

**BETWEEN:** The Public Prosecutor  
*Prosecutor*

**AND:** Morris Jack  
Malcolm Sam  
Joseph John  
Mai George  
John August  
*Defendants*

**Coram:** Justice Aru  
**Counsel:** Ms. L. Lunabek the Public Prosecution  
Mr. F. Tasso for the Defendants (No appearance)

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## SENTENCE

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### Introduction

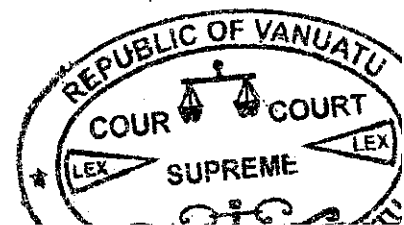
1. The defendants pleaded guilty to one count of unlawful assembly, one count of criminal trespass and one count of malicious damage to property.
2. They were previously acquitted and discharged in the Magistrate Court and ordered to pay VT 50,000 as compensation to the complainants. The Public Prosecutor appealed the decision. The appeal was allowed by consent on 10 June 2021. The defendants are now being re-sentenced. Sentencing was deferred to the Epi tour which did not take place until now.

### Facts

3. Sometime in September 2016 the defendants went to the complainant's land and caused some damage by cutting down 600 coconut trees with chain saws. An assessment of the damage was done by the department of Agriculture which quantified the total damage sustained at VT2, 113, 500.

### Starting point

4. The maximum sentence available for unlawful assembly is 3 years imprisonment. For criminal trespass the maximum sentence is 1 year imprisonment and malicious damage to property is punishable by a maximum sentence of 1 year imprisonment. The offending is aggravated by a number of factors. There is an element of planning involved and the damage caused was quite



substantial and was assessed at VT VT2, 113, 500. The defendants acted together in a joint enterprise.

5. There are no mitigating factors of the offending. Taking these factors into account and noting unlawful assembly as the lead offence, I set a global starting point of sentence at 3 years imprisonment.

### Personal Factors

6. Defence Counsel submits that the defendants are all first-time offenders. They planted the trees themselves when they previously resided on the property by agreement with the complainant until he decided that they should vacate the property. At the date of filing of defence submissions being 29 June 2021:

- Morris Jack was 55 years old and is married with 4 children. He is unemployed but relies on farming to support his family.
- Mai George was 38 years old and is also married with 4 children. All his children are all in school. He earns his income by farming to support his family.
- Malcolm Sam was 25 years old. He was 17 at the time of the offending. He is married and has a child. He relies on farming to support his family.
- Joseph John was 60 years old. He is married with 4 children and supports his family by farming.
- John August is married with 2 children. One of his children is in school and he supports family by farming.

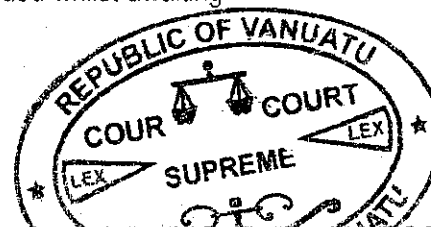
7. Counsel submitted that the compensation of VT 50,000 ordered by the Magistrate Court was paid by the Defendants.

8. Taking these factors into account and the delay in prosecuting this case I reduce the sentence start point by 12 months.

9. For the guilty pleas the sentence is discounted by 25%.

### End Sentence

10. The end sentence for each of you is rounded off to 12 months imprisonment. When considering whether the sentence should be suspended, I consider the circumstances and nature of the crime and character of the offenders and the fact that they have not reoffended whilst awaiting



their sentence, I will suspend the sentence for a period of 1 year. Should they reoffend during this period, they will be arrested and remanded to serve the full sentence in custody.

11. The defendants have 14 days to appeal if they disagree with the decision.

DATED at Rovo Bay this 16<sup>th</sup> day of April, 2024

BY THE COURT

D. Aru  
Judge

