

**IN THE SUPREME COURT OF
THE REPUBLIC OF VANUATU**
(Criminal Jurisdiction)

Criminal
Case No. 20/1090 SC/CRML

PUBLIC PROSECUTOR

v

CLAYROLE KOHO

Date: 25 November 2020
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr S. Blessing
Defendant – Mr F. Tasso

SENTENCE

A. Introduction

1. Mr Koho pleaded guilty and accepted the summary of facts relating to 8 charges of forgery and 1 charge of obtaining money by deception.

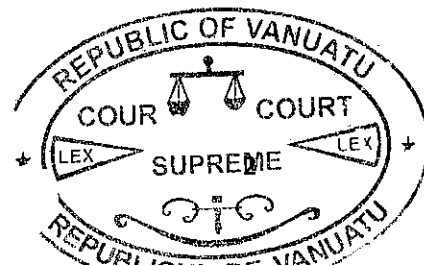
B. Facts

2. Mr Koho was employed by the ANZ Bank as a teller. The complainants are Jack Kaio and Ashine Sine, both ANZ Bank customers. Mr Kaio was employed by Vanuatu Abattoir Ltd. He is not related to Mr Koho. Mrs Sine was employed with the Village Health Worker Program. She is a close relative of Mr Koho.
3. In February 2011, Mr Koho started pilfering monies from his cash drawer. He took small amounts from time to time. By 29 March 2011, he had obtained a total of VT200,000. He used the money for his own purposes.
4. At all material times, Mr Koho was aware of bank processes. He knew that the teller supervisors checked tellers' cash drawers on a daily and monthly basis, and that the monthly check was more thorough than the daily one.
5. On 29 March 2011, Mr Koho saw his supervisors conducting single cash counts for the month of March. This involved counting all the cash in a teller's cash drawer to ensure



that the amount in the drawer reconciled with the amount and transactions reflected in the bank's system. Mr Koho knew that his shortfall of VT200,000 would be detected so he immediately forged Mr Kaio's signature on a withdrawal voucher, wrote in an amount of VT200,000 and entered the transaction in the bank's system. In doing so, he ensured that the cash in his cash drawer reconciled with the amount in the system (Count 1). When his supervisor counted his cash, the sum reconciled with the amount in the system.

6. The next day, 30 March 2011, Mr Koho forged Mr Kaio's signature on a deposit voucher, wrote the amount of VT200,000, and credited Mr Kaio's account (Count 2). This again caused a shortfall in Mr Koho's cash drawer. Mr Kaio was unaware of the transaction.
7. Between 30 March 2011 and 28 April 2011, Mr Koho continued to take monies from his cash drawer and used them for his own purposes. By 28 April 2011, the shortfall in his cash drawer had increased to VT367,000, as he had stolen an additional VT167,000 between 30 March 2011 and 28 April 2011.
8. The next single cash count occurred on 28 April 2011. Mr Koho forged Mr Kaio's signature on two separate withdrawal vouchers, wrote in amounts of VT342,000 and VT25,000 and entered the transactions in the bank's system (Counts 3 and 4). Mr Kaiā did not detect the unauthorised transactions. Nor did Mr Koho's supervisor as the cash in Mr Koho's cash drawer corresponded with the amounts and transactions in the system.
9. On 29 April 2011, Mr Koho forged Mr Kaio's signature on a deposit voucher, wrote in the amount of VT367,000 and credited Mr Kaio's account (Count 5).
10. Between 29 April 2011 and 26 May 2011, Mr Koho continued to take monies from his cash drawer and used them for his own purposes. By 26 May 2011, Mr Koho had increased the shortfall in his cash drawer to VT491,000 as he had stolen an additional VT124,000 in that period.
11. The single cash count for the month of May occurred on 26 May 2011. When Mr Koho noticed that his supervisor was balancing his colleagues' cash, he forged Mrs Sine's signature on a withdrawal voucher, wrote in the amount of VT491,000 and debited Mrs Sine's account in the system (Count 6). When his supervisor counted the cash in his cash drawer, the amount corresponded with the amount in the system.
12. The next day, 27 May 2011, Mr Koho forged Mrs Sine's signature on a deposit voucher, wrote on it the amount of VT491,000 and debited her account (Count 7). The transactions went unnoticed by his supervisor and Mrs Sine.
13. The same day, Mr Koho took VT9,000 from his cash drawer and used it for his own purposes. His total shortfall therefore increased to VT500,000.
14. Later that day, Mr Koho forged Mr Kaio's signature on a withdrawal voucher, wrote on it an amount of VT500,000 and entered it in the system (Count 8).



