

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

Criminal  
Case No. 23/952 SC/CRML

PUBLIC PROSECUTOR

v

GINO LAWAC

Dates of Trial: 6 June 2024 and 27-29 January 2025  
Before: Justice V.M. Trief  
In Attendance: Public Prosecutor – Mr S. Blessing  
Defendant – Ms J. Tari; Defendant present  
Date of Decision: 13 February 2025

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**VERDICT**

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A. Introduction

1. Mr Lawac is charged with the following 2 counts of obtaining money by deception contrary to s. 130B of the *Penal Code* [CAP. 135], which were set out in the Information filed on 6 June 2024:

Count 1 Statement of Offence

Obtaining money by deception - contrary to s. 130B of the *Penal Code* [CAP. 135]

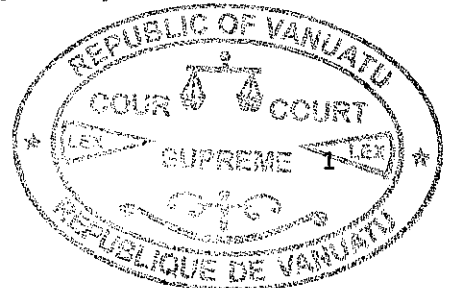
Particulars of Offence

That you **Mr Gino Lawac** sometimes between November 2022 and February 2023, at Port Vila in the Republic of Vanuatu, committed the offence of obtaining money by deception, in that, by deception you dishonestly obtained for yourself, a total of VT250,000 from **Mr James Matariki**.

Count 2 Statement of Offence

Obtaining money by deception - contrary to s. 130B of the *Penal Code* [CAP. 135]

Particulars of Offence



That you **Mr Gino Lawac** sometimes between November 2022 and February 2023, at Port Vila in the Republic of Vanuatu, committed the offence of obtaining money by deception, in that, by deception you dishonestly obtained for yourself, a total of VT10,000 from **Mrs Judith Maseng**.

B. The Law

2. Section 130B of the *Penal Code* provides as follows:

**130B. Obtaining money, etc., by deception**

(1) A person must not by any deception dishonestly obtain for himself or herself or another person any money or valuable thing or any financial advantage of any kind whatsoever.

*Penalty: Imprisonment for 12 years.*

(2) In subsection (1) –

“deception” means deception (whether deliberate or reckless) by words or conduct as to fact or as to law, including:

(a) a deception as to the present intentions of the person using the deception or of any other person; and

(b) an act or thing done or omitted to be done with the intention of causing –

(i) a computer system; or

(ii) a machine that is designed to operate by means of payment or identification,

to make a response that the person doing or omitting to do the act or thing is not authorised to cause the computer system or machine to make.

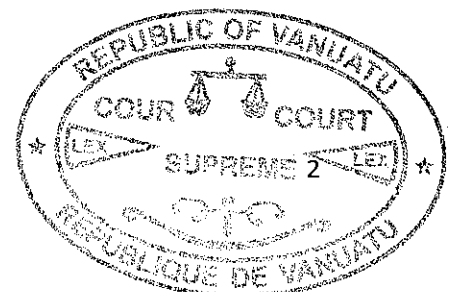
3. The charge of obtaining money by deception has the following 2 elements or legal ingredients which must be proved in order for a conviction to be entered:

- a. That Mr Lawac by means of deception; and
- b. Dishonestly obtained money for himself or another person.

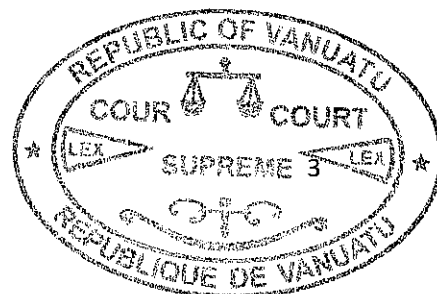
4. The Prosecution has the onus of proof and is required to establish the allegations beyond a reasonable doubt before a finding of guilt could be made in respect of the charges. The defendant was not required to establish anything.

C. Evidence

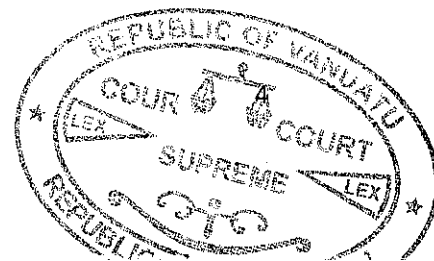
5. The witnesses' demeanour was a small part of my assessment of each witness. I also looked for consistency within the witness' account; consistency when comparing the witness' account with that of another witness; consistency when comparing the witness' account with documentary evidence; and considered the inherent likelihood, or not, of the witness' account.



