

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

Criminal
Case No. 19/1354 SC/CRML

PUBLIC PROSECUTOR

v

MIKE UYORI

Date: 4 September 2020
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr S. Blessing
Defendant – Mr W. Kapalu

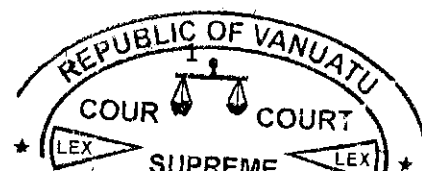
SENTENCE

A. Introduction

1. Mr Uyori was convicted of one charge each of forgery and obtaining a valuable thing by deception. The maximum penalty for these offences is 10 years and 12 years imprisonment respectively.

B. Facts

2. The following is a summary of the facts, from the Verdict dated 12 June 2020:
 - Mr Uyori is a principal chief of Ipota on Erromango island, and served as Chairman of the Erromango Simanlou Natmonuk Council of Chiefs for 3 terms of 4 years each.
 - No Customary Land Tribunal has been established for Ipota on Erromango.
 - As a former member of the Simanlou Council of Chiefs and as a principal chief of Ipota, Mr Uyori knew or ought to have known that a Tribunal has never been established for Ipota; and he knew or ought to have known that a Tribunal could only be established if chiefs are identified and trained as adjudicators and a list containing their names is provided to the Customary Land Tribunal Unit ('CLTU').



- The document "**Exhibit P16**" purporting to be the minutes of the Ipota Area Land Tribunal is a false document.
- Mr Uyori made the false document "**Exhibit P16**", knowing it to be false.
- Mr Uyori made the hand-written letter "**Exhibit P11**" dated 9 October 2009 to Aicta Vuti, CLTU that was purportedly written by Chief Tom Novwal supporting Mr Uyori's title to the land.
- Both documents "**Exhibit P16**" and "**Exhibit P11**" purported to be official documents of the Ipota Area Land Tribunal whereas Mr Uyori knew or ought to have known that a Tribunal has never been established for Ipota.
- Mr Uyori created a stamp for the Ipota Area Lands Tribunal, which stamp was used on the purported minutes "**Exhibit P16**" and on the letter "**Exhibit P11**". He made the document "**Exhibit P16**" with the intent that it shall be used or acted upon as genuine.
- Mr Uyori presented the document "**Exhibit P16**" to the CLTU for its acknowledgement of the decision.
- Mr Uyori relied on both documents "**Exhibit P16**" and the hand-written document "**Exhibit P11**" in the process to obtain a registered lease over leasehold title 14/0624/007 over Nompuntovat, Nompuntopoi and Iwar land at Ipota, Erromango (the 'lease').
- Mr Uyori dishonestly obtained the lease by means of deceptive conduct and using the false document "**Exhibit P16**".

C. Sentence Start Point

3. The evidence does not disclose the value of the lease. However, it covers a large area – 500 hectares. It is a registered lease, of which Mr Uyori is a registered proprietor.
4. Taking into account the maximum penalties for this offending, the steps over time resulting in the obtaining of the registered lease, the loss caused to the true owners of the land (particularly if the lease is transferred to a bona fide purchaser), and that Mr Uyori personally benefitted from the offending, I consider that the required global sentence start point is 5 years imprisonment.

D. Mitigation

5. Mr Uyori is 57 years old. He is a chief and a respected and hard-working leader in his community. Mr Uyori is the chairman of both his village council of chiefs and of the Erromango Simanlou Natmonuk Council of Chiefs. From 1999-2000, he represented Erromango chiefs in the Tafea Provincial Government Council. He is married with six children and six grandchildren.
6. Mr Uyori has no previous convictions. He presented to the pre-sentence report writer as remorseful. He also told the pre-sentence report writer that he did not know the consequences of his actions to obtain the lease in the manner that he did. Mr Uyori has

performed a custom reconciliation ceremony to the paramount chief of his village involving yams, taro, bananas, cassava, 5 mats, rolls of calico, a rooster and head of kava. The chief has accepted the reconciliation on behalf of the people of Ipota village.

7. Given Mr Uyori's senior status within his community, he has suffered a substantial fall from grace. For his personal factors, particularly his remorse expressed personally to the pre-sentence report writer and through the custom ceremony performed to the paramount chief of his village, I deduct 25% (15 months) from the sentence start point.

E. End Sentence

8. The end sentence on both charges is 3 years 9 months imprisonment.
9. The sentences are to run concurrently, and commence on 12 June 2020 when Mr Uyori was taken into custody.
10. Given the nature of Mr Uyori's offending, suspension of the term of imprisonment is out of the question. Suspension would undermine the strong deterrent message and of denunciation which the courts need to send not only to Mr Uyori but to anyone else in an analogous position who may be minded to act dishonestly.
11. Mr Uyori has 14 days to appeal this sentence if he disagrees with it.

**DATED at Port Vila this 4th day of September 2020
BY THE COURT**

VM Trief
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Viran Molisa Trief
Judge

