

PUBLIC PROSECUTOR - v - TALANG GIBSON

Coram: V. Lunabek CJ

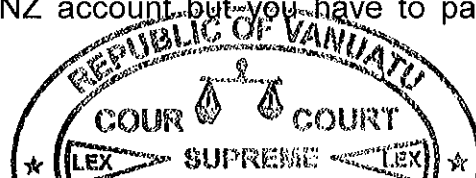
Counsel: Mr Tristan Karae for the Public Prosecutor
Mr Brian Livo for the Defendant

SENTENCE

Mr Talang Gibson, you appear today for sentence. On 8 May 2012, you were charged in three (3) separate informations for the offence of obtaining money by deception, contrary to section 130B of the Penal Code Act [CAP.135]. You are involved in obtaining money by deception against three (3) different persons who lodged complaints against you.

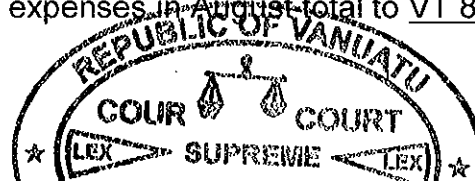
The brief facts of your separate offending are provided by the prosecution in their brief of facts. You and your lawyer accepted these facts before you entered guilty pleas on each of the offences in three separate informations. These facts are as follow:

1. The first complainant was approached by you at HXM (Nambatu) branch and you told the complainant that you have been helping people by playing poker machines. You promised the complainant that if he gives you VT 3,000 you will win more money for him. The complainant handed VT 3,000 to you and you told him that you will contact him as soon as the casino pays dirt. The complainant subsequently borrowed monies from several people and gave the monies to you. All the monies collected by the complainant and provided to you totalled to an amount of VT 95,000.
2. Time passed but the complainant did not receive any information from you. When the complainant made the first follow up, you informed him that you had not gone to the casino.
3. When the complainant made further enquiries, you told him that you have a substantial amount of money in your ANZ account but you have to pay a fine



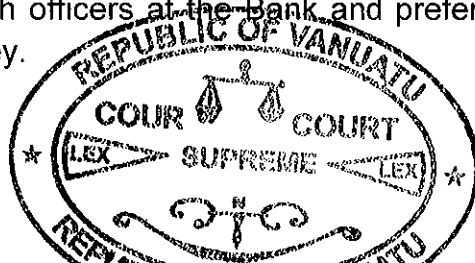
before they release the money. You further informed the complainant that you will use the monies that the complainant has given you to open an account in the National Bank of Vanuatu and they will transfer the monies in your ANZ account to the eventual account in the National Bank of Vanuatu. You said you will also use the money for your brother's air ticket to Port Vila as the Bank will require his signature for the release of the monies. Once the bank releases the money, you will refund the VT 95,000.

4. The complainant followed up with you on numerous occasions thereafter but to no avail.
5. The complainant decided to report the matter to the police. He lodged an official complaint on the 23rd of August 2011. The police conducted an investigation into the report and you were arrested on the 3rd of November 2011 at your residence at Ohlen area.
6. You were re-cautioned and formally interviewed on the 28th of November 2011 and admitted to the allegations.
7. A second complainant was approached by you sometime in February of 2008 and asked for VT 2,000. You convinced the complainant to give you VT 2,000 because you told the complainant you could play casino and the winning that you received you would call up the complainant and give it to him. The complainant then gave the money and went home to wait for your call.
8. On the 28th of February 2008 you called the complainant and lied to the complainant that you wanted to go into business with the complainant. This was a business involving the selling of telecards over to the island of Maewo and Pentecost and the proceeds of the sale from the telecards would be put into an account at the National Bank of Vanuatu (NBV) which the complainant would have access to the money and to recover the money he advanced to the business.
9. The complainant believing this deceptive ideal in having his money refunded and having to be in business agreed with you and over the months on different dates and reasons you would ask for money and the complainant would give the money to you. The complainant recorded those monies given to you totalled up to VT 381,200. The complainant on several occasions would ask you about the monies from the sale but you would give him fake NBV credit transfer number saying that the monies are already available in the Bank to collect. The complainant had on several occasions believed you and would go to NBV to withdraw money only to find that no such credit transfer exist.
10. In May 2008 you also lied and convinced the complainant that you had paid for a ship and that you had little money in your Bank account and asked if the complainant would help you to give money to pay for other expenses. The complainant then deposited an amount of VT 300,000 into your own Bred Bank account purposely for ship expenses.
11. In August 2008, you would dishonestly obtain money from the complainant at different time and for different reasons including claiming the need to pay for the captain and crew's allowance, speed boats, paint designs for the ship, wharf fees, fuel and other expenses. The complainant expenses in August total to VT 846,500



and when you were in Santo the complainant was also told to send VT 373,000 for the other expenses relating to payments which you said need to be made to Wong Sisi on several occasions.