6. I reminded myself that if I were to draw inferences, they could not be guesses or speculation but had to be logical conclusions drawn from other properly established facts. Adverse inferences are to be drawn only if they are the only available inference to be drawn. Further, if more than one inference was available, the inference most favourable to the defendant must be drawn.
7. The Prosecution called five witnesses – James Matariki and his wife Judith Maseng, and three Correctional Services officers Steve Leo, Ben Max and Fabrice Samson. The defendant elected to remain silent. I did not draw an adverse inference from his election to remain silent.
8. **James Matariki** gave evidence that he is 60 years old and lives at Namburu area in Port Vila. He is self-employed with a water consultancy business and a driving school. He came to know Mr Lawac in October 2022 when Mr Lawac called him, introduced himself as a female bank officer with the Bred Bank at Santo and asked Mr Matariki to provide driving lessons to his son, Mark. Mr Matariki agreed. In the first driving lesson with Mark, Mark told Mr Matariki that they would go and collect the driving lesson fee from his mother at the Stade area, and they stopped at the front gate of the Correctional Centre at the Stade area. Mr Lawac was in custody there. This was the first time for Mr Matariki to meet Mr Lawac. Mr Lawac told Mr Matariki that he was the one who called Mr Matariki and said that he was on Santo, but that he was now on holiday from Santo. Mr Matariki stated that he later came to know that Mr Lawac being on holiday and having a bank job on Santo was a lie. He realised that he had been lied to but as a driving instructor, continued to treat Mark as any other driving school student and to teach him to drive.
9. Mr Matariki stated that during the period of Mark's driving lessons, Mr Lawac asked him and Mark to hire a vehicle from Hertz Rent-a-Car. Mr Matariki provided his Visa card to secure the rental. Mr Matariki warned Mark not to drive the hired vehicle unless Mr Matariki was with him. But Mark drove the hired vehicle and crashed into the President's vehicle at the Georges Pompidou area. Mr Matariki said that the accident rate at his driving school, which has operated for almost 15 years, is almost nothing. But this accident happened because Mr Lawac (in custody at the Correctional centre) told Mark, against Mr Matariki's instructions, to drive some relatives from their house. Mr Matariki stated that Mark's accident was embarrassing for the reputation of his driving school. And that following the accident, he had to push hard with Hertz Rent-a-Car to get back his Visa card.
10. Mr Matariki stated that then Mr Lawac asked him and Mark to hire another vehicle. They hired a truck from Asco Motors. Mark also crashed that truck! Then Mr Lawac asked Mr Matariki to help find another hire vehicle. Mr Matariki helped Mark hire a vehicle from the Chinese vehicle hire business opposite the Tana Russet Plaza but because he was busy with Chamber of Commerce commitments, he delegated Mark's driving lessons to another driving instructor for the additional 3 months which the Police required Mark to complete.

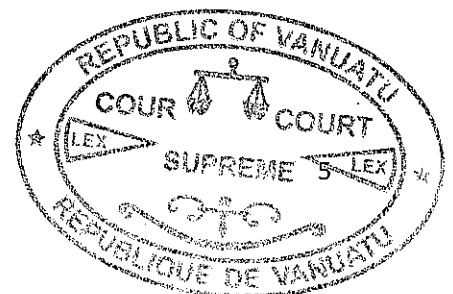


11. Mr Matariki stated that after the Police called him, he went to the first vehicle accident site then stayed with Mark until 10pm trying to persuade the Police to let him go. When they came out of the Police station, an expatriate man Michel Lethizie spoke with Mark in English. He thinks this man was French. Mark told Mr Matariki that Mr Lethizie said thank you very much for you staying with Mark until 10pm and to express Mr Lethizie and Mr Lawac's heartfelt thanks, he and Mr Lawac wanted to give Mr Matariki some land. The following day, Mr Matariki and his wife went to see Mr Lawac at the Stade Correctional centre. Mr Lawac also thanked Mr Matariki for staying with Mark until late at night at the Police station and confirmed what Mr Lethizie told Mark. Mr Lawac asked the Correctional Services officer to open the gate, Mr Matariki and his wife Judith Maseng entered the visitors' area and Mr Lawac showed them the land title.
12. Mr Matariki told Mr Lawac that they would continue Mark's driving lessons with another driving instructor Frank because the Police required Mark to complete another 3 months of driving lessons. Mark's driving lessons continued and both Mr Lethizie and Mr Lawac texted and called Mr Matariki that Mr Lethizie would travel to Vanuatu in December 2022 for a holiday away from the Ukraine war and that they wanted Mr Lethizie to become Mr Matariki's blood brother. They said that if Mr Matariki paid a deposit for the lease transfer, when Mr Lethizie arrived in Vanuatu, they would sign the lease transfer to Mr Matariki. Mr Lawac even showed Mr Matariki a picture on Facebook of Mark working at the land at Teouma, near the VFF football academy.
13. Mr Matariki stated that Mr Lethizie told him that he was travelling from Tahiti to New Caledonia to Vanuatu and that they would have coffee on 26 and 27 December 2022 with a real estate officer Sam Lewis. Both Mr Lethizie and Mr Lawac contacted Mr Matariki urging him to hurry up and pay the lease transfer deposit before Mr Lethizie arrived in Vanuatu. So Mr Matariki signed a cheque and gave it with his Visa card to Mr Lawac at the Correctional centre. This was leading up to 8 December 2022 when Mr Lawac was about to be released from custody. Mr Lawac even asked Mr Matariki and his wife to treat him for his birthday in early December. Mr Lawac told Mr Matariki that Mr Lewis required the lease deposit in cash, not the cheque that he had given previously. So Mr Matariki put all his effort into finding and paying the VT250,000 in cash which he paid by instalments to Mr Lawac through the sentry gate at the Correctional centre.
14. Mr Matariki stated that before he started paying the deposit instalments, Mr Lawac called him and said that he must only pass the cash at the Correctional centre gate to a Correctional officer named by Mr Lawac and that the Correctional officer would require a signature from the person dropping off the money. After each instalment of the deposit passed in an envelope through the Correctional centre gate, Mr Lawac called him and confirmed that he had received the money. Mr Matariki, his wife and Mr Matariki's niece Marian Naka delivered the instalments to the Correctional centre. In December 2022, Ms Naka delivered VT65,000 just before Mr Lawac's release from custody. The instalments totalling VT250,000 were made in a short period of time because Mr Lawac was being released from custody on

