

of the 29th October, 1976

JOINT COURT OF THE NEW HEBRIDES

JACK KALOTRIP

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JACOB NAPAPO

JUDGMENT ON APPEAL

from Civil Judgment No.11/75 of 4th December  
1975 given by the Native Court Central District No.1

This is a civil appeal brought by JACK KALOTRIP (otherwise known as Jack Kalotiti) a New Hebridean aged 41 years, against a judgment of the Native Court for Central District No.1 dated 4th December 1975 whereby judgment for \$1200 was given against the appellant in favour of JACOB NAPAPO, a New Hebridean aged 37 years.

Mr. Hudson appeared as Counsel for the appellant and submitted that there was a contract which required the respondent to await normal legal process as to land registration and that accordingly the judgment of the Native Court ordering the appellant to repay \$1200 to the respondent was not valid.

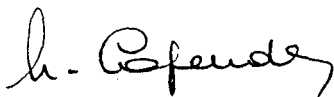
Mr. Withnell appeared as Counsel for the respondent and the respondent himself gave evidence on oath.

It is clear from the record of the Native Court that the boundaries of the land in question were never agreed upon by the parties and that no firm price was ever settled. The evidence given by the respondent to this Court largely corroborated such facts. Where the property to be sold and the selling price have not been established and no procedure has been agreed upon to establish them there is no contract in existence which a Court can enforce.

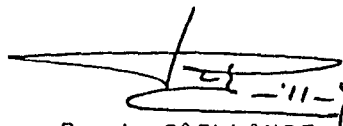
Therefore although the respondent's reasons for demanding the return of his money in the first place might not have justified the rescission of a contract and although the observations of the Native Court may not have made it clear that the alleged bargain between the parties was too uncertain to be enforceable, nevertheless the judgment ordering the appellant to repay \$1200 to the respondent was clearly just and correct because there had never been a contract in the first place.

The appeal is dismissed and the judgment of the Native Court is upheld.

GIVEN at Vila the 29th day of October one  
thousand nine hundred and seventy-six.



L. CAZENDRES  
French Judge



P. de GAILLANDE  
Acting Registrar



R. M. HAMPSON  
Acting British Judge