

IN THE HIGH COURT OF FIJI
AT SUVA
CRIMINAL JURISDICTION

Crim. Case No: HAC 326 of 2020

BETWEEN:

STATE

PROSECUTION

A N D:

**1. RATU JONE LATIANARA
2. SEMI VAKARU**

ACCUSED PERSONS

Counsel

: Ms. S. Komaibaba for the State
Ms. S. Hazelman for both Accused

Date of Sentence

: 05th February 2021

SENTENCE

1. Mr. Ratu Jone Latianara and Mr. Semi Vakaru, both of you pleaded guilty to one count of Aggravated Burglary, contrary to Section 313 (1) (a) of the Crimes Act, which carries a maximum sentence of seventeen years imprisonment, and one count of Theft, contrary to Section 291 (1) of the Crimes Act, which carries a maximum sentence of ten years imprisonment. The particular of the offences are that:

FIRST COUNT

Statement of Offence

AGGRAVATED BURGLARY: *Contrary to Section 313 (1) (a) of the Crimes Act 2009.*

Particulars of Offence

RATU JONE LATIANARA and SEMI VAKARU between the 5th day of November 2020 to the 6th day of November 2020 at Nausori, in the Eastern Division, entered into the dwelling house of **RATU EPELI NAILATIKAU** as a trespasser, with intent to commit theft.

SECOND COUNT

Statement of Offence

THEFT: *Contrary to Section 291 (1) of the Crimes Act 2009.*

Particulars of Offence

RATU JONE LATIANARA and SEMI VAKARU between the 5th day of November 2020 to the 6th day of November 2020 at Nausori in the Eastern Division, dishonestly appropriated 6 x mats (coco), 2 x Togan mats, 1 x Fotanga (Masi), 3 x Gatu (Masi), 2 x mats (vivivi), 8 x single mats, the property of **RATU EPELI NAILATIKAU** with the intention of permanently depriving **RATU EPELI NAILATIKAU** of the said property.

2. Satisfied by the fact that you have fully comprehended the legal effect of your plea and your plea was voluntary and free from influence, I now convict both of you to these offences of Aggravated Burglary and Theft.

3. According to the summary of facts, which you admitted in open court, Ratu Jone Latianara had entered the house through the back window of the house, while Semi Vakaru was waiting outside. Ratu Jone Latianara had passed the stolen items to Semi Vakaru and then transported the stolen items to the main island by a boat. You have then sold the stolen items at the Suva Flea Market.
4. This is a breaking of a residential property and stealing therein. You broke into this house while the owner was away. The crimes of this nature, which are targeting the dwelling houses, undoubtedly affect the entire community. You have instilled fear and insecurity among the people by committing this crime. I, accordingly, find this is a severe offence.
5. Having considered the serious nature of these offences, I now proceed to determine an appropriate sentence for you in line with general principles, objectives, and purposes of sentencing under sections 4 (1) and 4 (2) and 15 of the Sentencing and Penalties Act.
6. All of these offences are founded on the same series of offending. Therefore, I find it is appropriate to impose an aggregate sentence pursuant to Section 17 of the Sentencing and Penalties Act.
7. The tariff for the offence of Aggravated Burglary is between 18 months to 3 years. The tariff for the offence of Theft has been stipulated in **Ratusili v State** [2012] FJHC 1249; HAA011.2012 (1 August 2012), where Justice Madigan held that:
 - i) *For a first offence of simple Theft the sentencing range should be between 2 and 9 months.*
 - ii) *Any subsequent offence should attract a penalty of at least 9 months.*
 - iii) *Theft of large sums of money and thefts in breach of trust, whether first offence or not can attract sentences of up to three years.*

- iv) *Regard should be had to the nature of the relationship between offender and victim.*
- v) *Planned thefts will attract greater sentences than opportunistic thefts.*

8. Considering the nature of the items you have stolen and the manner that you have entered into the premises, I find the level of culpability and the harm is high in this offending.
9. Mr. Ratu Jone Latianara, you are 37 years old and a first offender. You are married with four children. Mr. Semi Vakaru, you are 34 years old and a first offender. You are married with one child. Both of you pleaded guilty to these offences at the first available opportunity.
10. Moreover, both of you had admitted your responsibilities of committing these offences in your caution interviews. Both of you had approached the complainant and sought his forgiveness which he had accepted. In doing that, you have expressed and shown your remorse and repent for committing this crime. Therefore, you are entitled to a substantial discount for your early plea of guilty. All the stolen items have been recovered during the investigation.
11. Considering the reasons discussed above, Mr. Ratu Jone Laitanara, I sentence you to 20 months imprisonment as an aggregated sentence for these two counts as charged. Your sentence is partially suspended where you shall serve ten months of your sentence forthwith, and the remaining period of 12 months is suspended for three years. Considering the time spent in custody, the actual period you have to serve in custody is seven months imprisonment.
12. Mr. Semi Vakaru, I sentence you to 20 months imprisonment as an aggregated sentence for these counts as charged. Your sentence is partially suspended where you shall serve ten months of your sentence forthwith, and the remaining period of 12 months is suspended for three years. Considering the time spent in custody, the actual period you have to serve in custody is seven months imprisonment.

13. If you commit any crime during that period of three (3) years and found guilty by the Court, you are liable to be charged and prosecuted for an offence according to Section 28 of the Sentencing and Penalties Act.
14. Thirty (30) days to appeal to the Fiji Court of Appeal.



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Hon. Mr. Justice R.D.R.T. Rajasinghe

At Suva

05th February 2021

Solicitors

Office of the Director of Public Prosecutions for the State.

Office of the Legal Aid Commission for both Accused.