

(Criminal Jurisdiction)

**PUBLIC PROSECUTOR**

**VS.**

**ROMARIC LIATHLATMAL**

**Mr Justice Oliver A. Saksak**

**Mr P. Wirrick for Public Prosecutor  
Miss J. Tari for Defendant**

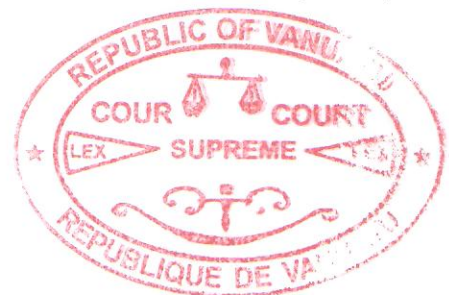
**Date of Hearing of Submissions: 10<sup>th</sup> December 2012  
Date of Sentence: 5<sup>th</sup> February 2013**

## **SENTENCE**

1. Romaric Liathlatmal, you were initially charged with 41 Counts of Forgery contrary to section 140 of the Penal Code, Act Cap 135 (the Act), and with 39 Counts of Theft contrary to section 125(a) of the Act, and with 2 Counts of Attempted Theft contrary to section 28 read in conjunction with section 125(a) of the Act. On 3<sup>rd</sup> July 2012 you initially pleaded not-guilty to all 82 Counts. However, on 21<sup>st</sup> November 2012 you sought leave to be re-arraigned. The Court granted leave and on re-arraignment you pleaded guilty to 37 Counts of Forgery except for charges in Counts 71, 73, 75 and 77. The Prosecution ran a short trial on 21<sup>st</sup> November. But the Court returned verdicts of not-guilty against you on those 4 counts. All the charges of Theft and Attempted Theft were withdrawn by the Prosecution.
2. Forgery is defined by Section 139 of the Act. And Section 140 places the maximum penalty for Forgery at 10 years imprisonment.

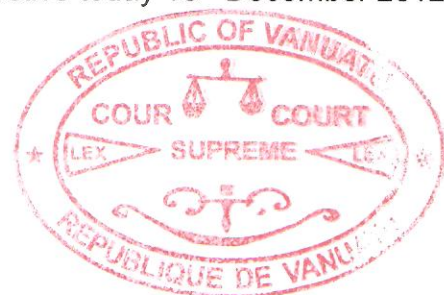


3. The facts of your offendings are as set out by the Prosecution in their written submissions from paragraphs 1 to 10. You have agreed with those facts and therefore I do not have to set them out again in this sentence. Those facts are adopted for the purposes of considering and assessing your appropriate sentence.
4. From those facts, it is obvious that within a period of 1 month from 5<sup>th</sup> October 2011 until 17<sup>th</sup> November 2011 when those offences were discovered, you committed forgery on 37 separate occasions by issuing forged. Delivery Dockets with false amounts of copra and weight thereof in favour of one Graham Upayato or Graham Malo. The amounts of money involved is not known. Nervertheless you have accepted and admitted offending on those 37 separate occasions.
5. For those, it is the view of the Court that the appropriate sentence for you is to be one that provides a deterrence to yourself and to others who might be minded to commit similar offences as you have. I consider that your offendings warrant custodial sentences. The Court is guided by the cases of Public Prosecutor v. Keith Mala VUSC 22 and Public Prosecutor v. Lopez Adams and Others, Criminal Appeal Case No. 11, 12, 13 & 14 of 2008.
6. I consider that the starting point of 4 years imprisonment to be appropriate for you under your circumstances. I accept the Prosecution's submissions that there should be an uplift for the following aggravating features –
  - (a) The degree of trust relationship involved and the breach of that trust as a security guard.
  - (b) The offendings were repeated within a space of more than 1 month 37 times.
  - (c) The offendings were a joint criminal enterprise with another person who has been charged separately.
  - (d) A degree who has been charged separately.
  - (e) A degree planning and master-minding was involved and the culpability for these rested on you.



For these there will be an uplift of 4 years by 2 years to mark the seriousness of your offendings and to mark public condemnation for your unlawful actions. Your total sentence of imprisonment is therefore 6 years.

7. In mitigation I note the 10 mitigating factors submitted on your behalf by defence counsel, Ms Tari based on your Pre-Sentence Report. The only relevant factors accepted are –
  - (a) Being a first-time offender with no previous criminal record
  - (b) Guilty plea on re-arraignment
  - (c) Cooperation with Police during investigations
  - (d) Good character.
8. I accept the Prosecution's submissions however that you will not be entitled to the full 1/3 remission for you guilty pleas because you did not plead guilty on the first opportunity. Ordinarily you would have been entitled to 2 years as full 1/3. However, I consider that you are entitled only to the 1 year in reduction from your original 6 years term. The other 1 year is granted in respect of the other 3 mitigating factors this reducing the total sentence down to 4 years imprisonment.
9. I therefore sentence you to imprisonment for a term of 4 years imprisonment on each and every 37 Counts of Forgery to which you pleaded guilty.
10. I order that these sentences be served concurrently. In effect for all the 37 Counts of Forgery, you will serve a concurrent sentence of 4 years.
11. You will be eligible to apply for parole having served up to 2 years of your 4 years term.
12. You have a right of appeal against this Sentence within 14 days if you so choose.
13. Your Sentence of 4 years imprisonment is effective today 18<sup>th</sup> December 2012.





14. The submission by the State that your taxi be confiscated is rejected and declined.

15. That is the Sentence of the Court.

DATED at Luganville this 5<sup>th</sup> day of February 2013.

BY THE COURT

  
OLIVER A. SAKSAK  
Judge

