

BETWEEN: John Tamata
Claimant

AND: Ken Seremele, Saevanua Seremele Tanomalum
Defendants

Date of Trial: 31st March 2025

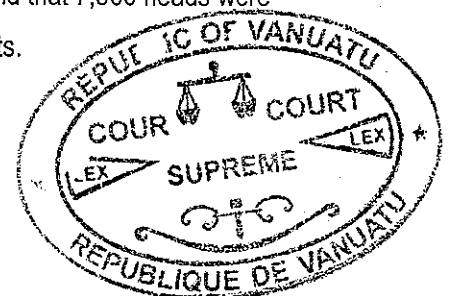
Date of Judgment: 4th April 2025

Before: Hon. Justice Oliver A. Saksak

Counsel: Ms Barbara Taleo for the Claimant
Mr Edwin Macreveth for the Defendants

JUDGMENT

1. This is a simple clam for compensation for damaged garden crops alleged to have been done by the defendants on 9th May 2022, in the total sum of VT 1,650,000.
2. The defendants denied liability for the damages alleged.
3. The claimant alleged that on 9th May 2022 he and his family members were summoned to a Village meeting to discuss the issue of taro patch within the coconut plantation which the defendants assert belongs to them.
4. The claimant alleged that the defendants had threatened the claimant at the meeting resulting in a formal complaint made to the Police for which it is claimed the defendants were charged, prosecuted and convicted on charges of domestic violence.
5. It is further alleged by the claimant that it was after the meeting that his taro plants were damaged. These, it is asserted occurred on the nights of 9th and 11th May 2022.
6. The claimant asserts that he planted over 7,000 heads of water taro and that 7,500 heads were actually destroyed but these did not include the young water taro shoots.



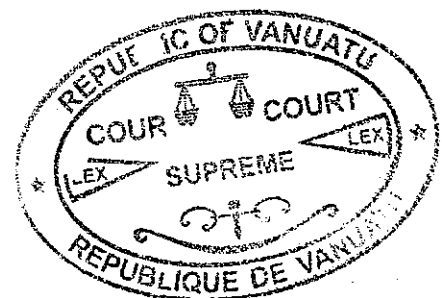
7. He asserts the damage were assessed by an Agricultural Officer and witnessed by chief Manity Rioro. The total amount of the compensation for 7,500 heads of water taro based on the Crop Compensation Valuation is VT 1,650,000.
8. The Claimant deposed to two sworn statements in support of the claims which were tendered into evidence as Exhibits C1 and C2.
9. The defendants denied liability claiming they were not responsible for the damages done to the claimant's taro plants.
10. The defendants relied on the sworn statements of Saivanua Seremele (Exhibit D1) and the sworn statement of Ken Seremele, both filed on 28 October 2024.

The Issue

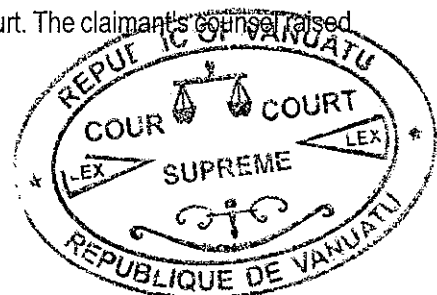
11. Did the Defendants damage the claimant's taro plants?
12. The claimant asserts, therefore he is required to prove the damage on the balance of probabilities but on a higher standard, as damage is a criminal act.

Discussion

13. None of the lawyers for the parties filed or served any notice of intention to cross-examine each other's witnesses. This presented a slight difficulty for the complainant who requested through counsel for time to file an additional sworn statement. The request was declined because the claimant had more than sufficient time to have done so. He had that opportunity on 22nd November 2024 when the Court issued final orders. Paragraphs 1 required the claimant to file and serve responses to the Defendant's two sworn statements by 31st January 2025. He did not do so therefore he could not ask for further time when the case was fixed for a trial hearing.
14. The claimant relied on the Crop Compensation Valuation done by an Agricultural Officer and witnessed by Chief Rioro Manity annexed to his sworn statement dated 9th July 2024 tendered as Exhibit C1.



15. However the Agriculture Officer concerned did not file any sworn statement to confirm the valuation. And Chief Manity did not depose to any sworn statement confirming that he was the accompanying witness of the valuation, to say how the assessment was made and on what date.
16. The Valuation Report by itself is not sufficient proof of damage of the claimant's taro plants as alleged.
17. Then the fact that there was no actual eye witness to the damage. What the claimant is alleging is based on speculation that because of the meeting and threats made on 9th May 2024, it was therefore the defendants who did the damage in the night of 9th May 2022 and again on 11th May 2022. Speculation and guess work is never sufficient.
18. Damage to property is a criminal act and to allege it against another person requires a higher standard of proof than in the usual civil cases.
19. If it is the case that the claimant made a complaint to the Police as a result of threats against him on 9th May 2022, it would have been wise and sensible to also lay complaint about the damage to his taro plants 9 or 11 May 2022 if he saw the matter as serious. There is no evidence that he did so. Instead he waited until 9th July 2024, more than 2 years later that he filed his claim for compensation. That is unreasonable.
20. Next, the claimant relied on a document dated 21st May 2022 signed purportedly by Sylvester John. This person did not depose to any sworn statement therefore this document cannot be admissible evidence in support of the claimant's assertion that it was Ken Seremele who did the damage. That document annexed as "JT5" to Exhibit C2 is hearsay evidence and is inadmissible, as well as the crop compensation valuation.
21. For the defendant, only Saevanua Seremele was available in Court. He confirmed his sworn statement dated 28 October 2024 (Exhibit D1) which denies absolutely that they did the damage as alleged by the claimant.
22. Ken Seremele deposed to a statement also on 28 October 2024. I was informed he is currently overseas and could not be called to confirm his statement in Court. The claimant's counsel raised



no objection to it and no notice was filed requiring any cross-examination of him as a defence witness.

23. There is therefore no reason that his statement should not be allowed as evidence in support of the defence case.

Result

24. I find on the evidence, the claimant has not proved his claims against the defendants.

25. Accordingly the claims of the claimant fail in its entirety and is hereby dismissed

26. In the unusual circumstances of this case being one within members of a family, there will be no order as to costs. Each party will bear their own costs.

DATED at Luganville this 4th day of April 2025

BY THE COURT


Hon. Oliver A Saksak

Judge

