

PUBLIC PROSECUTOR – VS – RADFORD SINE

Coram: *Mr. Justice Oliver A. Saksak*

Counsel: *Mrs. Losana Matariki for the State
Mr. Colin B. Leo for the Defendant*

Date of Plea: 16th October 2014

Date of Sentence: 9th December 2014

SENTENCE

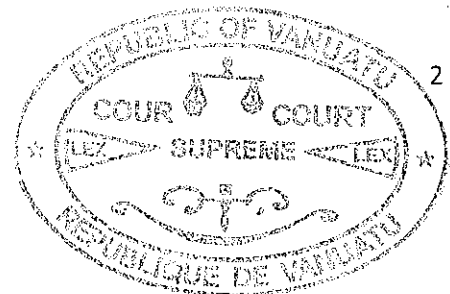
1. Radford Sine, you are for Sentence today for having pleaded guilty to one charge of Misappropriation (Section 125(b)) and to one charge of False Accounting (Section 130) both of the Penal Code Act [Cap. 135] (the Act).
2. These are serious charges because misappropriation carries a maximum of up to 12 years imprisonment and false accounting carries a maximum of 10 years imprisonment.
3. You committed these offences during your time as an employee of the National Bank of Vanuatu (the Bank) and working as a Bank Officer at the Bank's branch at Angoro, North Pentecost. During the years beginning in 2012 through 2013 and 2014 you gave out physical cash to people or customers without proper bank procedures and entry. The amount you misappropriated was the sum of VT6,171,648. The further facts are as set out in the brief of facts filed by the Public Prosecutor on 27th October 2014 and repeated in the submissions filed on 13th November 2014. In your pre-sentence report it is stated that you agree with those summary of facts.
4. The only explanation you have given for your offendings is that you were unable to control your habit of sharing or helping others out financially. Helping people



out financially is a good and moral thing to, do but only if and when the money being shared or given out is your very own. In this case, the moneys you shared and gave out to others were not yours. It was other peoples' hard-earned moneys, for or over which you as a bank officer had legal custodianship as a trustee. And you abused that trust. You do not appear to show any remorse at all about your offendings.

5. For such breach of trust, the only Sentence appropriate as a penalty for you is immediate custodial Sentence. The Court adopts the sentencing principle in the case of Public Prosecutor v. Tureleo [1995] VUSC 16. The facts of that case have some similarities to your case.
6. I therefore convict you as charged, and sentence you to 3 years imprisonment as the starting point for both offences as follows:-
 - (a) For Misappropriation – 3 years imprisonment as the starting point.
 - (b) For False Accounting – 3 years imprisonment to be served concurrently with the 3 years for the misappropriation charge.
7. I consider the starting point of 3 years should be increased by 2 years for the following aggravating features –
 - (a) Seriousness of the offences with huge amount of money misappropriated.
 - (b) The offences were repeated over a period of almost 2 years from 2012.
 - (c) The offences were done through high level of thought and planning; and
 - (d) The serious breach of trust done.

Your starting point of 3 years concurrent sentence is increased to 5 years imprisonment.



8. I now consider your mitigating factors. The only relevant factors which will be accepted to reduce your sentence are (a) being a first-time offender with clean past record (b) guilty plea at first opportunity for which 1/3 reduction is given, and your cooperation and admission to the Police during interviews and investigations. I allow a general reduction of 1 year and 8 months (20 months) for these factors, leaving the balance of 3 years and 4 months imprisonment that you have to serve at the Correctional Centre.
9. You are therefore sentenced to an end sentence of 3 years and 4 months imprisonment as a concurrent sentence, with immediate effect.
10. Like in Tureleo's Case, I Order that after you have completed your custodial sentence of 3 years and 4 months or when you are released on parole on half sentence, you will repay to the Bank the sum of VT6,171,640 within 3 years thereafter.
11. That is the Sentence of the Court. You have a right of appeal against this Sentence within 14 days, if you so choose.

DATED at Port Vila this 9th day of December 2014.

BY THE COURT


OLIVER A. SAKSAK

Judge