15. On 28 May 2011, Mr Kaio noticed the unauthorised withdrawal of VT500,000 from his account. He reported it to the ANZ Wilco Branch. This set in train internal investigations within the bank culminating in a manager's meeting with Mr Koho on 31 May 2011, and another on 1 June 2011. Mr Koho eventually admitted that he had forged Mr Kaio's signature and withdrew VT500,000 to cover the shortfall in his cash drawer that he had stolen since February 2011, and that he had debited the accounts of Mr Kaio and Mrs Sine.

16. Between January and May 2011, Mr Koho obtained a total of VT500,000 from his cash drawer and used it for his own purposes (Count 9).

17. On 20 June 2012, Mr Koho made full admissions to the Police.

C. Discussion

18. The maximum penalties for the offending are:

- Forgery – 10 years imprisonment; and
- Obtaining money by deception – 12 years imprisonment.

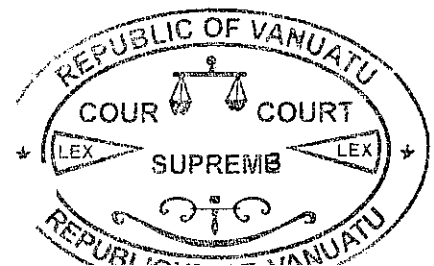
19. There are no mitigating factors of the offending. The aggravating factors are:

- Gross breach of trust against his employer;
- The offending was premeditated and planned using his knowledge of internal bank procedures;
- Mr Koho used subterfuge to conceal the reality of his offending;
- Repeated dishonest offending over a 4-month period;
- The value of the money obtained which in 2011 was considerable; and
- Mr Koho benefitted substantially from the offending.

20. The maximum penalties for this offending and the factors above require a global sentence start point of 54 months imprisonment.

21. Given the strength of the Prosecution case, Mr Koho had little option but to plead guilty. A 25% deduction is warranted (13 months).

22. Mr Koho is 39 years old. He is a first time offender. He has not re-offended since the offending in 2011. Mr Koho has a young family of 4. He takes care of the children while his wife works. He also does a little farming growing food gardens and vegetables for his family. He is stated to be remorseful for his offending, as it sets a bad example for his children. He is well supported by his chief. I deduct 6 months for Mr Koho's personal factors.



23. He has repaid the VT500,000 to the ANZ Bank. This factor alone merits a further deduction from the sentence start point of 9 months.
24. This matter was first reported to the Police in June 2011. The 9-year delay warrants a further deduction of 9 months imprisonment.

D. End Sentence

25. The sentencing principles of denunciation and deterrence apply. However, given the inordinately lengthy delay in prosecuting Mr Koho (9-year delay), deterrence for Mr Koho must be considered of limited value as he has not re-offended. The end sentences imposed are to denounce dishonesty offending, particularly from an employer.
26. Taking all of those matters into account, the end sentences imposed concurrently are:
- a. Forgery (Counts 1-8) 17 months imprisonment; and
 - b. Obtaining money by deception (Count 9) 17 months imprisonment.

E. Suspension

27. In view of Mr Koho being a first time offender and being the primary care-giver for his young family while his wife works, his community support, his full admissions to the Police, his guilty pleas, the offending having occurred 9 years ago with the unexplained delay in this matter, that Mr Koho has not had secure employment since the offending which in itself is a fall from grace, and that he has repaid the ANZ Bank the VT500,000 that he dishonestly obtained, I suspend the sentences for 24 months. Mr Koho must remain offence-free in the next 24 months to avoid serving his sentences of imprisonment.
28. Mr Koho has 14 days to appeal this sentence if he disagrees with it.

**DATED at Port Vila this 25th day of November 2020
BY THE COURT**

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Viran Molisa Trief
Judge