12. You also during that time told the complainant that you had bought land and asked the complainant to assist with payments for survey of the land which the complainant paid an amount VT 67,500.
13. Other payments to you were also made by the complainant in the sum of VT 327,800 for a bus which you told the complainant that they would pay for it together. The complainant was con into believing that they would own a bus and that since the bus was not ready the complainant had to pay expenses such as 3 months allowance to the bus driver and other cost.
14. To this day the complainant has not received any refund from you for the payments he made to you for the telecards, bus, land and ship.
15. On the 7th of January 2012 you were cautioned and interviewed and stated that the complainant did give monies totalling to VT 1,996,000 to you for the telecards business, ship, land and bus. You stated that you lied to the complainant only to use the complainant money for your personal expenses.
16. The third complainant was approached by you on the 4th of January 2010, for the first time in China Town Street in Port Vila. You told the complainant that you needed help to pay for a bus to which you will have the complainant's monies refunded once the bus is in service. The total money in which you had obtained was VT 876,500.
17. You further promised that you had two Fix Term deposit accounts, 1 at National Bank of Vanuatu and the other at ANZ Bank which contained huge amount of money. You also told the complainant that you had a real estate investment which is a rental house in Santo which is looked after by an individual from Ambae. Also you promised the complainant that the complainant's husband would manage the bus.
18. The complainant after being promised and believing you started giving you money. The complainant also began borrowing money from family members and friends to give to you.
19. After that there was a series of transactions made to you by the complainant on certain dates and for certain reasons from the 4th of February to the 6th of August 2010.
20. The complainant also paid for your airfares twice to and from Vila and Santo.
21. The complainant also states that you have been very reluctant to be accompanied by the complainant to go and speak with officers at the Bank and preferred that the complainant only gives you the money.



22. You had made many promises that the Bus was ready for release but to this date the complainant and her family have not received any refunds from you nor was there any bus which you have promised to pay for with the monies you received from the complainant.

23. On the 28th February 2012 you were brought in for an interview after being cautioned you stated that the complainant did give you money which you used for your personal expenses.

Applicable Laws:

'Obtaining money by deception' is prohibited by section 130(B) A person must not by any deception dishonestly obtain for himself or herself or another person any money or valuable thing or any financial advantage of any kind whatsoever.

Penalty:

Imprisonment for 12 years

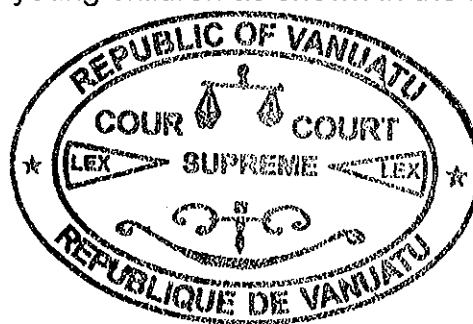
Obtaining money by deception is a serious offence. Its seriousness is reflected by in the maximum penalty imposed by law.

A custodial sentence is warranted in the case of this kind. Custodial sentence is needed to denounce your behaviour. You are the only one to be responsible for your offending. The seriousness and circumstances of your offending are aggravated by the following factors:

- Abuse of trust by taking advantages of other members of the community.
- Degree of planning and pre-meditation.
- Offending occurred over lengthy period of time.
- There was a series of transactions between you and 3 other complainants.
- Total money dishonestly and deceptively obtained 2,967,500VT.

I consider the totality of your offending. I sentence you to 4 years imprisonment as a starting point.

In mitigation, I consider your guilty plea, you are a first time offender; you cooperate with the police. You have young children as shown in the report.


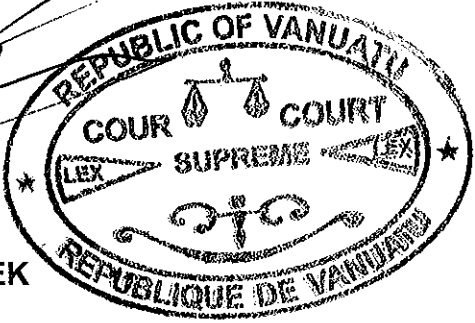


I reduce your sentence to 2 years imprisonment. You have already served 7 days in custody. You are ordered to serve 2 years imprisonment with immediate effect after your 7 days are deducted. This is to be concurrent to each and all counts in the three informations.

You have 14 days to appeal your sentence if your are not happy with it.

DATED at Port-Vila this 11th day of June 2012

BY THE COURT

Vincent LUNABEK
Chief Justice