

PUBLIC PROSECUTOR

V

MELINA TARI

YVESTA TARI

EDNA ARU

Coram: *Justice O. Saksak*

Counsel: *Ms Georgina Kanegai the Public Prosecutor
Mr Lorenzo Moli for the Defendants*

Date of Plea: *22 October 2021*

Date of Sentence: *30 November 2021*

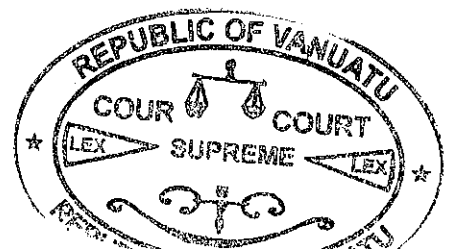
SENTENCE

Introduction

1. The defendants pleaded guilty to one charge of unlawful entry (section 143 (1)) - Count 1.
2. Melina Tari pleaded guilty also to two charges of Intentional assault causing no physical injuries (section 107 (a)) Count 4, and section 107 (b) (Count 2), causing injuries of a temporary nature, to a charge of malicious damage to property – Count 3, (Section 133), and to Theft – Count 5 section 122 and 125 of the Penal Code Act [Cap 135].
3. These are serious offences Unlawful Entry carries a maximum penalty of 20 years imprisonment. Theft carries a maximum penalty of 12 years imprisonment. Damage to property carries 1 year imprisonment as maximum penalty and assault under Section 107 (a) and (b) carries maximum penalties of 1 year and 5 years imprisonment.

Facts

4. On 8 December 2019 all 3 defendants entered the residence of Florence Sorieniela at Erakor Road Area. Melina Tari kicked the complainant onto her bed. Edna Aru held onto the complainant while

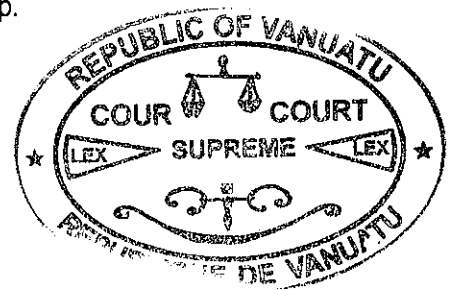


Melina took a pair of scissors and cut off her hair. Yvesta Tari stood by and watched. Melina Tari then continued to cut the complainant's clothes with the scissors and removed her 2 cell phones and left with them.

5. The defendants have accepted those facts.

Aggravating Features

6. Yvensta Tari and Edna Aru you both accompanied Melina Tari on 8 December 2019 and entered unlawfully into the residence of Florence Sorieniela, the complainant. You both pleaded guilty to this offence. There was absolutely no justification for your actions. Unlawful entry into a dwelling house is a serious offence carries a maximum penalty of 20 years imprisonment.
7. Luckily you did nothing more than accompany Melina Tari at the time. Therefore, on your own guilty pleas, I convict both of you and sentence you as follows:-
- (a) Yvensta Tari – a sentence of 2 years imprisonment;
 - (b) Edna Aru – a sentence of 2 years imprisonment.
8. Both of you are entitled to a 1/3 reduction for your guilty plea which is 8 months. The balance is 16 months.
9. For your reconciliation ceremony, delay and our other personal factors, I reduce your balance of sentence by a further 4 months. The balance is therefore 12 months imprisonment.
10. I consider the nature of your offendings and your clean past records without any previous convictions and I am of the view your sentences should be suspended. I therefore order that your sentences be suspended for a period of 1 year from today's date under Section 57 of the Penal Code Act. You must not commit any other offences within a period of 1 year for which you would be charged and convicted. If you do, you will do your time in prison for 12 months.
11. For you Melina Tari, you were the main instigator of these offences. Apart from unlawfully entering Florence's residence, you assaulted her twice; first you cut of her hair with a pair of scissors after grapping her with your hand. Secondly, you assaulted her again by kicking her with your leg and using your hand to hit or slap her. Fortunately, she did not suffer any injury. Then you removed her 2 mobile cell phones and took them away without the victim's consent. Your action amounted to theft. Fourthly, you damaged Florence's clothes by cutting them up with a scissors.
12. You admitted these offences and have accepted the facts as presented by the Prosecution. Your only explanation was that the victim had continuously has sexual intercourse with your boyfriend. One can understand the hurt that you felt but you went too far. You took the law into your own hands when you could have seen your chief or the Police for help.



13. Your actions deserve a custodial sentence. I therefore convict and sentence you as follows:-
- (a) for unlawful entry – Count 1 as the lead offence – 4 years imprisonment;
 - (b) for intentional assault – Count 2 and 4 – a sentence of 6 months imprisonment on each count, concurrent.
 - (c) for malicious damage to property – Count 3, a sentence of 6 months imprisonment, concurrent
 - (d) for theft – Count 5, a sentence of 1 year imprisonment. All sentences are to be served concurrently with the sentence of 4 years for unlawful entry.
14. In mitigation I reduce your sentence by 1/3 reduction for your guilty plea. 1 year and 4 months are deducted, leaving the balance of 2 years and 8 months imprisonment.
15. You have attempted to perform a custom reconciliation but the victim has not agreed. I also note the delay in prosecuting your case. You have kept a clean past and record without any previous convictions. I note your character and other personal convictions. I therefore reduce your sentence by a further 8 months, leaving your end sentence of 2 years imprisonment. I order that your sentence be suspended for 1 year on good behavior under Section 57 of the Act.
16. However to mark the seriousness of your offendings, to mark public disapproval of your actions, to deter you and others from doing these things, and to punish you adequately, I further sentence you to community work for a period of 40 hours. This penalty is imposed under Section 58G and 58N of the Penal Code Act.
17. There is a right of appeal against these sentences within 14 days.

DATED at Port Vila, this 30th November, 2021

BY THE COURT


**Oliver.A.Saksak
Judge**

