

**IN THE HIGH COURT OF FIJI AT SUVA**

**CASE NO: HAC. 300 of 2020**  
**[CRIMINAL JURISDICTION]**

**STATE**

**V**

**1. TIMOCI BASELALA MACILALA**

**2. MELI CAMERON LAGILAGI**

**Counsel** : Ms. S. Sharma for the State  
Ms. L. David for the 1<sup>st</sup> Accused  
Ms. J. Manuveli for the 2<sup>nd</sup> Accused

**Date of Sentence** : 16 February, 2021

**SENTENCE**

1. Timoci Baselala Macilala and Meli Camron Lagilagi you have pleaded guilty to the charges produced below and were convicted as charged accordingly on 09/12/20;

**FIRST COUNT**

*Statement of Offence*

**Aggravated Burglary:** contrary to Section 313 (1) (a) of the Crimes Act 2009.

*Particulars of Offence (a)*

**TIMOCI BASELALA MACILALA and MELI CAMERON LAGILAGI**, on the 07<sup>th</sup> day of October, 2020 at Namadi in Central Division, in the company of other, entered into the dwelling house of **SAILASA TAGANESIA** as trespassers, with intent to commit theft therein.

## SECOND COUNT

### *Statement of Offence*

**Theft:** contrary to Section 291 (1) of the Crimes Act 2009.

### *Particulars of Offence (b)*

**TIMOCI BASELALA MACILALA and MELI CAMERON LAGILAGI**, on the 07<sup>th</sup> day of October, 2020 at Namadi in Central Division, dishonestly appropriated 1 x white Panasonic microwave, 1 x white kettle, 1 x glass Uni Star silver blender, 1 x Kawasaki maroon brush cutter, 1 x Ozzy build brush cutter, 1 x Fiji gas stove, 1 x pair of sneakers and 1 x set of black knives, the property of **SAILASA TAGANESIA**, with the intention of permanently depriving the said **SAILASA TAGANESIA** of the said property.

2. You have admitted the following summary of facts;

**Accused 1:** *The first accused in this matter is one Timoci Baselala Macilala, 27 years (DOB 12/12/1992), residing at Block 7 Mead Road Housing Flat 12. ("A1").*

**Accused 2:** *The second accused in this matter is one, Meli Cameron Lagilagi, 23 years (DOB 09/08/1997), residing at Kinoya. ("A2")*

*The complainant is Sailasa Taganisia, 70 years old, retired, residing at Lot 12 Kavu Place.*

*On 7<sup>th</sup> October 2020 at about 1:30am, accused 2 and two other accomplices entered the complainant's compound at Lot 12 Kavu Place by climbing the fence whilst accused 1 was on look out.*

*Accused 2 and two other accomplices scanned the area of the house at Lot 12 Kavu Place then accused 2 picked up two bush cutters and pushed it out of the fence.*

*The other two accomplices entered the house by removing louver blades. Once they were inside the house, they handed over the following items to accused 1:*

- a. 1 x white Panasonic microwave valued at \$300.00*
- b. 1 x white kettle valued at \$100.00*
- c. 1 x glass Uni Star silver blender valued at \$80.00*
- d. 1 x Fiji gas stove valued at \$165.00*
- e. 1 x pair of sneakers valued at \$70.00*
- f. 1 x set of black knives valued at \$50.00.*

*Both the accused and their two accomplices then took the items to the cassava patch. They heard the complainant swear and they ran outside the fence.*

*Both the accused picked up the two brush cutters and hid them at the cassava patch while their two accomplices had run away.*

*Both the accused were arrested on the same morning at about 3:10 am at their house.*

*Both the accused were caution interviewed on 7<sup>th</sup> October 2020 and they were formally charged on 8<sup>th</sup> October 2020.*

*The first accused made full admissions in his Record of Interview from Q&A 46 to 86. (Marked as annexure "A" is the copy of Record of Interview for the first accused).*

*The second accused also made full admissions in his Record of Interview from Q&A 85 to 167. (Marked as annexure "B" is the copy of Record of Interview for the second accused).*

*The following items were recovered after the police inspected and tracked the area from the complainant's house:*

- g. 1 x white Panasonic microwave valued at \$300.00*
- h. 1 x white kettle valued at \$100.00*
- i. 1 x glass Uni Star silver blender valued at \$80.00*
- j. 1 x Fiji gas stove valued at \$165.00*
- k. 1 x pair of sneakers valued at \$70.00*
- l. 1 x set of black knives valued at \$50.00.*
- m. 1 x Kawasaki maroon brush cutter*
- n. 1 x Ozzy build brush cutter*

*Both the accused have nil previous convictions. (Marked as Annexure "C" are the Criminal Record History by the Criminal Records & Fingerprint Office)*