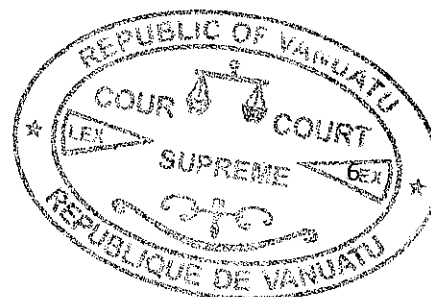


8 December 2022 and then Mr Lethizie would arrive the following weekend. Before and during Ms Naka's visit, they asked Mr Lawac to return Mr Matariki's cheque and Visa card to Ms Naka. He didn't.

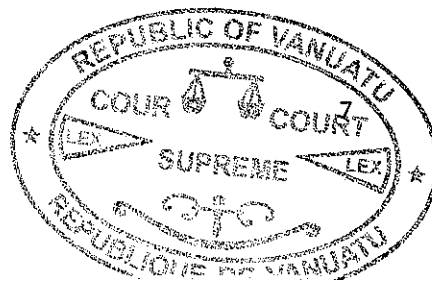
15. Mr Matariki did not hear anything more from Mr Lawac, until January 2023.
16. On 17 January 2023, Mr Matariki and his wife called Mr Lawac to ask if they could meet at the central market house in town, Mr Lawac said that he and Mr Lethizie were at Pango. Mr Matariki and his wife waited at the market house until 12 noon; neither turned up. After that, Mr Matariki did not want to call Mr Lawac anymore about the VT250,000 because Mr Lawac lied too much to them. Only his wife continued to follow up with Mr Lawac because she had paid VT10,000 to Mr Lawac for roofing iron sheets.
17. Mr Matariki related that his wife came to know Mr Lawac when they visited him at the Correctional centre. Mr Lawac was doing fabric painting in custody and asked Mr Matariki's wife to bring one of their sheets from home for Mr Lawac to paint. He also asked Mr Matariki's wife if she wanted roofing iron sheets. Mr Matariki said that he is also a church pastor and so he and his wife built up a relationship with Mr Lawac as a detainee to help him rehabilitate. Unfortunately, it did not work out as he expected – Mr Lawac took their money, came out of prison on 8 December 2022 and did not call them to meet as he had said. Instead, Mr Lawac went to Tanna island with his son Mark.
18. Mr Matariki stated that his wife followed up with Mr Lawac for the iron sheets. He said that Mr Lawac lied to her that he was at Bladiniere area and was on his way to drop off the sheets. He did not. At another time, Mr Lawac told his wife that he was at Seaview and would bring the iron sheets. That was also a lie because Mr Lawac did not deliver any iron sheets. At another time again, his wife called Mr Lawac who said that he was at the Bred Bank. They told him that *they* were at the Bred Bank. He said that no, he had already left the bank and was at the Wharf. When they called him again, he said that he was at the Western Union at the Stade area. Then his wife asked Mr Lawac to refund her money. He said that no, the line at Western Union was too long. So he and his wife went to Western Union. There was no line there and Mr Lawac was not there.
19. They called Mr Lawac again and he said that he was at NBV. That's when they went straight to the Police station at the Equity building, called Mr Lawac and passed the phone to the Police. The Police told him and his wife that Mr Lawac was actually on Tanna. The Police officer swore at Mr Lawac and told him off for lying to Mr Matariki and his wife. While they were at the Police station, he was surprised by the Police showing him the cheque that he gave to Mr Lawac at the Correctional centre (and which was not returned to Ms Naka). The Police said that a Chinese man had reported an issue concerning the cheque and handed it in but the Police did not know where to find the man, "James" who was named on the cheque.



