

IN THE CENTRAL MAGISTRATES' COURT
OF SOLOMON ISLANDS AT HONIARA

Criminal Jurisdiction

Criminal Case No. 719 of 2017.

On the 12 day of April 2021
Coram: Ricky Iomea, Deputy Chief Magistrate

Mrs. Suifa'asia for the Crown
Mr. Kwalai for Wilson Innie Hiro
Mr. Manebosa for Hilly Manase



BETWEEN:	REGINA	Complainant
AND:	WILSON INNIE HIRO	Accused
AND:	HILLY MANASE	Accused

SENTENCE

The two Accused Persons namely Wilson Innie Hiro and Hilly Manase were charged together by Police with 28 Counts of Simple Larceny contrary to Section 261 of the Penal Code to be read with Section 22 of the Penal Code.

They contested the charges at trial and were found guilty and convicted on all the 28 Counts.

The issue now is what would be the appropriate sentences to be imposed against the two defendants.

The two principle questions for consideration at trial were (1) whether Hilly Manase and Wilson Innie Hiro formed a common intention to steal the tanks on the 28 occasions as alleged in Counts 1 to 28 on the Charge sheet; and (2) whether the stealing of the tanks on the 28 occasions were probable consequences of carrying out that common intention or purpose.

The Facts

The facts as found by the Court at trial are;

That the RWASH or the Ministry of Health and Medical Services had never received the water tanks which they had paid for through the two cheques received by the Island Tanks on 24th of May 2016. They are the owners of the 36 water tanks.

The deliveries of the tanks on the dates as appeared in Exhibit PE 31 (Delivery Note Receipt Book) and as reflected in the 28 counts were made to persons other than RWASH as indicated on each of the delivery receipts. The tanks were stolen on the dates as appeared in Exhibit PE 31 and each of the 28 counts.

Hilly Manase received commissions from the sales of the tanks. The accused Hilly Manase, was on most of the occasions, was not physically present at most of the times cash was exchanged between the buyers and the persons who transported the tanks for sale. However, he was the inside person at Island Tanks Ltd and the instigator of the plan to sell the tanks.

The accused Wilson Innie with others found buyers for the tanks on the advice of the accused Hilly Manase who was working at Island Tanks Ltd and who was aware of the payments made for the tanks.

The stealing of the tanks on the dates as appeared on the 28 occasions in exhibit PE 31 and as reflected in the 28 Counts were probable consequences of the common intention formed between Hilly Manase and Wilson Innie to steal the tanks. That common intention remained intact throughout the period the tanks were sold until the last tanks were delivered from Island Tanks on 24th April 2017. The two Accused had clearly intended to permanently deprive the MHMS of their properties.

Aggravating factors

The entire offending was pre-planned by the two accused and involved others. The accused Hilly Manase is the instigator of the plan as he was the insider person at Island Tanks Ltd.

This is a serious breach of trust by him against his employer. The Company had placed trust on him to ensure that tanks ordered and paid for are delivered to the buyers. His actions were contradicted the trust placed on him.

The modus operandi include misleading the buyers by telling them that the tanks belonged to a project but were no longer needed.

The two defendants had benefited from the offending although the tanks were recovered during Police investigation.

It appears that most of the buyers of tanks had lost the money they had paid for the tanks delivered to them from this criminal enterprise.

The offending was repeated almost on a daily basis until the last of the tanks were delivered from Island Tanks. They had not reflected on their unlawful actions and desist.

The accused Wilson Innie Hiro has a prior conviction for Simple larceny in 2004 and was sentenced to four months imprisonment.

Mitigating factors

The accused Hilly Manse is a first time offender and has a family that depend on him one way or the other for their needs. He should have thought about potential consequences before engaging in the offending.

I am satisfied that both accused had cooperated with the Police during the investigation into their case.

Principle of deterrence

Stealing properties of others appears to be a common occurrence in the community therefore, the principle of deterrence – both specific and general deterrence is an important consideration in this case. Those who wish to commit similar offences must be reminded that the Courts will not tolerate such unlawful behavior and will impose sufficient punishment upon being found guilty for such offences. Society needs to be protected from selfish people who engage in stealing and have no respect for properties of others.

The Sentence and orders

Having weighed the facts of the case, mitigating factors, the need for deterrence and punishment, I impose the following sentences:

Hilly Manase

Count 1 to Count 28 – 2 years imprisonment for each count.

Wilson Innie Hiro

Count 1 – 28 – 2 years imprisonment for each count.


Concurrent or Consecutive sentences

To impose 28 separate sentences for the 28 counts and to run them cumulatively would be far too excessive in my view as far as the totality principle is concerned. I am of the view that that ordering the sentences for the 28 counts to run concurrent to each other is appropriate in this case.

In taking this approach, I am also guided by the sentiments echoed in *Angitalo v Regina* Cr App No 4 of 2004, the Solomon Islands' Court of Appeal said:

“The fundamental underlying principle is that a sentence should reflect the true criminality involved in the offences, without on the one hand punishing the offender more than once for same or essentially the same criminal conduct or, on the other hand, failing to punish the offender for committing a crime. This will almost always be a matter of fact and degree, requiring the exercise of judicial discretion. See *e.g. Pearce v The Queen* [1998] HCA 57; 194 CLR 610, at paras 40 – 50 *per* McHugh, Hayne and Callinan JJ. The fundamental rule is the Court should ensure that *both* the end result does not exceed what is the appropriate punishment for the offender's criminal conduct, considered as a whole, and that result adequately punishes the offender for the crimes actually committed.”

The total effective sentence to be served by each Accused is 2 years imprisonment. The sentence will commence today.

The Court.

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Ricky Iomea
Deputy Chief Magistrate

