

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

Criminal
Case No. 23/1027 SC/CRML

PUBLIC PROSECUTOR

v

CASABELLA LAKONE

Date: 19 September 2023
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Ms L. Lunabek
Defendant – Mrs K. Karu

SENTENCE

A. Introduction

1. The Defendant Casabella Lakone pleaded guilty to obtaining property by false pretence, contrary to ss 124 and 125(c) of the *Penal Code* [CAP. 135] (Charge 1) and to obtaining money by false or misleading statements, contrary to para. 130C(a) of the *Penal Code* (Charge 2).

B. Facts

2. In June 2022, Ms Lakone obtained property by false pretence when she obtained copies of 11 women's National I.D. cards with the promise that she would use the copy of their I.D. cards to find them a job (Charge 1).
3. Ms Lakone then used the National I.D. cards to borrow money from the technology company known as Hello Vanuatu. That company had since November 2021 offered small loans that could be obtained immediately via its microfinance solution in its system. The complainant is Celine Bareus, the owner of Hello Vanuatu.
4. Ms Lakone submitted a letter to Hello Vanuatu along with the I.D. cards in which she falsely stated that the women had elected that she obtain money from Hello Vanuatu



on their behalf. That resulted in Ms Lakone obtaining VT55,000 (VT5,000 for each of the 11 I.D. cards provided) on 30 June 2022 from Hello Vanuatu (Charge 2).

5. Ms Lakone admitted this conduct to the Police. She stated that she used the money obtained through this offending to pay off her debt with another money lender.

C. Sentence Start Point

6. The sentence start point is assessed having regard to the maximum sentences available, and the mitigating and aggravating factors of the offending.

7. The maximum sentences provided are:

- a. Obtaining property by false pretence – 12 years imprisonment; and
- b. Obtaining money by false or misleading statements – 12 years imprisonment.

8. There are no mitigating aspects of the offending.

9. The offending is aggravated by the following:

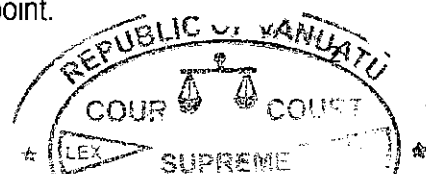
- 12 victims of the offending;
- Breach of trust;
- Planning; and
- The loss incurred by the complainant.

10. Ms Lunabek for the Prosecution cited *Gamma v Public Prosecutor* [2021] VUCA 62, *Public Prosecutor v Mala* [1996] VUSC 22 and *Public Prosecutor v Mael* [2010] VUSC 14 as previous relevant cases. I accept her submission that the defendant had placed herself in a position of trust vis-à-vis the complainants who gave her their National I.D. cards so that she could find them a job. Both counsel submitted that a 12-16 months sentence start point was appropriate. I adopt a global sentence start point of 12 months imprisonment.

11. Ms Lakone has a previous conviction, for theft, which was committed in June 2019 and for which she was sentenced in December 2022 to a suspended sentence, 100 hours community work and 12 months supervision: *Public Prosecutor v Lakone* [2022] VUSC 216. Ms Lunabek submitted that a 6-month uplift was appropriate. Mrs Karu submitted that the offending in the present matter and in the previous matter occurred before Ms Lakone received her prior conviction therefore it would be fairer to amalgamate both cases for a concurrent sentence. In the circumstances, I decline to uplift the sentence start point.

D. Mitigation and Time Served

12. Ms Lakone cooperated with the Police and pleaded guilty at the first opportunity. For these factors, I deduct one third from the sentence start point.



13. Ms Lakone is 31 years old, with one prior conviction. She is a single mother to 3 young children. She is currently unemployed. She had a job at a Korean restaurant in town but due to her bail condition restricting her movement after 6pm, she could not work the night shift and has resigned awaiting the outcome of the present matter. She intends to repay the money to Ms Bareus and made first instalment of repayment of VT10,000 on 15 September 2023. She is awaiting being freed of the restriction in her bail conditions to resume work and complete repayment.

14. No doubt Ms Lakone's employment was also affected by her being remanded in custody from 3 November 2022 to 24 February 2023. This was 2 days shy of 4 months in custody, an effective sentence of nearly 8 months imprisonment.

E. End Sentence

15. I would have imposed an end sentence of 8 months imprisonment. However, as Ms Lakone has already served an effective sentence of imprisonment of nearly 8 months, I consider that to be a sufficient sentence.

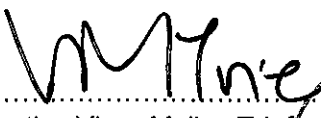
16. The Court has a discretion pursuant to s. 57 of the *Penal Code* whether or not to activate a previously suspended sentence in the event that the defendant is further convicted of an offence within the period of suspension. Given Ms Lakone's immediate plea of guilty and that the offending the subject of the present matter occurred before the suspended sentence was imposed, I consider that it would be unjust to activate the suspended sentence and decline to do so pursuant to paras 57(1)(c) and (d)(ii) of the *Penal Code*.

17. To avoid doubt, the suspended sentence, community work and supervision orders imposed in *Public Prosecutor v Lakone* [2022] VUSC 216 remain in place.

18. Ms Lakone has 14 days to appeal the sentence.

DATED at Port Vila this 19th day of September 2023

BY THE COURT


Justice Viran Molisa Trief