20. The next morning, Mr Lawac called and said that he was sending VT10,000 to Mrs Maseng via Western Union that morning and that he would also refund Mr Matariki from his t-shirt sales on Tanna. Mr Lawac also sent chat messages confirming that he would refund all of the monies owed and that he would pay back VT150,000 first then the rest after his sales on Tanna. However, Mr Lawac has only refunded VT10,000 to Mrs Maseng but has never refunded any of the VT250,000 paid by Mr Matariki. The following week after Mr Matariki and his wife's visit to the Police station at the Equity building, they heard that Mr Lawac had been beaten up on Tanna and sent on a ship back to Vila.
21. On resumption of trial on 27 January 2025, Mr Matariki stated that the total paid to Mr Lawac in custody for the lease transfer deposit was VT260,000. He stated that Mr Lawac was to be released from custody on 16 or 17 December 2022, and that they and Mr Lethizie would meet on 27 December 2022 for coffee and to sign the lease transfer documents. The meeting never eventuated. Mr Matariki thought to himself that Mr Lethizie had just travelled from Europe and that maybe they had other things on and would call him later. They waited until January 2023 when his wife became really suspicious and continually followed up with Mr Lawac about her VT10,000 payment for iron sheets, which ended with their going to the Police station at the Equity building.
22. In cross-examination, Mr Matariki confirmed that his first contact with Mr Lawac was by phone, about Mark's driving lessons. He agreed that his only face-to-face contact with Mr Lawac was at the Stade Correctional centre. He stated that he took Mark for 15 driving lessons and in every lesson, they went to the Correctional centre because Mr Lawac wanted to know where they had driven during the lesson and to get the driving lesson fee from Mr Lawac. The first time they went to the Correctional centre, Mark said that it was to see his mum. Mr Matariki stated that he was surprised because he thought Mark's mum was on Santo. When they got to the Correctional centre, it turned out that Mark refers to Mr Lawac as his mum.
23. Mr Matariki agreed that after some time, Mr Lawac was moved from the Stade Correctional centre to the Correctional centre opposite the Tropical Market shop. He never saw Mr Lawac at the Tropical Market Correctional centre and only saw Mr Lawac again at Court for this trial. It was put to Mr Matariki that detainees at the Tropical Market Correctional centre were not allowed phones. Mr Matariki replied that if that is a rule at that centre, he does not know how Mr Lawac had a phone, but both Mr Lawac and Mr Lethizie and even Mark contacted him to urge him to quickly pay the VT260,000 lease deposit. He said that he and his wife sat under the *nabanga* tree in the visitors' area at the Stade Correctional centre, and Mr Lawac showed him and his wife the land titles for sale, so he (Mr Matariki) believed that it was a genuine land sale. Finally, that Mr Lawac called him and his wife, "Dad" ("*papa*") and "Mum" ("*mama*"). When Mr Lawac got to the Tropical Market Correctional centre, he asked Mrs Maseng to make food for him for his birthday. So Mrs Maseng made food and took it to Mr Lawac, out of respect, as Mr Lawac called them "Mum" and "Dad".

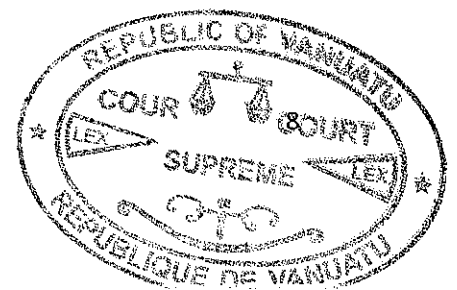


24. Mr Matariki agreed that he took an instalment payment to the Correctional centre, his wife did as well, and also his niece after that, totalling VT260,000 which along with the VT10,000 that Mrs Maseng paid Mr Lawac for iron sheets, meant that he and his wife paid Mr Lawac a total of VT270,000. Mr Matariki agreed that when he gave the money to the Correctional officer at the centre, he did not see the officer hand the money to Mr Lawac but added that Mr Lawac called him each time and confirmed that he had received the money. He also stated that he would not have kept paying instalments if he had not been told that Mr Lawac had received the payments.
25. Mr Matariki confirmed that Mr Lawac and Mr Lethizie contacted him via Facebook and via telephone. His and Mr Lethizie's messages remain on Facebook, but the messages from Mr Lawac have somehow all been deleted. He stated that he paid the VT260,000 deposit following his agreement with Mr Lawac and Mr Lethizie to complete the deposit before their 27 December 2022 meeting; now he is waiting on them to transfer the lease to him as per their agreement. He stated that some of the VT260,000 that he paid to Mr Lawac was borrowed from his family.
26. It was put to Mr Matariki that detainees at the Tropical Market Correctional centre could not hold over VT5,000 cash. He replied that there were only 2 Correctional officers that Mr Lawac identified (to receive money for Mr Lawac) and he does not know what Mr Lawac's arrangement was with these two officers, who were both related to Mr Matariki. He confirmed that he had to sign a book each time book recording that he had brought something to Mr Lawac, and he expects that the same procedure applied to Mrs Maseng and Ms Naka when they took the cash payments to the Correctional centre. He said that it was put to him that Mr Lawac could not have more than VT5,000 but at the time, Mr Lawac said that he would refund half of the VT260,000. So his question was if Mr Lawac had not received the money, why did he tell Mrs Maseng that he would refund half of the VT260,000.
27. Mr Matariki was asked if he had a doubt that he paid VT260,000 by instalments to Mr Lawac in custody. He replied that he has no doubt about that because every time he made a payment, Mr Lawac urged him to complete the deposit quickly before he (Mr Lawac) was released from custody and before Mr Lethizie arrived in Vanuatu. He said that Mr Lethizie even said thank you to him for the payments. It was put to Mr Matariki that he did not have any record of how much money he paid to Mr Lawac in the Correctional centre. He agreed that he did not have a record but said that Mr Lawac and Mr Lethizie told him to complete the deposit before Mr Lawac was released from custody, Mr Lawac confirmed receiving the payments, and Mr Lawac called him and his wife, "Dad" and "Mum". However, when Mr Lawac was released, he did not even have the courtesy to call him (Mr Matariki).
28. There was no re-examination.
29. The cross-examination was ineffective. Mr Matariki's account remained unchanged and he took the opportunity to repeat his evidence in-chief, particularly that he paid a total of



