

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

Criminal
Case No. 22/1223 SC/CRML

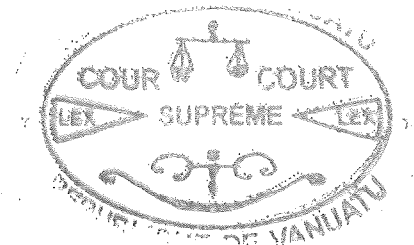
BETWEEN: Public Prosecutor

AND: Ham Sitangtang
Defendant

Date of PLEA: 13th day of June, 2022 at 9:00 AM
Date of Sentence: 17th June 2022
Before: Justice Oliver Saksak
In Attendance: Mr Damien Boe for Public Prosecutor
Mr Steven Garae for the Defendant

SENTENCE

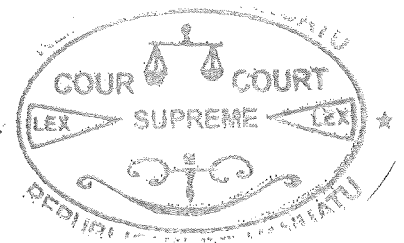
1. Ham Sitangtang pleaded guilty to 2 counts of cultivation of cannabis plants and unlawful possession contrary to sections 4 (1) and 2(62) of the Dangerous Drugs Act Cap.12.
2. The maximum penalties for these offences are imprisonment of not exceeding 20 years or fines not exceeding VT 100 million.
3. The defendant is a local subsistence farmer of mainly kava. His farm is located at Palon, East Santo. The Police were informed that the defendant had also cultivated a large quantity of cannabis plants. As a result, the Police visited the defendant's farm on 26th April 2022. The Police harvested 15 bags of leaves and brought them back for testing. They were all tested to be cannabis plants. The total net weight of the leaves in the 15 bags was 58.15 grams.
4. The defendant was therefore arrested and charged. He was remanded in custody from 6th May 2022 and released on bail on 3rd June 2022, a total of 29 days.



5. On 5th May 2022 the defendant made admission to the Police and explained the reasons for his cultivation in Bislama as follows:-

“ Marijuana lo Karen blo mi ia mi nomo mi planem mo mi planem blong mekem medicine. Mi stap boilm leaves mo roots blo Marijuana blo ol man stap drink wota blo hem. Ol Marijuana mi stap kipim nomo lo Karen blo mi wetem ol kava, peanut, cabbage. Ol marijuana we mi mekem olsem medicine ia mi stap kivim free nomo lo ol man, mi no stap salem blo ol man oli smokem.”


6. It is very clear from his admission that he cultivated marijuana plants and unlawfully possessed them. He even went further to supply the juice of the cannabis plants to other people which in itself is also an offence.
7. To supply other people with the juice of the cannabis plants as medicine could not be permissible except under some valid license issued in accordance with the law.
8. There was therefore no mitigating circumstances for the defendant to be excused for planting and possessing such large quantity of cannabis plants. It could only serve one purpose and that is to supply it for commercial use and purposes contrary to what the defendant said to the Police, the Probation Officer as evident in his pre-sentence report, and to his lawyer as evident in the defence submissions as to sentence.
9. Defence Counsel therefore submitted that the defendant’s offending fell within category 1 as established by the Court of Appeal in Wetul v PP [2013] VUCA 26 an offending which attracts a sentence of imprisonment with a start sentence between 2 and 4 years.
10. **Accordingly I sentence the defendant as follows:-**
- a) For unlawful cultivation of cannabis – 3 years imprisonment as the starting sentence.
 - b) For unlawful possession- 3 years imprisonment as the starting sentence, concurrent with the 3 years sentence for unlawful cultivation.



11. In mitigation I take account of the defendant's early admission and guilty plea and allow the full 1/3 reduction. The balance of his sentence is 2 years imprisonment.
12. I take into account the defendant's age which he gives as 70 years and his clean past record, his other personal history and circumstances, health and the number of days he has spent in custody. I allow a further reduction of 6 months.
13. That leaves the defendant's end sentence to be 1 year and 6 months imprisonment. This sentence will not be suspended.
14. The defendant is to serve 1 year and 6 months imprisonment with immediate effect at the Correctional Centre in Luganville.
15. That is the sentence of the defendant. He has a right of appeal within 14 days.

DATED at Luganville this 17th day of June, 2022.

BY THE COURT


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Oliver Saksak
Judge

