

BETWEEN: Public Prosecutor

AND: Esrome Loughmani

Defendant

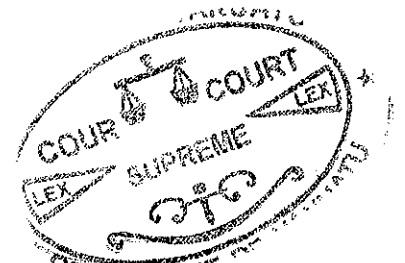
Date of Sentence: 24th May 2024

Before: Justice Oliver A Saksak

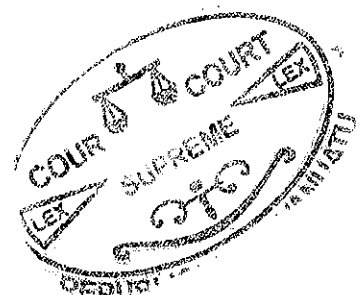
*Counsel: Mr Josiah Naigulevu, Public Prosecutor
Mrs Mary Grace Nari for the Defendant*

SENTENCE

1. Mr Loughmani, this Court found you guilty of one count of obtaining moneys by deception. You were charged under section 130B of the Penal Code Act Cap 135. It was a representative charge. And you are here today for sentence only in respect of that charge.
2. This is a serious offence as it carries a maximum penalty of 12 years imprisonment.
3. From the periods between 17th January 2017 and 31st December 2021 you obtained moneys paid by 55 Chinese nationals through Sun Zhe in the first instance and Grace Malas which were handed over to you for the purpose of facilitating the processing of their resident visa applications. The amount charged was VT 17,436,400. The Court however found you guilty of only VT 16,362,800.
4. You held a senior position as Boarder Control Officer at the Immigration Department at the time of offending. As such you abused the trust placed upon you in the unauthorized actions. Your actions were deliberate and were carried through some degree of planning. It extended over a period of 4 years and it involved a large amount of money lost to the revenue of the State and the 55 Chinese nationals. You have displayed little or no remorse whatsoever and have not accept responsibility and culpability. These are the aggravating features of your offendings.

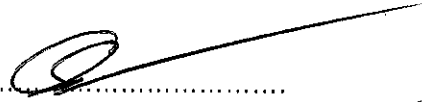


5. Taking all these into account together with the seriousness of the offence committed, it is the view of this Court that the appropriate punishment to be imposed should be a sentence of imprisonment to be consistent with previous Court cases involving the same offences.
6. I take note of Prosecutions' submissions that applying the totality principle the start sentence for you should be 9 years imprisonment. However in your case there was a mitigating circumstance which reduces your culpability. And this is from the facts, the 55 foreign nationals and their 2 intermediaries, Sun Zhe and Grace Malas took advantage of your position at their own choosing, instead of going directly to the Immigration Department, to lodge their Visa applications with appropriate fees they came to you. From the facts also a number of the foreign nationals benefitted from their visa cards, yet they saw fit to lodge complaints, resulting in charges laid against you. I therefore adopt the lesser start sentence of 7 years imprisonment and sentence you accordingly.
7. I accept that you are entitled to reduction of the sentence for your mitigating factors. First I deduct your sentence of 7 years by 2 years for the delay in processing and prosecuting your case which includes, the laying of different charges initially and amending them twice with the case being dismissed, appealed and remitted for rehearing and the impacts, physical and mentally by yourself and your family members and relatives.
8. Next, I note your character and personal history and factors relating to your family, years of service to the State and the community and your health and previous clean record. For these factors I allow a further reduction of 2 years.
9. Your end sentence shall therefore be 3 years imprisonment with no suspension. You will be entitled to apply for parole after having served half of your 3 years sentence.
10. Prosecutions submitted that there should be an order for compensation pursuant to section 40 (1) (b) of the Penal Code Act. I reject this application due to the inconsistency in the amounts initially charged.



11. That is the sentence of the Court for you. You have a right of appeal against your sentence if you do not agree with it, within 14 days from today. Your sentence will take effect after 14 days from today on 6th June 2024 at 3:00pm when you will report to the Correctional Officer at the High Risk Unit at Independence Park (Former British Jail).

**DATED at Port Vila this 24th day of May 2024
BY THE COURT**



Hon. Oliver A Saksak
Judge

