

(Civil Jurisdiction)

BETWEEN: VANUA TOA

Applicant

AND: VEVURO KEITH

Respondent

Mr Justice Oliver A. Saksak
Mrs Anita Vinabit – Clerk

Miss Jane Tari for Applicant
Respondent by her next friend Keith Ninisia, spokesperson

Date of Hearing: 4th August 2011
Date of Oral Decision: 4th August 2011

ORAL DECISION

1. Long Novemba 3, 2010 Vanua Toa (VT) hemi putum aplikesen blong hem wetem wan stetmen blong Anne Toa (AT) waef blong hem blong sapotem aplikesen ia. VT hemi relae tu long stetmen blong hem blong 20 Aprel 2011.
2. VT hemi askem tufala oda olsem –
 - (a) Se Kot bae i givim raet blong hemi tekem Ashley Toa mo lukaot long hem, mo
 - (b) Se Kot I givim raet blong Vevuro Keith (VK) hemi save luk Ashley Toa or tekem hem wanwan taem.
3. Ol risen we VT hemi givim blong askem tufala oda antap hemi from se-
 - (a) Hem nao I papa blong Ashley Toa.
 - (b) VK, mama blong Ashley Toa hemi married wetem wan narafala man finis mo Ashley Toa ino stap wetem hem naola, be wetem pupu man blong hem, Keith Ninisia.



- (c) Ashely Toa hemi gat 7 yia nomo mo hemi gud se bae hemi sut stap wetem stret mama or papa blong hem.
- (d) VT hemi gat famli blong hem naoia mo tudei tufala tugeta iglad blong tekem Ashley Toa mo lukaotem hem, mo lukluk long skul mo ol narafala area blong laef blong hem.
4. VT hemi faetem aplikesen ia. Hemi putum posesen blong hem i klia se hemi no akseptem se VT bae i tekemaot Ashley Toa mo lukaot long hem. Hemi talem se Ashley Toa hemi stap anda long wan Maintenance Order blong Island Kot we laef blong hem I kasem 18 yia. From hemia, bambae Ashley Toa hemi disaed nomo afta we hemi kasem 18 yia se bambae hemi laef wetem mama or papa blong hem. VK hemi relae long tufala stetmen blong hem blong 18 Novemba 2010 (Exhibit D1) mo blong 16 May 2011 (Exhibit D2).
5. Kot hemi lukluk mo skelem gud olgeta toktok blong tugeta saed mo Kot hemi disaed se bambae hemi sakemaot (dismissim) aplikesen blong VT. Olgeta rison hemi olsem:-

(a) Civil Case No. 28 of 2005 hemi laef nomo istap yet long Santo/Malo Island Court. Long 30 August 2005, VK hemi tekem wan Maintenance Order agensem VT blong hemi mas stap pem VT4,000 igo long VK evri manis stat long September 2005 kasem taem pikinini (Ashley Toa) I kasem 18 year blong hem. Mo tu Island Kot I bin order se bae VT I pem Court fee (olsem refund) long VT3,000 igo long VK. Long toktok blong VT mo waef blong hem AT, tufala I admittim se tufala ino mekem any payment yet. Hemi moa long 5 yia nao we VT hemi no wok folem orders ia. Hemi no bin apil agensem mo hemi no aplae long any taem blong Island Kot hemi variem order ia, nomata we hemi tekem sam step wetem pablik solisita blong kamap wetem ol narafala rod blong wok folem oda blong Island Kot. Be ol step ia, Island Kot hemi no awea long olgeta mo hemi neva akseptem blong endorsem.



- (b) Amaon we hemi aotstanding istap stat long Oktoba 2005 kasem Oktoba 2010 hemi VT244.000. Hemi no includim amaon blong Novemba – Decemba 2010 kam kasem August 2011. Sapos VT hemi soemaot long Kot ia se hemi pemaot samfala amaon ia or evriwan, bae Kot ia hemi lukluk se aplikesen blong hem istret. Be taem VT hemi no mekem olsem, mo hemi no apil or aplae blong Island Kot I jenisim order blong hem, hemi stap kam antap long Kot ia wetem “Unclean Hands”. Mo rod we hemi tekem hemi wan “Abuse of Process”.
6. From ol rison ia, aplikesen blong VT Kot I dismissim mo Kot I order se VT I mas pem ol cost blong VK. Cost ia hemi transport costs nomo we VK I save soem ol receipt blong hem from olgeta.
 7. Wetem decisen ia, wea nao ol party oli stand? Ansa se long sem posisen olsem long 30 August 2005. As long as VT hemi no pem 4,000 vt evri manis, amaon blong VT244,000 hemi stap go antap by 4,000 vt evri manis kasem taem Ashley Toa hemi kasem 18 yia blong hem.
 8. VK hemi no mekem any counter-claim or cross-claim mekem se Kot ia ino save mekem any order blong feva blong hem concenem aotstanding amaon.
 9. Hemia nao decisen blong Kot ia tedei.

Det ia 4 August 2011, long Luganville.

BY THE COURT


OLIVER A. SAKSAK
Judge