VT260,000 to Mr Lawac as deposit for a lease transfer, in accordance with his agreement with Mr Lawac and Mr Lethizie that in return, they would transfer a lease to him. There were inconsistencies in Mr Matariki's evidence as to the total money paid to Mr Lawac (VT250,000 and VT260,000) and as to the date in December 2022 that Mr Lawac would be released from custody. However, there was a long interval between the first day of trial on 6 June 2024 and the second day of trial on 27 January 2025, I assume that Mr Matariki refreshed his memory before returning to the Court on 27 January 2025 because he was consistent in his evidence on that day that he paid a total of VT260,000 to Mr Lawac and that Mr Lawac was to be released from custody on 16 or 17 December 2022.

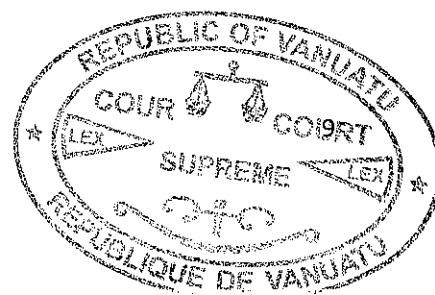
30. Mr Matariki readily accepted that he did not actually see Mr Lawac at the Tropical Market Correctional centre, that he did not have his own record as to the money paid to Mr Lawac, that it may well be that detainees at the Tropical Market Correctional centre are not allowed phones or to hold over VT5,000 cash but he gave explanations for each of his answers which underscored for me the ring of truth about his evidence. I considered that the inherent likelihood of Mr Matariki's account was that events occurred as he described them to me. Accordingly, I accepted Mr Matariki as a witness of truth and accepted his evidence.
31. **Judith Maseng** gave evidence that she is 50 years old and is Mr Matariki's wife. They live at Namburu area. She came to know Mr Lawac through her husband's driving school. She first met Mr Lawac when Mr Matariki and Mark drove her to town and stopped at the Stade Correctional centre. Mr Lawac called her to shake hands with him and told her that if she needed anything at home, to tell him and he would give her money for that. She told him that she did not need anything.
32. Mrs Maseng stated that she next saw Mr Lawac, at the Correctional centre, when he bought her Canon camera for VT50,000. After Mr Lawac bought the camera, he told Mrs Maseng that he was selling iron sheets so she paid VT10,000 to him for iron sheets. Mr Lawac told her that he would deliver the iron sheets the following week but he did not. That is when she started following up with Mr Lawac repeatedly for the iron sheets.
33. She said that Mr Lawac said that the shipping container had not arrived yet. Then he said that he would deliver the iron sheets the next day, but he didn't. Another time he texted that he was at the Harbourview Restaurant, and driving in a white double cabin truck, to deliver the iron sheets. She waited and waited, then he said he was at Namburu school near the VMF barracks, but this was the wrong direction to get to their house. When she called again, the phone was off and he did not reply to her messages. On another day, she and Mr Matariki waited for Mr Lawac at the central market house from 9am to 12 noon for him to refund her VT10,000. He did not turn up. They went home and he told them to wait. They waited but he did not turn up. One morning, they went to the Bred Bank and he called them. She asked him where he was and he said he was inside the Bred Bank. They told him that they were also in the Bred Bank, and he said that he was now at the wharf and for them to wait. They waited until lunchtime then ate lunch. She called him again and he said he was at the





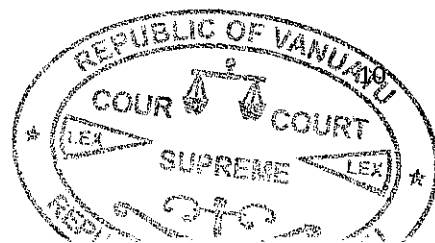
Western Union at Stade area. She and Mr Matariki went to the Western Union. There were no customers there and Mr Lawac was not there. She called him again and he said he was now at the NBV. They left and went straight to the Police at the Equity building.

