**

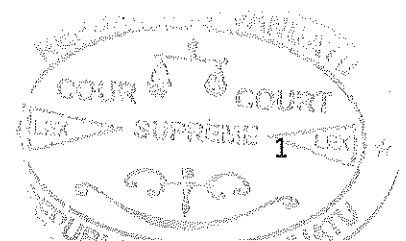
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A. Introduction

1. This is a claim for damages in relation to the destruction of Claimant Antuan Shedrack's 500 young coconut trees and alleged sale of 37 of his cattle by the Defendant Samuel Shedrack who is his biological father.
2. Antuan Shedrack lives in Vila while his father lives at Big Bay on Santo. The coconut trees were planted at Matantas area in Big Bay and Antuan's cattle were kept in the same fenced area at Malau area in Big Bay as his father's cattle.

B. Pleadings

3. It is alleged that between 2019 and 2021, Samuel destroyed 500 young coconut plants belonging to Antuan without Antuan's consent and killed 37 of his cattle. It is accepted that Samuel destroyed the coconut trees. His Defence is that his son Antuan did not ask his permission before planting the coconut trees (therefore trespassed onto the land) and when he saw the coconuts planted there, he destroyed them. Further, that he only sold 3 of Antuan's cattle as he needed the money and that he paid all Antuan's school fees to make him the person he is today so expects Antuan's help in return.



4. Mr Takau stated at trial that the relief sought of damages for trespass and for threats were abandoned. Accordingly, the only relief sought was damages in relation to the 500 young coconuts and cattle killed, and interest and costs.

C. The Evidence

5. Antuan Shedrack deposed in his Sworn statement filed on 28 May 2021 [Exhibit C1] that between 2019 and 2021, Samuel killed 37 of his cattle without his consent and destroyed his 500 young coconut trees. He attached a Department of Livestock report valuing the 37 cattle at VT845,000 and a Department of Agriculture crop compensation valuation valuing the 500 coconut plants at VT1,650,000.

6. Antuan further deposed in his Sworn statement filed on 13 July 2022 [Exhibit C2] that he spent money to plant the 500 coconut trees and to build the cattle fence.

7. In cross-examination, Antuan agreed that he planted the coconuts on land belonging to his father. He stated that he asked his father's permission to plant coconuts and his father asked for payment so he gave him VT100,000. He confirmed that both his and his father's cattle are kept in the same fence but he is claiming for his cattle that were killed. He agreed that his father looks after their cattle. He agreed that he told his father to kill a bullock one time for their church opening in Vila. He denied that his father only killed 3 cattle. He stated that even though Samuel was his father, Samuel had to get his consent first before killing his (Antuan's) cattle. He denied that Samuel did not know before he (Antuan) planted the coconuts. He agreed that he knew the Matantas land belonged to his father so he felt free to plant the coconuts there.

8. There was no re-examination.

9. Samuel Shedrack deposed in his Sworn statement filed on 18 May 2022 [Exhibit D1] that he cared for Antuan growing up and paid his school fees. He only sold 2 of Antuan's cattle (for VT10,000 and VT7,000) which kept breaking the fence. He killed another of Antuan's cattle and sent it to Vila for Antuan's church opening and also sent one of his own cattle for that church opening. Antuan used a football team to plant the coconuts. The land that Antuan planted coconuts on was not Samuel's custom land but it had been given to Samuel personally by the landowners in return for Samuel's work for them before and after Independence. However, Samuel had never worked on that land and Antuan never asked his permission before planting coconuts there. Antuan planted the coconuts there without knowing of Samuel's arrangements with the landowners – that it was land personal only to Samuel in return for his work for the landowners. Antuan trespassed onto the land as it was not his land and it was not Samuel's custom land. When Samuel went to the land and saw Antuan's coconuts, he destroyed them as Antuan did not ask his permission before planting there and because of Samuel's arrangement with the landowners which Antuan did not know about.

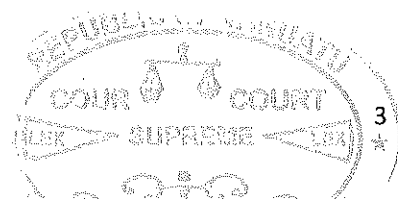
10. In cross-examination, Samuel stated that Antuan had 6 cattle at Malau and he (Samuel) had 7 cows there. He agreed he did not have a registered lease title over the land at Matantas; it was land his grandparents had passed to him. He confirmed destroying Antuan's young coconuts and said it was because Antuan did not ask his permission. He said he sold 3 cattle only which were wild. He did not ask Antuan's permission because he (Samuel) was the one who looked after the fence and was not paid to do

that. So, he sold the cattle to gain money. He agreed Antuan paid for the fence wire but said that he was Antuan's father who had paid his school fees.

