

IN THE CENTRAL MAGISTRATE'S COURT)
OF SOLOMON ISLANDS AT HONIARA)
(Criminal Jurisdiction)



Criminal Case No. 908 of 2021

REGINA

-v-

MOSES TOME

&

WILSON POELO

Date of Plea: April 4, 2022
Date of Submission: April 6, 2022
Date of Sentence: April 12, 2022

Mr. Myrella Cleven for the Crown
Mr. George S. Taedi for the Defendants

SENTENCE

- [1]. The Defendants, Mr. Moses Tome and Wilson Poelo, are charged together with an offence of Criminal Trespass, contrary to section 189 (1)(a) of the Penal Code. The Offence pertains to the recent political turmoil and unrest that the country experienced in November 2021. They entered guilty pleas on arraignment, and criminal convictions were thereby entered against them.
- [2]. The agreed facts are that, on November 26, 2021, at around 12:00pm, the Police attended to the Prime Minister's residence following reports that a group of rioters have entered the PM's residence at Lunga. The rioters' burn down one of the dwelling house within the PM's residence. In the compound, Police saw the two Defendants were the last persons to escape out from one of the buildings. They apprehended the two Defendants and arrested them. On Sunday 28 November 2021, the two Defendants participated in cautioned record of interview with the Police at Henderson Police Station. Moses Tome told the Police that he lives at LDA, and that on the day of incident, he went into the PM's residence compound to see the house that was burned. The second Defendant, Wilson Poelo admitted that he went into the PM's residential compound on that day to see what was happening.

- [3]. On the date of offence, the PM's residence was invaded by a group of angry mob, destroying and burning properties, including one of his homes. His family had to escape for their lives, leaving their personal belongings, and homes. Like any ordinary human being, they would have been shattered and traumatized to see what the angry mob did to their properties. The Defendants were part of these angry mob, who viciously stormed into the premises and executed their illegal intentions.
- [4]. The Crown submitted a number of aggravating factors. First, the Defendants trespassed into a building within the residential compound of the Prime Minister of Solomon Islands; his haven. Mrs. Cleven, submitted that the Defendants' unlawful entry into the Prime Minister's dwelling compound shows utter disrespect towards the PM, who is the sovereign Head of Government. Second, breach of public peace and security. Both the Defendants' presence at the scene contributed to the number of people who unlawfully entered the Prime Minister's residence on that day. She submitted that, their actions contributed to overpower the PM's personal security, resulting in their unlawful entry. The number of people present, has psychologically encouraged others to participate in unlawful activities resulting in loss of properties. Third, fear and terror caused to the Public. Counsel submitted that, it must have been fearful for the PM and his family to see the group of people unlawfully enter their residential compound. It must have been fearful too for children and women residing close to the Prime Minister's residence on the date of incident.
- [5]. The sentencing range for the offence of Criminal Trespass, have been well enunciated in cases¹ of this jurisdiction. The range is from a month imprisonment to 6 months imprisonment, in serious cases. In this case, it is more serious, involving an angry mob destroying properties, and burning of a building. The Defendants were found escaping from one of the PM's dwelling house, right before being captured. The mere fact of entering the premises, during a political unrest is very serious. At this point, it would be unwise to say that they were there to observe what was going on. I would like to think that, if they were there to observe, they would probably avoid entering the buildings.

¹ *Regina v Tumulima* [2013] SBHC 112; Criminal Case 397 of 2012 (26 July 2013); *Regina v Patrick Sovesuia* [2015] SBHC 117; HCSI CRC 48 of 2013 (1 December 2015); *Regina v Laufalu* [2017] SBMC; Criminal Case 921 of 2013 (5 October 2017); and *Regina v Isaac Zinhite* (Unreported Criminal Case No. 833 of 2021)

These Defendants boldly entered and God knows what they did inside the building. Their explanation is tenuous.

- [6]. Considering the circumstance of offending, the Defendants' criminal culpability, and weighing them with the aggravating and mitigating factors; I am certain that an imprisonment sentence is inevitable. In considering the totality of circumstance, excluding the aggravating and mitigating factors, I see it appropriate to fix a starting point at 8 months' imprisonment.
- [7]. In taking due account of the aggravating factors, I add 3 months to the starting point, to increase it to 11 months' head sentence. In view of the mitigating factors, I deduct 2 months to consider their guilty pleas. I further subtract a month to consider their past clean criminal history, and their personal circumstances; Mr. Tome, being a married person with family responsibilities, and Mr. Poelo, a young youth who has a bright future ahead of him. In total, 3 months is deducted from the head sentence of 11 months. Therefore, the Defendants shall serve 8 months' imprisonment.
- [8]. The Defendants have made a bold decision to enter into the PM's premises and into one of his dwelling houses. A man's home is his haven, or safe zone, and entering it is an act of invading into all that he has been protecting in his haven. I cannot accept the explanation that the Defendants went there to see what was going on, for reason that they entered the home, a place that is sacred and protected. No one is permitted to enter another's premises without authorization, regardless of what reason. Their entrance occurred during a political unrest, and while a mob stormed the PM's premises.
- [9]. They must take this case as a turning point for them; never to enter into other people's premises or home, even if it is simply for observation. Whether it is a political upheaval or not, the attitude of trespassing will never be justified. They must learn to respect other people's properties, and homes, which are normally the very few places that a person protects and observes his or her right of 'privacy' and 'security'.
- [10]. I trust that the sentiments shared will reverberate a resounding message to the general public as well, for them to understand that criminal trespass into another person's dwelling house is a serious crime, and when it is exacerbated with external influence, like in this case, it attracts lengthy imprisonment terms.

SENTENCE ORDER

[11] Having discussed the above, I hereby make the following orders:

- (1) The Defendants, Mr. Moses Tome and Mr. Wilson Poelo are sentenced to **8 months' imprisonment.**
- (2) The sentence to commence from date of first remand.
- (3) Conviction is entered.
- (4) Right of Appeal applies within 14 days.
- (5) Order accordingly.

BY THE COURT

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MR. LEONARD B. CHITE
Principal Magistrate
Central Magistrate's Court