34. When they arrived at the Equity building, she called Mr Lawac and the Police spoke to him. The Police told them that Mr Lawac was on Tanna. After the Police spoke with Mr Lawac, he refunded her VT10,000 (she was crying, relating this). She stated that Mr Lawac also said that he would refund VT125,000 of the lease transfer deposit first but never did. He called her and her husband, "Mum" and "Dad", she took him food to him at the Correctional centre on his birthday, and Mr Lawac lied to them about a lease transfer so they gave him money (she was crying while relating this).
35. Mrs Maseng stated that she contacted Mr Lawac via Messenger. At the Police station, she gave the Police two phone numbers for Mr Lawac. She understood one of the phone numbers to be Mr Lethizie's number, but the Police told them that that was one of Mr Lawac's phone numbers and that he was lying that it belonged to a Mr Lethizie.
36. Mrs Maseng related that she and Mr Matariki went to the Correctional centre once, and she went by herself once, to give money to Mr Lawac. Both times they waited, and Mr Lawac sent a guard over to get the money from them. She also brought Mr Lawac food and drink for his birthday the time she went by herself. She signed a book at the centre gate. Mr Lawac used the phone number for Mr Lethizie to call or text that he had received the money – he never complained that he had not received the money.
37. In cross-examination, Mrs Maseng agreed that the first time she went to the Stade Correctional centre and saw Mr Lawac, she stood outside, the gate was closed, there were guards there and that she and Mr Lawac waved at each other. She agreed that the second time she went was for Mr Lawac to purchase her Canon camera. She could not remember how the VT50,000 for the camera was given to her and whether she spoke with Mr Lawac there. The third time she went to the Correctional centre, she and her husband entered and sat under the *nabanga* tree in the visitors' area and Mr Lawac showed them lease papers and told them that if they made payment, a lease would be transferred to them. There was a guard there who heard Mr Lawac telling them about the property for sale. On the same occasion, she gave Mr Lawac bedsheets to be painted and he told her that if she had pillowcases, to also give them to him to paint.
38. It was put to Mrs Maseng that when she visited Mr Lawac, they never spoke about VT10,000 for iron sheets. She denied that, saying that he told her about that many times. It was put to her that it was not possible that she gave Mr Lawac VT10,000 as any money for Mr Lawac had to go through the guards. She replied that she gave him the money – she gave him VT10,000 for iron sheets. She denied knowing that her adult son contacted Mr Lawac and demanded that he return her VT10,000. She denied that the reason Mr Lawac gave her



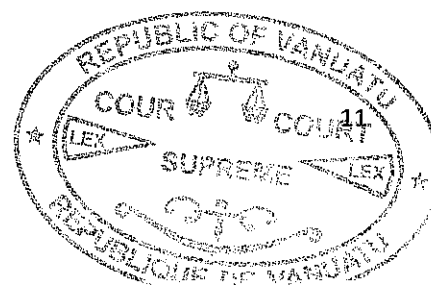
VT10,000 was because of threats by her adult son. She said that Mr Lawac gave back her VT10,000 because she went to the Police and they spoke with him.

39. It was put to Mrs Maseng that Mr Lawac was not allowed a phone in the Tropical Market Correctional centre. She replied that she does not know how he had a phone but he contacted them frequently to pay the money. She confirmed that a Correctional officer received the money each time and that the only confirmation that Mr Lawac had received the money was his call or message afterwards that he had received it. He also confirmed by message that he received the food for his birthday. She agreed that she called Mr Lawac several times to return her VT10,000.
40. In re-examination, Mrs Maseng stated that Mr Lawac told her at the Stade Correctional centre that he was selling iron sheets, that they were on their way in a shipping container and that the price was VT10,000 for six iron sheets x6 metres.
41. Mrs Maseng's account was unchanged in cross-examination. It was consistent with Mr Matariki's account as to their interactions with Mr Lawac prior to and after they began making payments to him, and the lies that he told them. I considered that the inherent likelihood of Mrs Maseng's account was that events occurred as she described them to me. I accepted Mrs Maseng as a witness of truth and accepted her evidence.
42. Steve Leo gave evidence that he is 43 years old and a Correctional officer. He works at the Medium Risk Unit at the Correctional centre opposite the Tropical Market shop. He stated that on 14 November 2022, he received at the sentry gate some food and an envelope containing VT68,000 from Meriam Naka. He recorded the items received, from who and the detainee they were for in the 'Goods Register' book which is kept at the sentry gate [**Exhibit P1**]. Then he took the items straight to Mr Lawac. It is part of their procedure to record items received at the sentry gate in the 'Goods Register.'
43. In cross-examination, Mr Leo agreed that he knows the Correctional Services rules. He agreed that a detainee in the High Risk Unit had limited privileges such as limited access to a phone. He agreed that Mr Lawac was in the High Risk Unit in November 2022 but that Mr Lawac was allowed, on application to the Centre management, to use the phone. It was put to Mr Leo that detainees in the High Risk Unit could not keep over VT5,000 cash. He replied that whilst in custody, Mr Lawac operated a small clothes-printing business as part of his rehabilitation program so the Centre manager John Jack George permitted all items received for Mr Lawac, including money, to be given to Mr Lawac.
44. It was put to Mr Leo that Mr Lawac operated his clothes-printing business only at the Stade Correctional centre but not at the High Risk Unit at the Tropical Market Correctional centre. He replied that Mr Lawac operated the business at the Tropical Market Correctional centre and then took all his gear with him to the Stade Correctional centre and continued operating the business there. He said that Mr Lawac had employees on the outside to do the printing for him and those employees would also bring clothing from Bing Tong Store to him at the



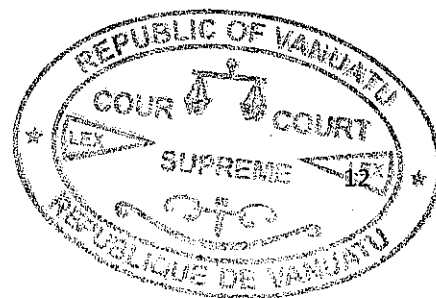
Tropical Market Correctional centre to print. He agreed that both Mr Lawac and Correctional officer Knox Regenvanu held funds for the printing business as Correctional Services kept 30% of all the money collected by Mr Lawac.

