

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

**Criminal
Case No. 21/3018 SC/CRML**

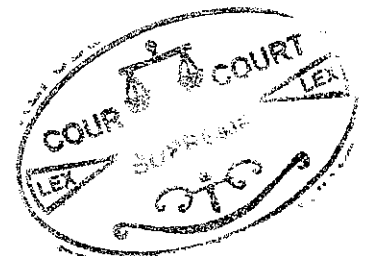
BETWEEN: Public Prosecutor

**AND: Jian Wang
Defendant**

Before: Justice Oliver A. Saksak
Counsel: Mr Lenry Young for Public Prosecutor
Mr Andrew Bal for the Defendant
Date of Verdicts: 27th June 2024
Date of Sentence: 9th September 2024

SENTENCE

1. The defendant was found guilty on 2 charges of obtaining moneys by deception and to 2 charges of misappropriation after a long trial. And he is for sentence today.
2. Obtaining money by deception and theft by misappropriation carry the maximum penalties of 12 years imprisonment respectively.
3. The defendant obtained money from the complainant Fan Enming twice first on 4th February 2019 in the sum of VT 600,000 and secondly on 6th February 2019 when he obtained another VT 600,000. These monies were obtained by the defendant for the purpose of setting up a joint venture business following a signed memorandum of cooperation which the defendant had drafted and executed it along with the complainant and Lyu Qinglai. The business venture as agreed never started. And the defendant did not refund the monies despite numerous attempts made to him.
4. The defendant has not accepted responsibility and has not shown any remorse or regrets whatsoever.



5. I have seen the written submissions by Prosecution filed on 17th July 2024. I accept the aggravating features of the defendant's offendings submitted including

- a degree of planning involved.
- a serious breach of trust given under a written document executed between the defendant and the complainants.
- Financial advantage taken of the victims.
- Constant denials and refusal to refund moneys.
- Mental effects and economic impacts caused to the victims
- The dishonesty and deception involved.
- The acts were repeated.

Defence Counsel has conceded to these aggravating features in his written submissions.

6. There are no mitigating circumstances. The defendant's offendings fall within the principles set out in the case of PP v Keith Mala [1996] VUSC 22. Defence has accepted this case is applicable. Adopting those principles, I set the starting sentence for the defendant as follows-

- a) For obtaining moneys by deception in Counts 5 and 7- A sentence of 3 years imprisonment on each count to be served concurrently.
- b) For misappropriation in Counts 6 and 8- A sentence of 3 years imprisonment on each count concurrent.

These sentences shall be served concurrently and the total sentence shall be 3 years imprisonment for all charges.

7. In mitigation there is no reduction of sentence of guilty plea as it was a contested case. However I consider the sentence should be reduced for clean past record and the defendant's support to the community of Pango and other factors personal to him. His sentence is reduced by 12 months leaving the end sentence to be 2 years.



8. As to whether or not the sentence should be suspended as submitted by defence counsel, there is no exceptional circumstances to warrant suspension of sentence.
9. The defendant is therefore sentenced to an end sentence of 2 years imprisonment without suspension. The sentence is immediate as of today.

DATED at Port Vila this 9th day of September 2024

BY THE COURT


Hon. Oliver A. Saksak

Judge

