

PUBLIC PROSECUTOR

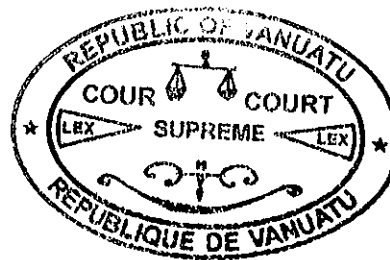
V

LUKE NAMBONG

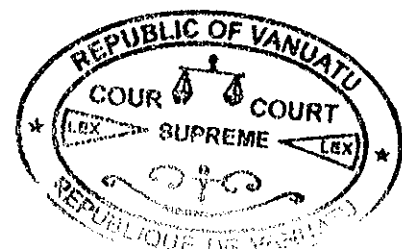
Hearing: **9 April 2013**
Before: **Justice Robert Spear**
Appearances: **Ken Massing for the Prosecution**
 Francis Tasso for the Defence

SENTENCE

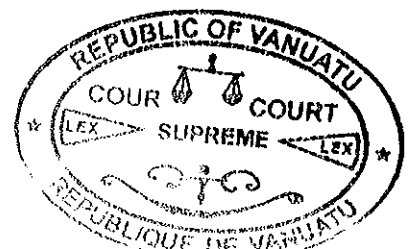
1. Luke Nambong, you are for sentence on one count of Arson. You pleaded guilty to that charge at the first reasonable opportunity and you are accordingly entitled to full credit for doing so and saving the State the cost of a trial.
2. You take no issue with the summary of facts that has been presented by the prosecution. It explains that on 1 November 2012, after having some shells of kava at Seaside, you went out to the Manaro Kava Bar in the Bell View area. Your de-facto partner had been working at that kava bar for some time.
3. Problems had arisen in respect of your domestic relationship. You suspected that your partner had been having an affair with the owner of the kava bar or one of her co-workers. Certainly, she did not return to your home after work on occasions. You became very suspicious to the point where you obviously believed (rightly or wrongly) that she was being unfaithful to you and you became consumed with jealousy and rage. You decided that you would exact some form of revenge on the owner of the kava bar.



4. You took a fire stick with you and walked out to Bell View. When you got to the Manaro nakamal you took some newspapers and started a fire which completely destroyed all the buildings. You destroyed this man's business and you caused extensive damage.
5. In the pre-sentence report, the complainant estimates that the loss to him of the buildings and equipment is in the vicinity of Vt 2 million. Additionally, he has lost his business and the associated income yet he still has financial obligation to meet to his bank.
6. You have destroyed his business and to a large extent put him in debt with the bank. This all came about because of your inadequate and immature response to a relationship that was not working as well as you felt that it should. Your anger was clearly fueled by your jealousy and your sense of betrayal. It does not matter whether your suspicions were accurate or well founded. The woman in question was perfectly entitled to go about her life as she wished and you did not have any right to control her life. Yet, you believed that you should exact revenge against those whom you suspected were finding favour with this woman. All in all, this is a sad if not pathetic motivation for causing this destruction of property .
7. The concern I have is that this is yet another case where revenge for some perceived slight appears to have been taken by the act of setting fire to the other person's property. Time and time again this Court sees the needless and wanton destruction of property just because someone has a grudge against the property owner..
8. Arson is a serious offence. It carries with it a maximum term of imprisonment of 10 years. There is always the risk that someone could be injured or killed because of the fire either because they are in the premises or they attempt to put the fire out.
9. You have destroyed this man's business and for no real purpose at all.



10. You have no income, you have no assets and it is pointless contemplating a compensation order. That was confirmed by your counsel at that last hearing. And so the loss that you have caused to the complainant is one that he will have to accept and deal with himself because you are in no position at all to make any offer of compensation that could be considered realistic. You made an offer to pay Vt 10,000 per month but you have no income and you are going to be prison in any event. Accordingly, you won't have the means by which to generate income to make any payments at all.
11. I have been assisted greatly by the clear and extensive written submissions presented by both prosecution counsel and defence counsel. I am grateful to them for the care which they have taken with the preparation of those submissions which have been of great assistance.
12. I also have a pre-sentence report on you. It notes that you are 42 years of age and you are from the island of Ambrym. You have been living in Port Vila for some years and you were able to find work on occasions with TVL. I note, however, that you attempted to mislead the probation officer as to the current status of that employment. You told the probation officer that you were still in TVL's employment and receiving a 50% income from TVL while you are in custody. The Human Resource Officer for TVL says that that is not true, that you were employed for a short period but you have not been employed by TVL for some time. While you felt the need to lie to the Probation Officer is a matter of concern because clearly you intended the Probation Officer to report that to the Court in his report and thus mislead this Court as to your ability to pay compensation. That does no credit to you at all.
13. Having regard to the submissions of counsel, having regard to all those matters, that I mentioned I consider that a starting point for this offending must be one of 5 years imprisonment. This is serious offending and serious offending of its type particularly because it was planned with you taking the fire stick with you out to Bell View clearly for the purposes of burning down this nakamal which of course you duly did without hesitation.



14. I accept that you are remorseful and that your feelings of jealousy have now become clear to you as inadequacies on your part. Your actions have brought nothing but misery to you but, of course, far greater misery to the complainant whose business has been lost to him. I will allow you 9 months credit against the sentence that would otherwise be imposed on you for what I accept is your genuine remorse and your clean conviction record.
15. You pleaded guilty at the first reasonable opportunity and you are entitled to full credit of one third against the sentence that would otherwise be imposed on you. This brings the sentencing equation to one of 2 years 10 months. In my view, for such dangerous conduct which has had such serious consequences and where compensation is not available, 2 years' 10 months is an appropriate sentence.
16. You are sentenced to 2 years 10 months imprisonment which will be deemed to have commenced on 13 November 2012 when you were taken into custody. No compensation is ordered as it would be unrealistic to do so.
17. You have 14 days to appeal this sentence if you not accept it.

BY THE COURT