45. It was put to Mr Leo that it was not possible for Mr Lawac whilst inside the High Risk Unit to keep VT68,000 cash because this was not allowed by the rules. He replied that the Centre management's directive was that any money received for Mr Lawac's printing business had to be taken directly to Mr Lawac. This was a verbal directive so it placed officers at risk if any money went missing so they had to take the money directly to Mr Lawac. He stated that he took Mr Lawac's items directly to Mr Lawac, not to the manager's office. He agreed that the management office would store a new detainee's belongings. It was put to Mr Leo that there is an occurrence book which Mr Lawac never signed to acknowledge receipt of the VT68,000 that Mr Leo said that he took to Mr Lawac. He replied that he gave the VT68,000 to Mr Lawac at the Medium Risk Unit because that is where he works and that officers who work in the Medium Risk Unit are not allowed to go to the High Risk Unit.
46. Mr Leo agreed that if a detainee breached a rule at the Stade Correctional centre, that he would be moved to the High Risk Unit at the Tropical Market Correctional centre. It was put to him that Mr Lawac was never in the Medium Risk Unit. He replied that he gave the money to Mr Lawac in the Medium Risk Unit. He agreed that he did not write his own name as the officer receiving the items in **Exhibit P1** and apologised that he had not. He agreed that was the only document to show whether or not he received items for Mr Lawac.
47. There was no re-examination.
48. Mr Leo's account remained unchanged under cross-examination. In his evidence, he referred to Mr Lawac being kept in both the High Risk Unit and the Medium Risk Unit at the Tropical Market Correctional centre but was firm that he passed the food and VT68,000 cash that he received from Ms Naka straight to Mr Lawac in the Medium Risk Unit. Mr Leo gave full explanations why money was received at the Correctional centre and given straight to Mr Lawac (for his printing business), why he was allowed to use the phone (on application to the centre management) and to keep over VT5,000 cash (for his printing business which was part of his rehabilitation program). He readily agreed that he had not written his own name in the 'Goods Register' as the officer receiving the items for Mr Lawac and apologised for that. Mr Leo's account was consistent with those of Mr Matariki and Mrs Maseng as visitors bringing items for detainees to the sentry gate, that being recorded in a book and then Correctional officers taking the items straight to Mr Lawac, and that Ms Naka took over VT60,000 cash to Mr Lawac. His account was also consistent with **Exhibit P1**. I accepted Mr Leo as a witness of truth and accepted his evidence.
49. **Ben Max** is a Correctional officer. He works in the Remand Unit. He was the only one on duty and Mr Lawac came and told him that he had some money being delivered to the sentry gate and if he (Mr Max) could go and collect it. He received an envelope from James



Matariki, recorded it in the 'Goods Register' at the sentry gate house and then took the envelope straight to Mr Lawac. He knows Mr Matariki because they are related. He does not remember anymore how much cash was in the envelope. He agreed he did not misappropriate the money as if he had, management would have taken action and sacked him. He cannot tender the 'Goods Register' into evidence because it is missing. He does not know who took it or if a cyclone destroyed it but he registered the item in the book but that book has gone missing.

50. In cross-examination, Mr Max agreed that he knows the Correctional Services rules and that detainees in the High Risk Unit do not have access to mobile phones and to hold over VT5,000 cash. He agreed that there is a book kept at the sentry gate house to record items received and that the visitor and the Correctional officer sign it. He denied that a detainee also must sign it, saying that the officer just writes in the name of the detainee who the items are for. He agreed that he has not tendered a 'Goods Register'. He stated that he did not count how much money was in the envelope. He only checked it for contraband and then took the envelope to Mr Lawac. It was put to him that without the 'Goods Register', we cannot know that he received the money from Mr Matariki. He replied that no, he received the money. It was put to him that without the 'Goods Register', we cannot know that Mr Lawac received the money from Mr Matariki. He replied that yes, Mr Lawac received it!
51. There was no re-examination.
52. Mr Max's account remained unchanged under cross-examination. He was firm that he received an envelope containing money from James Matariki, recorded it in the 'Goods Register' at the sentry gate house and then took the money straight to Mr Lawac. That 'Goods Register' is missing so he could not bring it to Court to tender into evidence however he received money from Mr Matariki and took it directly to Mr Lawac. His account was consistent with Mr Matariki's account. I accepted Mr Max as a witness of truth and accepted his evidence.
53. **Fabrice Samson** gave evidence that he is a Correctional officer. On 7 November 2022, he was on duty when Mr Lawac asked him to collect money for him at the sentry gate. He received an envelope from James Matariki containing VT50,000 cash, recorded it in the 'Goods Register' [**Exhibit P2**] then gave the money to Mr Lawac. If he stole the money, Mr Lawac would have immediately reported him to his superiors.
54. In cross-examination, Mr Samson stated that in November 2022, Mr Lawac was in the Remand Unit – he denied that he was in the High Risk Unit. He agreed that the **Exhibit P2** only records him receiving the money from Mr Matariki but not that Mr Lawac received it. He agreed that he forgot to write "Checked" in the column headed "Remarks" like he did for another entry.
55. There was no re-examination.



