

PUBLIC PROSECUTOR

-V-

MANUEL LORENCE

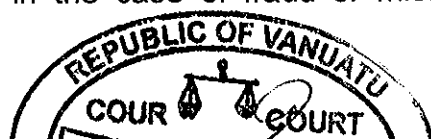
*Mr. Tevi for the State
Mr. Warsal for the Defendant*

ORAL SENTENCE

Mr. Manuel Lorence is for sentence. He has pleaded guilty to one count of false pretence contrary to section 125 (c) of the Penal Code Act. The maximum term of imprisonment is that of 12 years. I record that I read the pre-sentence report, the Prosecution's sentencing submissions and the sentencing submissions from Mr. Warsal for the Defendant in addition I perused the sworn statement of the Defendant which say he only received the sum of VT1,887,500 in part payment attached to the affidavit is a copy of the cheque from Ridgway Blake Lawyers as agents for the purchasers showing that amount. I record that I specifically enquired as to the ability of the defendant to immediately repay that amount.

I was told upon enquiry that he is willing to do so but doesn't have the current funds. The payment of reparation to put the intended purchaser back into the position they were prior to this criminal conduct by the defendant is an important feature of the sentencing.

Land in Vanuatu is of the highest value. Any dealing has the potential to attract criticism of all kinds. Almost daily in your papers there is something about land its value, sale or ways in which people have been dealing with it. It is essential that the Courts send a clear message that those who fraudulently deal with land will go to prison in my view without exception. It is difficult to imagine an exception. The integrity of the system of dealing with land must be beyond reproach. Registration of documents gives title except in the case of fraud or mistake.



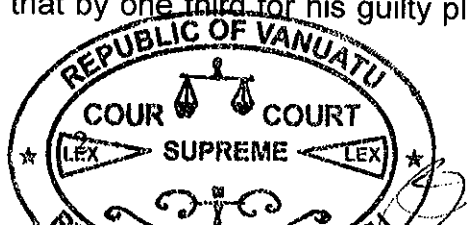
Registration is relied upon in all land transactions. To fraudulently obtain the registration of a lease and proceed to sell that interest strikes at the very heart of the system of registration. Fraud in relation to land has the potential to affect all who claim to have any interest or deal in it.

This type of conduct in my view requires a deterrent sentence. All should know, you chose to fraudulently involve yourself in land transactions actual imprisonment will be imposed unless there are exceptional circumstances. It is a message to be sent to the community to clearly denounce such conduct and obviously to protect the community. There must be a strong measure of deterrence in such sentencing.

I am told also upon enquiry there is as yet no rectification of the land register. This must be done immediately. One would think that this defendant would have signed an immediate surrender of the lease to endeavor to rectify that as soon as possible.

I record that both counsel's submissions suggest that the appropriate term of imprisonment is that of 2 years before giving this defendant credit for the mitigating features which are his lack of prior convictions, his contributions to the community and quite clearly his plea of guilty. A discount of one third for a plea of guilty would be normal in these circumstances. The report also emphasizes as I briefly mentioned this defendant's past contribution to the community. Of course that is precisely what he traded upon to achieve his ends with this fraudulent conduct.

I said having regard to the cases referred to by the Prosecution and the submissions of counsel a starting point of 2 years. I add to that the conduct of the defendant in achieving his fraud, his failure to make repayment of the reparation. Of course the deterrent feature of dealing in land with such fraudulent behavior. I then give him credit for that plea of guilty. The starting point of 2 year is increased to a term of 3 years, I then reduce that by one third for his guilty plea plus I give



him a further discount of 6 months for his past good behavior and contributions to the community.

He is therefore convicted and sentenced to 18 months imprisonment, I have given consideration to the provisions of section 57 in respect of suspension in my view, the offending involved with land is of such a grave nature that suspension in my view is inappropriate.

There is an order for compensation of VT1,887,500 to be paid to the lawyers Ridgway Blake as agents for the purchaser. I am unable because of the lack of information as to the ability of the defendant to set a time for such payment other than to accept what was offered to his counsel to order that that amount should be repaid within 3 months of this sentence.

You have 14 days to appeal my decision.

DATED at Port Vila, this 20th day of October, 2009.

BY THE COURT

