

PUBLIC PROSECUTOR

v

MARCO HEROMANLY

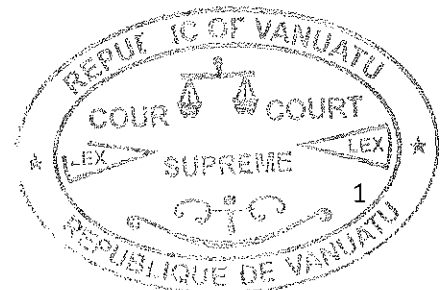
Date: 6 March 2025  
Before: Justice V.M. Trief  
Counsel: Public Prosecutor – Ms J. Tete  
Defendant – Ms B. Taleo

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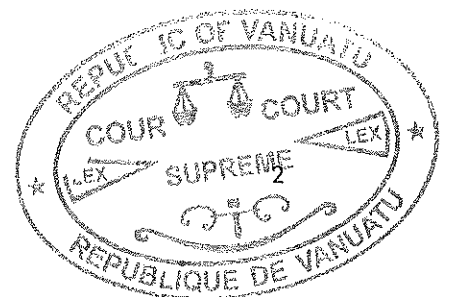
**SENTENCE**

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1. Mr Marco Heromanly, you appear for sentence today having pleaded guilty and accepted the summary of facts in relation to 3 charges of misappropriation contrary to s. 123 and para. 125(b) of the *Penal Code* [CAP. 135] (Charges 1, 3 and 7). You are convicted on his own pleas and the admitted facts.
2. In 2018, you were employed as the General Manager of Beleru Plantation Farm, which was subleased by Tropical Plantation Limited ('TPL') from the Vanuatu National Provident Fund ('VNPF'). Your responsibilities at the time were limited to managing the farm, not to make sales or purchases without approval from Robert Osborne, the director of TPL. On 28 June 2019, your employment contract was varied for you to be the Business Development Manager. On 1 August 2019, your employment was terminated.
3. On Chiefs Day 5 March 2019, you directed James Heromanly to drive a truck with a number of farm workers on board along with a dead cow on the back of the truck. They drove to Chief Michel Roy's garden and delivered the cow to him, for VT20,000 (Charge 3).




4. In March 2019, you called Franklyn William and told him that he was selling cattle to help pay the farm workers' wages. You and Mr William negotiated a price of VT20,000 per head of cattle with an additional VT2,000 transportation cost. In March 2019, you delivered 15 head of cattle to Mr William and received payment of VT300,000. In April 2019, you delivered another 10 head of cattle to Mr William and received payment of VT200,000 (Charge 7).
5. In April 2019, you asked James Heromanly who drove the truck and another farm worker to transport 12 head of cattle to Paul Roberts at Big Bay on Santo (Charge 1).
6. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
7. The maximum penalty for the offence of misappropriation is 12 years imprisonment.
8. There are no mitigating factors of the offending.
9. The offending is aggravating by the following: serious breach of trust due to the position that you held in the business, some degree of planning, the repeated nature of the offending, the significant loss and mental effects caused to the complainant, and no reparation or possibility of reparation to the complainant.
10. The Victim Impact Statement by Mr Osborne, the sole director of TPL disclosed by the Prosecution notice filed on 4 March 2025 sets out that the loss of cattle due to your actions and your representations to the VNPF after that absolutely destroyed TPL's business and resulted in a devastating financial loss. He stated that TPL has felt absolutely betrayed by someone they had known for many years and whom they trusted. The financial losses to TPL have been enormous. He sought restitution and compensation.
11. The global sentence start point I adopt is 18 months imprisonment.
12. You pleaded guilty to two of the three charges at the first reasonable opportunity that you had. Then 9 months elapsed during which the matter was twice set down for trial before you pleaded guilty to the third charge. Accordingly, one sixth (3 months) is deducted from the sentence start point for the guilty pleas.
13. You are 60 years old. You were 53 years old at the time of the offending. You are a grandfather and are divorced. You have been unemployed since the termination of your employment with TPL. You cooperated with the Police. You have no prior



convictions. Two months are deducted from the sentence start point for your personal factors.

14. A further 2 months are deducted from the sentence start point for the delay in prosecuting this matter.
15. The end sentences imposed concurrently are 11 months imprisonment (Charges 1, 3 and 7).
16. The offending was serious. However, taking into account your fall from grace, your age, your prior clean record and prospects of rehabilitation, the sentences are suspended for 2 years. You are warned that if you are convicted of any offence during that 2-year period, that you will be taken into custody and serve the sentences of imprisonment imposed today, in addition to any other penalty that may be imposed for the further offending.
17. The only information that the Court has as to your financial means is that you have been unemployed since the termination of your employment with TPL on 1 August 2019. You have no means that the Court is aware of therefore the Court is not in a position to order restitution or compensation.
18. In addition, you are to complete 60 hours of community work within 12 months.
19. You have 14 days to appeal the sentence.

**DATED at Luganville this 6<sup>th</sup> day of March 2025  
BY THE COURT**

  
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Justice Viran Molisa Trief