56. Mr Max's account remained unchanged under cross-examination. His account was consistent with Mr Matariki's account that he received cash from James Matariki, recorded it in the 'Goods Register' at the sentry gate house and then took the money straight to Mr Lawac. His account was also consistent with **Exhibit P2**. I accepted Mr Samson as a witness of truth and accepted his evidence.

D. Discussion

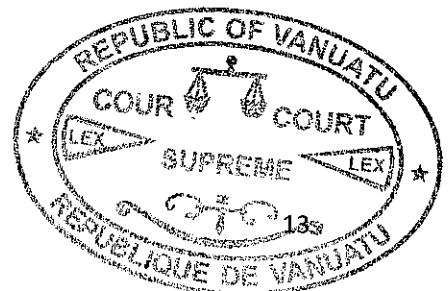
*Count 1*

57. I find on the evidence that between November 2022 and December 2022, Mr Lawac told Mr Matariki that if he paid a deposit, that he (Mr Lawac) would transfer a lease to Mr Matariki. Mr Matariki gave Mr Lawac a cheque for the deposit, but then Mr Lawac said that the payment had to be in cash and paid in full before Mr Lawac's release from custody in December 2022 and before a meeting scheduled with a Mr Lethizie on 27 December 2022 when they would sign the lease transfer documents. I find that Mr Matariki paid VT260,000 to Mr Lawac as a deposit for a lease transfer by instalments which he, Mrs Maseng and Marian Naka delivered at different times to Mr Lawac at the Tropical Market Correctional centre, via the sentry gate. Mr Matariki, Mrs Maseng and Mr Lawac communicated by phone, Facebook and Messenger prior to making payment and Mr Lawac confirmed each time that he had received the payment. I find that Mr Lawac had access to a phone and could keep over VT5,000 cash for the reasons given in Mr Leo's evidence.

58. I also find that once Mr Lawac received all of the VT260,000, there was no meeting on 27 December 2022 or at all, and no lease has been transferred to Mr Matariki. I also find that Mr Matariki paid the VT260,000 to Mr Lawac after a series of interactions between Mr Lawac, Mr Matariki and his wife Mrs Maseng which resulted in Mr Matariki and his wife Mrs Maseng trusting Mr Lawac and even regarded him as family. I also find that Mr Lawac said that he would refund half of the VT260,000 to begin with and then the rest later. However, he has not paid back any of the money to Mr Matariki. The evidence of the Correctional officers as to the money they received and took to Mr Lawac did not total VT260,000 however I accept and find on Mr Matariki's evidence as the person who sent the money that he paid a total of VT260,000. Given the foregoing, I find that Mr Lawac obtained VT260,000 from Mr Matariki by means of deception.

59. I also find on the evidence that Mr Lawac dishonestly obtained the money from Mr Matariki because he held out that it was for the payment of a deposit for a lease transfer. However, no lease transfer has occurred and despite telling Mr Matariki through his wife Mrs Maseng that he would pay back the money, that has not occurred either.

60. Count 1 has been established beyond reasonable doubt.



Count 2

61. I find on the evidence that sometime between November 2022 and December 2022, Mr Lawac told Mrs Maseng that he was selling roofing iron sheets, at VT10,000 for 6 iron sheets x6 metres. I find that Mr Lawac told Mrs Maseng about his selling iron sheets immediately after he paid VT50,000 for her Canon camera therefore she trusted Mr Lawac and gave him VT10,000 as payment for iron sheets. However, despite Mr Lawac's multiple promises to deliver the iron sheets, he did not deliver any. Hence I find that Mr Lawac obtained VT10,000 from Mrs Maseng by means of deception.
62. I also find on the evidence that Mr Lawac dishonestly obtained the money from Mrs Maseng because he held out that it was for the purchase of iron sheets. However, no iron sheets were ever delivered despite the many occasions on which Mrs Maseng followed up with Mr Lawac for delivery of the iron sheets. It was not contested that in January 2023, Mr Lawac refunded the VT10,000 to Mrs Maseng. This underscores the Prosecution case. I find that Mr Lawac refunded Mrs Maseng VT10,000 following his phone conversation with the Police. I reject the suggestion that Mr Lawac refunded the VT10,000 as a result of threats made by her adult son. There was no evidence of any such threats.
63. Count 2 has been established beyond reasonable doubt.

E. Result

64. I return verdicts of guilty as to Counts 1 and 2. Mr Lawac is convicted as charged.

DATED at Port Vila this 13<sup>th</sup> day of February 2025  
BY THE COURT

*VM Trief*

Justice Viran Molisa Trief

