

**BETWEEN:** Public Prosecutor

**AND:** Nerry Ulas  
Accused

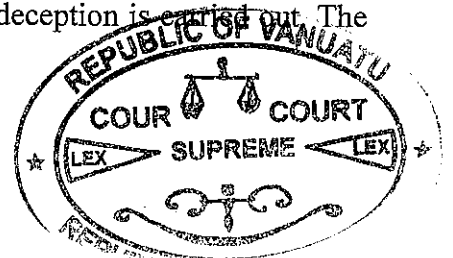
*Date of Sentence:* 26<sup>th</sup> August 2022  
*Before:* Justice EP Goldsbrough  
*Appearances:* Blessing, S for Public Prosecutor  
Kalsakau, F for the Defendant

---

**SENTENCE**

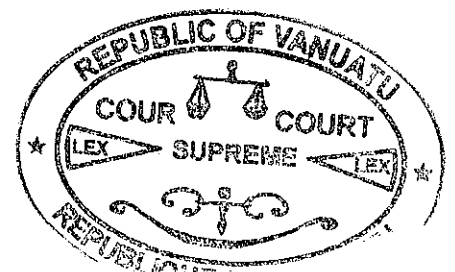
---

1. Pretending that you worked for a local garage which was looking to sell a motor vehicle, you dishonestly obtained VT 280,000 from a prospective purchaser. All of this was done through social media and you were paid in cash by the prospective purchaser, himself overseas even though there was no motor vehicle and you did not work for the garage.
2. Your dishonest scheme came to light when you asked for a further VT 40,000 for insurance for the vehicle. A relative was tasked with paying that amount and she called at the garage looking for you and found that you did not work there. She located you and asked several questions leading her to believe that the transaction was a scam, as indeed it was. The VT 40, 000 was not paid to you but the VT 280, 000 has not been repaid.
3. Some of the factors said to be aggravating by the prosecution should not, perhaps, be regarded as aggravating factors but as elements of the offence. There is an inevitable breach of trust between the offender and victim when a deception is carried out. The



money obtained will always be put to use by the offender, even if it is given away by the offender. Greed, rather than need is not an aggravating factor, as need should perhaps best be dealt with as a factor mitigating the offence. The court does accept that VT 280,000 is a lot for an RSE worker. On the other hand, to believe that a Land Cruiser as pictured could be bought for this amount is also unrealistic, suggesting that the potential buyer was keen to buy at that price. The phrase too good to be true springs to mind.

4. This court also does not accept that an uplift from the starting point is necessary for the offence due to the offender's previous convictions. Sentencing today is for the present offence, not former offences. Having a previous bad character suggests that there can be no further discount for good character. It does not work the other way around as the prosecution suggests in submissions, save where the offender is shown to have a history of similar types of offences where the starting point may be increased.
5. Even where a history of previous convictions is shown for similar types of offences, an uplift, as submitted by the prosecution of one to one and one-half years, where a starting point is suggested of 1 to 2 years imprisonment could not be justified. Nor should the reference to being a recidivist appear as a feature said to aggravate the offence as is further submitted by the prosecution, or the fact that the offender was on parole (when in fact she was not) when this offending took place. Those factors are not factors relating to the offence, but, if correct, to the offender.
6. A starting point considering the facts of this offending and how it is more serious than other offences of this type is set at twelve months imprisonment. A guilty plea was entered at first opportunity. You are entitled to a discount in the sentence for your guilty plea. As it would not have been difficult to prove your guilt that is set at 25%. No further discount is available given that you blame others for your offending, have not repaid the victim and have not made any attempt at customary reconciliation.
7. As this offending came to light you were taken into custody. The sentence imposed today will be deemed to have started on the day that you were first taken into custody for these two offences, that is to say, 4 June 2022.



8. For the offence of obtaining VT 280,000 by deception you are sentenced to nine months imprisonment and for attempting to obtain VT 40,000 by deception three months imprisonment. These sentences will be served concurrently and both are deemed to have begun on 4 June 2022.
9. You will pay compensation on your release of VT 280,000 to Pedro Malikum Henalian. You may arrange how that is to be paid on your release.
10. You have 14 days within which to appeal this sentence.

Dated at Port Vila this 26<sup>th</sup> August 2022

BY THE COURT

EP Golds

Justice EP Goldsbrough

