



IN THE SUPREME COURT  
OF THE REPUBLIC OF VANUATU  
(Criminal Jurisdiction)

Criminal  
Case No. 18/2638 SC/CRML

**PUBLIC PROSECUTOR**

**VS**

**MARCELLINO TENENE  
MANUEL JOB  
KALSAU JOSEPH  
BARACK ALPHONSE MAMBOR  
JEREMY MOISE  
SANNY LAVA REUBEN  
PAUL SABLONG**

*Date of Plea:* 2<sup>nd</sup> October 2018  
*Date of Sentence:* 6<sup>th</sup> December 2018  
*Before:* Justice Oliver Saksak  
*In Attendance:* Michelline Tasso for Public Prosecutor  
Lorenzo Moli for the Defendants

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**SENTENCE**

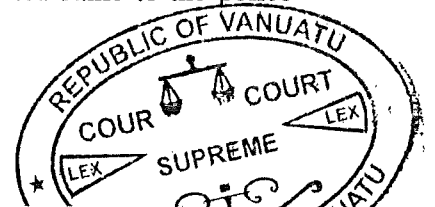
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**Introduction**

1. All 7 defendants are appearing for sentence. Each of them were charged for offences committed on different dates and at different homes or premises.

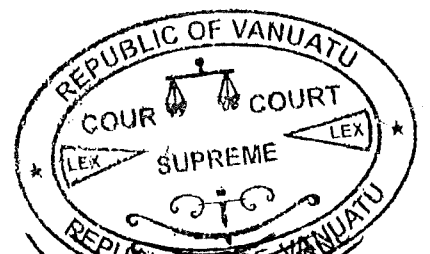
**Facts**

2. On 22<sup>nd</sup> June 2018 between 3:00am and 5:00am defendant Marcellino Nono Tenene entered into John Rorke's Hotel Room ( No. 9) at Erakor Island Resort and stole an ipad, an iphone, a ladies shoulder bag containing hair brush, lipstick and cash in the sumof Aust \$ 200.00. The defendant was charged with unlawful entry ( Count 1) and with theft ( Count 2). He pleaded guilty to both charges.
3. In or about July 2016 defendant Marcellino Nono Tenene broke into Barry Pakoa's house and stole an orange/black generator with its extension cable. He later sold it to John Emile who suspected it was a stolen property and reported same to the police

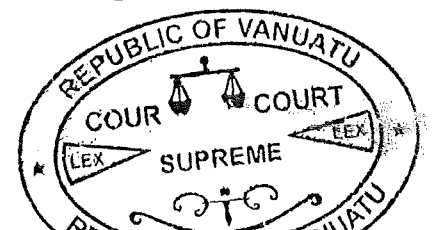


who investigated. They charged the defendant with unlawful entry ( Count 3) and theft ( Count 4). He pleaded guilty to both charges.

4. On or about 11<sup>th</sup> June 2018, defendants Marcellino Tenene and Paul Sablong walked across to the Erakor Island Resort at Low tide and entered into two guest rooms belonging to Mrs Palmela Watts and Mrs Morero and stole their hand bags containing their personal items. Both were charged jointly with unlawful entry and theft (Counts 5, 6, 7, and 8). Both pleaded guilty to the charges.
5. On or about 7<sup>th</sup> June 2018 between 7:00pm and 12 midnight defendant Marcellino Tenene entered Room 16 occupied by Mr Robert Garland and stole 1 ladies yellow Mimco purse, a yellow mimco, wallet, 2 bank cards, drivers licence, 1 camera , a set of ear buds, \$ 150.00 cash ( Aust), VT 33.000, 1 litre vodka, 1 litre primms and 750mls red wine. The defendant was charged with unlawful entry and theft ( Counts 9 and 10). He pleaded guilty to the charges.
6. On 1<sup>st</sup> April 2018 Mrs Valerie Pakoa attended church. Marcellino Tenene broke into her house and stole a pair of shoes, some food and VT 25.000 cash. He was charged with unlawful entry and theft ( Counts 11 and 12). He pleaded guilty to the charges.
7. On 8<sup>th</sup> May 2018 between 6:15am and 12 noon defendant Marcellino Tenenne first entered into Mr Frederick Bellegevue's home and stole a camera with its lens and flash drives, 8-10 USBs, an ipad, a black iphone, a blue tooth device, clothes, food, alcohol, a gross of cigarette and cash money. He was charged with unlawful entry and theft (counts13 and 14) and pleaded guilty to both charges.
8. On 26<sup>th</sup> May 2018 defendant Marcellino Tenene broke into Mr Bellegevue's home a second time but this time he was accompanied by Paul Sablong and Joseph Kalsau. They stole a canon camera, a grey laptop, a white iphone, a Panasonic camera, a black Gopro hero 5, a BOSE speaker with plug, a BOSE speaker sound Touch, a black backpack a blue rain jacket, 2 bicycles, food and alcohol. They were jointly charged with unlawful entry and theft (Counts 17 and 18). They all pleaded guilty to the charges.

