

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

Criminal Case No: 17 of 2015

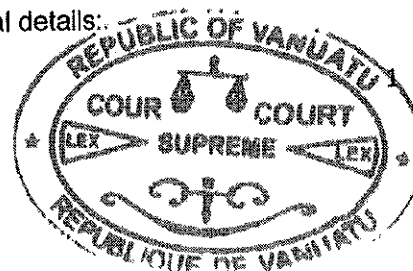
## PUBLIC PROSECUTOR VS REMY TARI

Coram: Justice Dudley Aru

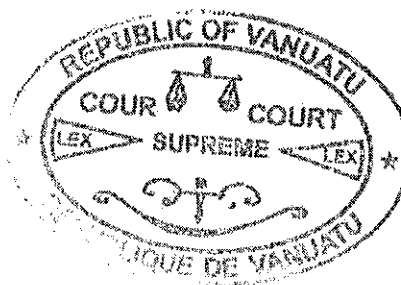
Counsel: Mr Ken Massing for Public Prosecutor  
Ms Jane Tari for the Defendant

### SENTENCE

1. Remy Tari you pleaded guilty to one count of sexual intercourse without consent contrary to s 90 b) and 91 of the Penal Code [Cap 135] on 14 April 2015 and you were convicted accordingly . You are here today to receive your sentence .
2. The brief facts as accepted by defence counsel on your behalf are that you committed the offence on 26 November 2014 on east Ambae at Navonda area . In the early hours of 26 November 2014 , the complainant with some of her relatives were returning from a dance in another village when her uncle saw that she was too drunk and told her to go and rest in her grandmother's house . You and Dominic instead of taking her to her grandmother's house left her in Dominic's kitchen to sleep . When Dominic and his wife went out to buy more beers, you took the complainant out of the kitchen and into nearby bushes and had sex with her . You removed both your clothes then had sex with her until you ejaculated. You then left the complainant there and fled the scene .
3. When you were cautioned by the Police you admitted the allegations .
4. Your presentence report discloses the following personal details:



- You are a first time offender and you are 18 years of age;
  - You completed your education at year 10 at Ambaebulu school.
  - You are a member of the Anglican Church;
  - You depend on your parents for financial support and do odd jobs for businessmen in your area to earn a small income from time to time .
5. You told your probation officer that the complainant is your aunt and you blame your consumption of too much alcohol for the offending . You are now remorseful over the incident . The assessment of your probation officer is that your lack of self control of your sexual urges coupled with the alcohol led you to commit the offence . The complainant told your probation officer that she felt she is no longer part of her community and had to move to luganville ,Santo to live with her aunt as a result of the incident.
6. Having sex with a girl without her consent is against the law and the maximum punishment for such an offence is imprisonment for life . I am guided by what the Court of Appeal has said **Public Prosecutor v Scott [2002] VUCA 29:**
- "the offence of rape is always a most serious crime .Other than in wholly exceptional circumstances , rape calls for an immediate custodial sentence ."
7. The sentence I impose on you today is punishment for your crime and it serves to emphasis public disapproval of such offending and also serves as a warning to others .
8. The starting point of your sentence is 5 years imprisonment. This is increased to 6 years imprisonment recognizing that your offending is aggravated by the fact that the complainant was mentally affected by the experience and moved out of her community



and relocated to Luganville. Factors submitted in mitigation by counsel on your behalf are that :

- You are 18 years old and a first time offender ;
  - You pleaded guilty at the first opportunity and you are remorseful for your actions;
  - You cooperated with the Police ;
  - You spent 2 months and 2 days remanded in custody
9. You pleaded guilty at the earliest opportunity therefore you are entitled to a full one third (1/3) discount of your sentence which is reduced to 4 years imprisonment. The two months and 2 days pre custody is rounded off to three months which is deducted leaving you with a sentence of 3 years 9 months imprisonment. Considering your age and as a first time offender I make a further deduction of nine months leaving you with an end sentence of 3 years imprisonment effective from today.
10. You have 14 days to appeal this decision if you are not happy with it.

DATED at Luganville this 22<sup>nd</sup> day of April 2015

BY THE COURT

DUDLEY ARU

Judge.

