

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

**Criminal**  
**Case No. 20/524 SC/CRML**

**BETWEEN: Public Prosecutor**

**AND: Freddy Bong  
Seru Bong**  
Defendants

**Coram:** *Justice Aru*  
**Counsel:** *Mr. K. Massing for the Public Prosecutor*  
*Mrs. C. Thyna for the Defendants*

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**SENTENCE**

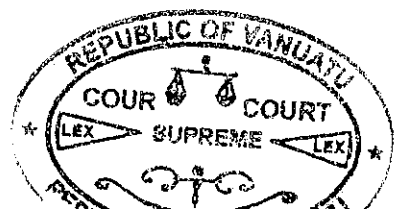
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**Introduction**

1. Freddy Bong, Seru Bong and Malachi Frank were jointly charged with a single charge of intentional unpremeditated homicide. Initially all three defendants pleaded not guilty to the charge. During the course of management of the case, the prosecution nollied the charge against Malachi Frank and he was discharged. Freddy and Seru Bong were later re arraigned and both pleaded guilty. They are convicted on their guilty pleas and this is their sentence.

**The facts**

2. The offending which resulted in the deceased victim losing his life occurred in the early hours of 28 August 2019. At that time the defendants were drunk and met the deceased at the Chuan Store at Bladiniere Estates. After some discussion they had an argument and fighting broke out which led to the deceased falling to the ground. The defendants then pounded the deceased on the head with rocks then attempted to cover up his blood on the ground. A witness on the scene saw what happened to the deceased. CCTV footage from Chuan Store also recorded the events as they unfolded leading to the death of the deceased.
3. Following the incident, Freddy Bong called a female friend and informed her of the assault. Later both defendants approached a Police officer at his home and informed him that they had assaulted the deceased at Chuan store.
4. The deceased was taken to the Vila Central Hospital but later died the same night due to the injuries to his body. His death was recorded to have occurred on 1 September 2019 at the VCH. The medical assessment of the deceased was that he "*sustained a primary severe brain injury from a physical assault to his posterior head and neck ....which is the cause of death.*"



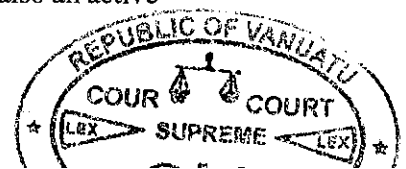
5. The defendants surrendered themselves to the Police and were placed in custody. When interviewed by the Police they admitted the offending.

### **The starting point**

6. The maximum penalty for intentional unpremeditated homicide is 20 years imprisonment. The offending in this case is aggravated by a number of factors. First the use of a weapon to inflict injury. Rocks were used to hit the deceased to immobilise him. There was loss of life due to the violent nature of the assault which caused emotional harm to the deceased family. Finally the offending was a joint criminal enterprise which caused prolonged suffering by the deceased before he died.
7. Mr Massing referred to **PP v Sawn & Ors** Criminal Case No 100 of 2002 and **PP v Bani** [2016] VUSC 29 and submitted that the starting point of sentence should be 15 years imprisonment. Ms Thyna on the other hand submitted that her clients had been drinking by themselves before being disturbed by the deceased.
8. The starting point of sentence is therefore 14 years imprisonment.

### **Personal factors**

9. Immediately following the incident the defendants admitted what they had done. First to a female friend then they went to a Police Officer's home and told him that they had assaulted the deceased at Chuan Store. Later they surrendered themselves to the Police and were arrested. When interviewed by the Police the defendants admitted their offending.
10. Initially when they were called to take their pleas, both defendants entered not guilty pleas then later sought to be re arraigned and entered guilty pleas. Given the circumstances they are not entitled to the full one third discount. The sentence is reduced by 2 years for the late guilty plea.
11. Freddy Bong is a first time offender and is around 35 years of age. He is married with four young children and is the breadwinner in his family. He completed primary school up to class 6 but could not continue due to financial difficulties then later attended a rural training centre to do a two year course in building construction. He was employed in a construction company and worked for three years then later did seasonal work overseas. He is an active member of his community and assists the community with their community projects and is an active member of his church, the World Christian Fellowship.
12. Currently he is unemployed and is remorseful for his actions.
13. Seru Bong is also a first time offender and is around 26 years of age. He is in a de factor relationship and has a one year old son and he is the breadwinner. He completed his education at year 13 at Epi High School. He later did a one year computer course at the Edwards Computer Foundation. He was once employed by the National Housing Corporation for two years before resigning to do seasonal work overseas. He is also an active member of his community and helps out whenever required. He is also an active



member of the World Christian Fellowship. Currently he is unemployed and is remorseful for his actions.

14. A custom reconciliation ceremony was performed on the defendants' behalf by their chiefs to the victim's family. They gave:-

- Some pigs
- A cow
- Some local food
- VT100,000 cash
- A plot of land with a house worth VT700,000 to the victim's widow and children

15. Taking these factors into account, 3 years is deducted for personal factors and a further 7 months is deducted for time spent remanded in custody prior to being granted bail.

**End sentence**

16. The end sentence is therefore 8 years and 5 months imprisonment for both defendants without suspension.

17. The defendants have 14 days to appeal if they are not happy with the decision.

DATED at Port Vila this 15 day of March, 2021

BY THE COURT

D. AFI  
Judge