11. It was put to Samuel that when Antuan asked him before planting the coconuts, he asked Antuan to pay VT600,000 for the land. Samuel replied that Antuan did not pay any money for the land; he just went on it and planted the coconuts. It was put to Samuel that Antuan sent VT100,000 to him. Samuel replied that Antuan sent VT100,000 to pay the church group who made the fence so he (Samuel) gave the money to the church group. He denied selling 37 of Antuan's cattle. He agreed that he destroyed 500 young coconuts of Antuan's and said that he had already served 2 months' imprisonment for that.
12. In re-examination, Samuel stated that he went to prison after pleading guilty to destroying the 500 young coconuts. He repeated that the VT100,000 from Antuan was for the church group who made the fence so he gave the money to the church group.

D. Discussion

13. Samuel denied killing 37 of Antuan's cattle. His evidence was that he killed 3 of Antuan's cattle – 2 to gain money (VT17,000) and the other he sent to Antuan in Vila for Antuan's church opening. There is no independent evidence that Samuel killed 37 of Antuan's cattle. Accordingly, I find that Samuel killed 3 of Antuan's cattle.
14. Antuan agreed in cross-examination that his father looks after their cattle. This was consistent with Samuel's evidence that he (Samuel) looked after the fence and I infer that meant also looking after Antuan's cattle. There was no evidence to the contrary so I accept Samuel's evidence that he did so without ever getting paid so he sold the cattle to gain money. Further, he is an elderly man who expects his son Antuan who he brought up and whose school fees he paid to look after him. In the circumstances, I consider that it would be unjust to order Samuel to pay damages in relation to the 3 cattle killed. The VT17,000 gained is little compensation for Samuel's labour looking after both the fence and Antuan's cattle.
15. Antuan accepted in cross-examination that the land he planted coconuts on belonged to his father. He also agreed that he knew the Matantas land belonged to his father so he felt free to plant the coconuts there. These were telling admissions as the Claim was pleaded as if Antuan were the owner of the land on which he planted the coconuts. Indeed, he sought damages for trespass which relief was only abandoned at trial.
16. As the land did not belong to Antuan but to his father, Antuan needed his father's permission to plant the coconuts there. Did Antuan ask Samuel for permission?
17. Antuan stated in cross-examination that he asked for his father's permission to plant coconuts and his father asked for payment so he gave him VT100,000. On the other hand, Samuel's evidence was that Antuan had not paid any money for the land, never asked his permission before planting the coconuts there and that the VT100,000 received from Antuan was for the church group who built the fence so he (Samuel) gave the money to the church group. There was no evidence to the contrary about the VT100,000 Antuan sent to Samuel.



18. Samuel deposed that Antuan planted the coconuts there without knowing of Samuel's arrangements with the landowners – that it was land personal only to Samuel in return for his work for the landowners. When Samuel went to the land and saw Antuan's coconuts, he destroyed them as Antuan did not ask his permission before planting there and because of Samuel's arrangement with the landowners which Antuan did not know about. Samuel's evidence was uncontradicted. It had the ring of truth to it. I preferred his evidence to that of Antuan's. Accordingly, I find that the VT100,000 sent to Samuel was to pay the church group who built the fence and that Antuan did not ask his father's permission before planting the coconuts at the Matantas land.
  19. It follows that Antuan trespassed onto the Matantas land to plant the coconuts. Further, that Samuel was within his rights to destroy the 500 young coconut plants as he was not asked permission and his arrangement with the landowners did not extend to Antuan planting coconuts on that land. In the circumstances, Antuan's claim for damages in relation to the 500 young coconut plants destroyed cannot be maintained. It must be dismissed.
  20. In case I am wrong on that, I now consider whether or not Antuan has proved ownership of the coconut plants and the value of those plants. It is accepted that he had 500 young coconut plants and that Samuel destroyed them. As to the value of those plants, Antuan adduced into evidence a crop compensation valuation by the Department of Agriculture. The valuation is made in relation to 600 coconut plants whereas Antuan's case was that 500 coconut plants were destroyed. Further, this seems to be a generic crop compensation valuation form simply filled in with the number of crops damaged as 600 resulting in compensation of VT1,650,000. The valuation is unreliable as it applies to 600 coconut plants and appears to be a generic valuation form completed for Antuan's benefit but not customized in any way for Antuan's coconut plants which have always been asserted to be young. The claim for damages in relation to the coconut plants has not been proved on the balance of probabilities.
  21. For the reasons given, the Claim must be dismissed.
- E. Result and Decision
22. The Claim is **dismissed**.
  23. The restraining Orders dated 15 October 2021 are **discharged**.
  24. Costs must follow the event. The Claimant is to pay the Defendant's costs as agreed or taxed by the Master. Once set, the costs are to be paid within 28 days.

DATED at Luganville this 17<sup>th</sup> day of April 2023  
 BY THE COURT

  
 Justice Viran Molisa Trief

