

**IN THE HIGH COURT OF FIJI**

**AT LAUTOKA**

**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO.: HAC 78 OF 2023**

**STATE**

**-v-**

**1. RAVIELI RATU**

**2. ISOA NASARA ROKOBARO**

Counsel: Ms S. Prakash for State

Mr. P.Gade for 1<sup>st</sup> and 2<sup>nd</sup> offenders

Sentencing Submissions: 25 September 2023

Date of Sentence: 29 September 2023

**SENTENCE**

1. **RAVELI RATU & ISOA NASARA ROKOBARO** were jointly charged with one count of Aggravated Burglary. The Information read as follows:

## Statement of Offence

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

## Particulars of offence

**RAVIELI RATU & ISOA NASARA ROKOBARO**, on the 2<sup>nd</sup> day of May 2023 at Korovou Village, Tavua in the Western Division, entered into the house of Mohammed Khaliq as trespassers, with intent to commit theft.

2. Both accused pleaded guilty to the above charge on their own free will. They understood the charge and the consequence of the guilty pleas. I am satisfied that the guilty pleas are informed and unequivocal and entered freely and voluntarily.
3. They agreed to the following summary of facts when it was read in court. The facts agreed satisfy all the elements of the offence of Aggravated Burglary. The accused are found guilty and convicted as charged.
4. The facts you agreed are that:
  - I. The Accused in this matter are **Ravieli Ratu** (hereinafter referred to as "1<sup>st</sup> accused"), who was 19 years old at the time of the offence and **Isoa Nasara Rokobaro** (hereinafter referred to as "2<sup>nd</sup> accused"), who was 18 years old at the time of the Offence.
  - II. On 2<sup>nd</sup> May 2023, both accused, Ravieli Ratu and Isoa Nasara Rokobaro, were selling coconuts around Korovou Village, Tavua.
  - III. This is when they reached at the residence of one **Mohammed Khaliq** (hereinafter referred to as "the complainant") and they started to call out for the residents to sell the coconuts.
  - IV. However, they did not get any response and realized that there was no one at the house.
  - V. They saw that the door was closed but not locked as such, the 2<sup>nd</sup> accused entered the porch of the complainant whilst the 1<sup>st</sup> accused stood outside to keep a watch.
  - VI. When the 1<sup>st</sup> accused saw the complainant returning home, he informed 2<sup>nd</sup> accused and they both ran away from his house. Nothing was stolen.

- VII. Later, both accused were arrested and during their caution interview they admitted that they entered the premises with intent to commit theft.
- VIII. Attached herein and marked annexure "A" is a copy of the caution interview of the 1<sup>st</sup> accused.
- IX. Also attached herein and marked annexure "B" is a copy of the caution interview of the 2<sup>nd</sup> accused.
5. The offence of Aggravated Burglary carries a maximum sentence of 17 years imprisonment. The sentencing tariff and the sentencing guidelines for Aggravated Burglary were settled by the Court of Appeal in State v Kumar & Vakatawa [2022] FJCA (24 November 2022).
6. I am guided by the said guidelines to identify the appropriate starting point, the sentencing range and the harm factors of the offending. Nothing was stolen by the offenders. No physical harm was caused either to property or person. No violence or weapon was used. It was an opportunistic attempt to break in. In view of that I identify the offence in the low level of culpability which carries a starting point of 3 years imprisonment with a sentencing range of 01 -05 years' imprisonment. Both accused are similarly situated as far as the culpability level is concerned. Having considered factors stated above, I would pick a starting point of 3 years and the sentencing range from 1-5 years imprisonment for each offender.
7. There are no aggravating features in the offending. The summary of facts does not reveal that the offenders had planned the burglary. I do not agree with the State's submission on that point.
8. Separate mitigating submissions have been filed by Mr Gade for each offender. I considered the mitigation submissions in passing this sentence.
9. Ravieli Ratu was 19 years old at the time of the offence and was single. He is employed as a casual labourer in the construction field. He entered an early guilty plea at the first available opportunity. He is a first offender and has maintained a clear record. He has

promised not to re-offend and he begs for a second chance to rehabilitate. He has cooperated with police in the investigations in making admissions. He seeks mercy of this court. I consider the early guilty plea as evidence of genuine expression of remorse. He has saved court's time and resources by pleading guilty to the charge at a very early stage of the proceeding. He has spent 32 days in remand. I deduct 28 months for the mitigation and the remand period to arrive at a sentence of 8 months' imprisonment.

10. Isoa Nasara Rokobaro was 18 years old at the time of the offence and single. He is unemployed. He also entered an early guilty plea at the first available opportunity. He is a first offender and has maintained a clear record. He has promised not to re-offend and he begs for a second chance to rehabilitate. He has cooperated with police in the investigations. He seeks mercy of this court. I consider the early guilty plea as evidence of genuine expression of remorse. He has saved court's time and resources by pleading guilty to the charge at a very early stage of the proceeding. He has spent 31 days in remand. I deduct 28 months for the mitigation and the remand period to arrive at a sentence of 8 months' imprisonment.
11. There are special circumstances that warrant a suspended sentence for each offender. Rehabilitation of young and first offenders should be promoted. Both offenders are young and first offenders having a good potential of rehabilitation. The correction centers do not always correct young offenders. The primary purpose of this punishment is rehabilitation.
12. Taking into consideration the early guilty pleas, genuine expression of remorse, and the clean record, I suspend the sentence of each offender for a period of 3 years.

#### Summary

13. Each offender is sentenced to 8 months' imprisonment to be suspended for a period of 3 years.

14. These lenient sentences are imposed in the hope that the offenders will not come back to justice system having committed offences. If the offenders are convicted of any offence in the next three years, the suspended sentence may be activated.



**Aruna Aluthge**

**Judge**

At Lautoka

On 29 September 2023

Counsel: Office of the Director of Public Prosecution for State  
Legal Aid Commission for Defence