3. The tariff for the offence of aggravated burglary which carries a maximum penalty of 17 years imprisonment should be an imprisonment term within the range of 6 years to 14 years. [Vide *State v Prasad* [2017] FJHC 761; HAC254.2016 (12 October 2017) and *State v Naulu* [2018] FJHC 548 (25 June 2018)]
4. The offence of theft contrary to section 291 of the Crimes Act carries a maximum sentence of 10 years. In the case of *Waqa v State* [HAA 17 of 2015], this court held that the tariff for the offence of theft should be 4 months to 3 years imprisonment.
5. In the case of *State v Chand* [2018] FJHC 830; HAC44.2018 (6 September 2018), Morais J observed thus;

12. Burglary of home must be regarded a serious offence. A home is a private sanctuary for a person. People are entitled to feel safe and secure in their homes. Any form of criminal intrusion of privacy and security of

people in their homes must be dealt with condign punishment to denounce the conduct and deter others. As Lord Bingham CJ in **Brewster** 1998 1 Cr App R 220 observed at 225:


*“Domestic burglary is, and always has been, regarded as a very serious offence. It may involve considerable loss to the victim. Even when it does not, the victim may lose possessions of particular value to him or her. To those who are insured, the receipt of financial compensation does not replace what is lost. But many victims are uninsured; because they may have fewer possessions, they are the more seriously injured by the loss of those they do have. The loss of material possessions is, however, only part (and often a minor part) of the reason why domestic burglary is a serious offence. Most people, perfectly legitimately, attach importance to the privacy and security of their own homes. That an intruder should break in or enter, for his own dishonest purposes, leaves the victim with a sense of violation and insecurity. Even where the victim is unaware, at the time, that the burglar is in the house, it can be a frightening experience to learn that a burglary has taken place; and it is all the more frightening if the victim confronts or hears the burglar. Generally speaking, it is more frightening if the victim is in the house when the burglary takes place, and if the intrusion takes place at night; but that does not mean that the offence is not serious if the victim returns to an empty house during the daytime to find that it has been burgled. The seriousness of the offence can vary almost infinitely from case to case. It may involve an impulsive act involving an object of little value (reaching through a window to take a bottle of milk, or stealing a can of petrol from an outhouse). At the other end of the spectrum it may involve a professional, planned organization, directed at objects of high value. Or the offence may be deliberately directed at the elderly, the disabled or the sick; and it may involve repeated burglaries of the same premises. It may sometimes be accompanied by acts of wanton vandalism.”*

6. The two offences you are convicted of are founded on the same facts. Therefore, in view of the provisions of section 17 of the Sentencing and Penalties Act, I consider it appropriate to impose an aggregate sentence of imprisonment against you for the two offences you have committed.
7. Timoci Baselala Macilala, you are 27 years old and single. It is submitted that you were employed as a ‘wash boy’ prior to your arrest for this matter.
8. Meli Camron Lagilagi, you are 23 years old and married. It is submitted that you were employed as a ‘patcher’ prior to your arrest for this matter.

9. The value of the property stolen as revealed in the summary of facts is about \$765. I find it appropriate to consider the value of the items stolen as a common aggravating factor.
10. However, I am also mindful of the fact that all the stolen items were recovered.
11. In addition to the fact that the two of you have entered an early guilty plea, I would consider the following as your mitigating factors;
  - a) You are first offenders;
  - b) There full recovery;
  - c) You are remorseful; and
  - d) You have cooperated with the police.
12. I would select 06 years as the starting point of the aggregate sentence to be imposed on each one of you. I would add 01 year in view of the value of the items.
13. I would deduct 03 years in view of the above mitigating factors from the sentence to be imposed on each one of you. Now the sentence is 04 years imprisonment. In view of your early guilty plea, I would grant each one of you, a discount of one-third. Accordingly, the final sentence is 02 years and 08 months (after deducting 1 year and 4 months).
14. I would fix the non-parole period at 02 years in terms of the provisions of section 18(1) of the Sentencing and Penalties Act. I have considered the circumstances of the offending and your personal circumstances in determining the non-parole period.
15. Each one of you have spent a period 04 months and 09 days in custody in relation to this matter. The time you have spent in custody shall be regarded as a period of imprisonment already served by you in terms of section 24 of the Sentencing and Penalties Act.

16. In the result, you are sentenced to an imprisonment term of 02 years and 08 months with a non-parole term of 02 years. In view of the time spent in custody, time remaining to be served is as follows;  
Head sentence - 02 years; 03 months; and 21 days  
Non-parole period - 01 year; 07 months; and 21 days
17. Considering the fact that you are first offenders and that the stolen items were fully recovered, I have decided to suspend your sentence. Accordingly, the remaining term of the sentence imposed on each of you shall be suspended for a period of 03 years.
18. The court clerk will explain you the effects of a suspended sentence.
19. Accordingly, you will be released today. You are thoroughly warned and advised to hereafter abide by the laws of this country and to lead a good life.
20. Thirty (30) days to appeal to the Court of Appeal.



  
Vinsent S. Perera  
JUDGE

**Solicitors;**

Office of the Director of Public Prosecutions for the State  
Legal Aid Commission for both Accused