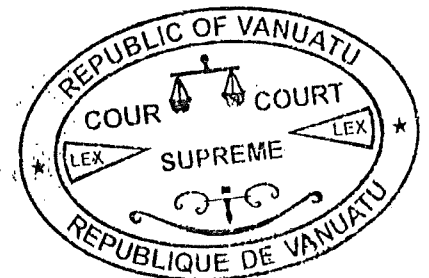


9. On 8<sup>th</sup> May 2018 defendant Marcellino Tenene hid the stolen items he stole from Mr Bellegevue's home near the Golf course at the Warwick Resort. He then approached defendant Jeremy Moise and told him about the stolen items. Both of them went together to pick up the stolen items on a bus and drove off to Pango village where they ate the food, drank the alcoholic drinks and smoked the cigarettes. Jeremy Moise was charged with being an accessory after the fact (Count 19). He pleaded guilty to the charge.
10. On 2<sup>nd</sup> April 2018 defendant Paul Sablong entered into an apartment belonging to Mrs Annie Tims and stole cash money in Vatu, Australian and Thai currencies with 2 bottles of whiskey which he consumed by himself and with a friend. He was charged with unlawful and theft (Counts 20 and 21) and pleaded guilty to both charges.
11. On 5<sup>th</sup> July 2018 between 7:00pm and 9:00pm defendants Marcellino Tenene, Jessie Barrack, Manuel Job and Sanny Lava all went to Ben NG's residence at Pango Road. They all aided each other to break into the yard and whilst Barrack and Sanny stood outside as watch men, Marcellino and Manuel went into the house and stole VT 30.000 in cash, a black laptop and some liquor bottles and mobile phones. They were charged jointly with unlawful entry and theft ( Counts 22 and 23). They all pleaded guilty to the charges.
12. The offence of unlawful entry into a dwelling house carries a maximum penalty of 20 years imprisonment. And theft carries a maximum penalty of 12 years imprisonment.
13. The aggravating features that add seriousness to the defendant's offendings are that the offendings were done either at night or in the day when no one was on the premises, damage were done to windows and doors to gain access or entry, offendings were planned, they were repetitive, they ere done in a group or individually, all stolen items were consumed, and/ or disposed of by sale or otherwise, and no cash moneys were recovered.
14. I consider that the defendants fell into 3 categories. The first category consisted of Marcellino Tenene and Paul Sablong whose offendings were multiple. The second

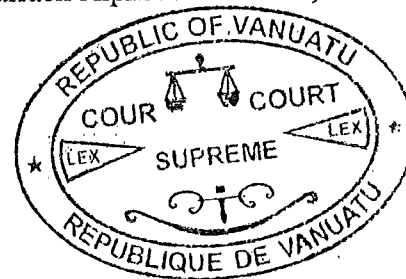


consist of Jeremy Moise and Manuel Job, and the third category consists of Jessie Barrack Alphonse Mambor, Sanny Lava Reuben and Kalsau Joseph.

15. Considering their degrees of involvement and participation Marcellino Tenene and Paul Sablong should be given a higher starting point, Jeremy Moise and Manuel Job a lesser or mid starting point, and the rest the lowest starting point.
16. Accordingly Marcellino Tenene being the most culpable of all of the defendants, you are convicted and sentenced to 8 years imprisonment as the starting point for each count of unlawful entry ( Counts 1, 3, 5, 7,9,11,13 15, and 22). These are to run concurrently. For theft ( Counts 2, 4, 6, 8, 10, 12, 14, 16, and 23), you are sentenced to 7 years as the starting point on each count. Again these will run concurrently with the 8 years imprisonment for the unlawful entry counts. Your total current sentence shall be 8 years imprisonment.
17. I note you are a young man of 21 years old. You left school in year 9 and are concurrently unemployed. You lived with your parents but it appears you had no parental guidance. You have no previous convictions. You have been in custody on remand since 13 July 2018. For all these factors I reduce your 8 years sentence by 12 months leaving the balance at 7 years imprisonment.
18. I take into account your guilty plea and allow a 1/3 reduction for this. This means that 2 years and 4 months are deducted from 7 years leaving your end sentence to be 4 years and 8 months. Your sentence is backdated to 13<sup>th</sup> July 2018 when you were first remanded into custody. And there will be no suspension.
19. For you Paul Sablong, I convict and sentence you as follows: for each count of Unlawful entry in Counts 5, 7, 17 and 20, you will serve 6 years imprisonment as the starting sentence. And for each count of theft in counts 6, 8, and 21 you are sentenced to 5 years as the starting point. These will be served concurrently with the 6 years for the unlawful entry charges. In effect you will serve a total of 6 years imprisonment.



20. I note from your pre-sentence report you are a young man of 21 years old. You are the eldest of three and are currently single. Your highest educational level is class 1. Your parents are divorced and separated. You are currently unemployed.
21. In mitigation I deduct 12 months from your 6 years sentence to 5 years imprisonment. I further deduct 1/3 for your guilty plea leaving the balance of 3 years and 4 months. I deduct these further by 11 days which you spent in custody on remand from 27 July to 8 August 2018. Your end sentence is therefore 3 years 3 months and 20 days. Your sentence will not be suspended.
22. For you Manual Job, you are convicted and sentenced as follows, for one count of unlawful entry, 2 years as the starting point. And for the count of theft, 1 year as the starting point to be served concurrently with the 2 years sentence for unlawful entry.
23. You are now 25 years old and with a previous conviction for the same offence in 2011 when you were only 17 years old. You have no other mitigating factors apart from your guilty pleas for which 1/3 reduction is allowed. Your end sentence is 1 year 4 months or 16 months imprisonment. There is no suspension of sentence.
24. For you Jeremy Moise, I convict and sentence you for one count of being an accessory after the fact to the starting sentence of 3 years imprisonment. You are 21 years old with no previous convictions. You spent 2 weeks and 3 days in custody on remand before your plea. And you pleaded guilty at first opportunity. I allow reduction only for your guilty plea and the time already spent in custody. For 1/3, your sentence is reduced by 1 year leaving the balance of 2 years imprisonment. This is reduced further by 17 days leaving your end sentence at 1 year 9 months and 13 days. In the circumstances of your case your end sentence is suspended for a period of 2 years on good behaviour. This means that you must not reoffend or commit any other offences within this period. If you do, you will go to prison for 1 year 9 months and 13 days.
25. Finally for you Kalsau Joseph, Sanny Lava and Jessie Barrack Alphonse Mambor, I convict and sentence each of you as follows:-



a) For Unlawful entry, to a starting sentence of 2 years imprisonment for each of you.

b) For theft, to a starting sentence of 12 months imprisonment for each of you but this is to run concurrently with the 2 years sentence for unlawful entry.

26. Each of you is entitled only to 1/3 reduction for your guilty pleas at first opportunity. There will be no other deductions. This means that 8 months are deducted from your 2 years sentences leaving the balance to be 1 year and 4 months imprisonment.

27. However I consider that the circumstances of your offendings warrant that your sentences be suspended also under section 57 of the Act. The suspensions will be for a period of 2 years from the date of this sentence on conditions that none of you should reoffend or commit any other criminal offences. If you do, your sentence will be activated and you will go to prison to serve your sentences.

28. Each of you has a right of appeal against these sentences within 14 days if you do not agree with them.

**DATED at Port Vila this 6<sup>th</sup> day of December 2018**

**BY THE COURT**

  
**OLIVER.A.SAKSAK**

**Judge**

