

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

Criminal
Case No. 23/952 SC/CRML

PUBLIC PROSECUTOR

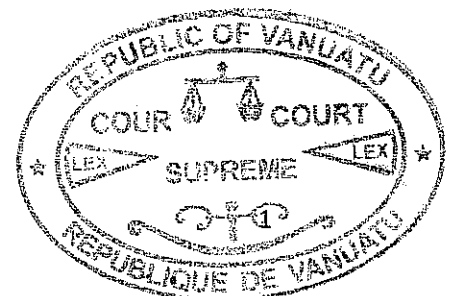
v

GINO LAWAC

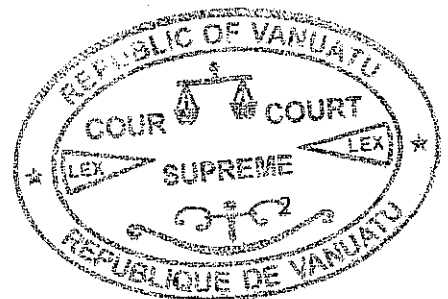
Date: 26 March 2025
Before: Justice V.M. Trief
Counsel: Public Prosecutor – Mr S. Blessing
Defendant – Ms J. Tari

SENTENCE

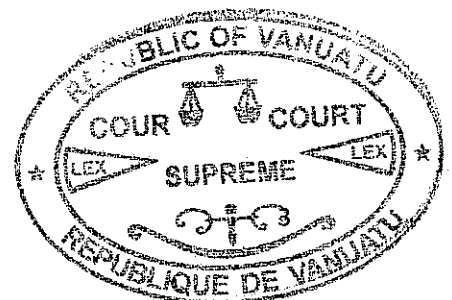
1. Mr Gino Lawac, you appear for sentence today having been found guilty after trial of 2 charges of obtaining money by deception contrary to s. 130B of the *Penal Code* [CAP. 135].
2. Between November 2022 and December 2022, you told James Matariki that if he paid a deposit, that you would transfer a lease to him. Mr Matariki gave you a cheque for the deposit, but then you said that the payment had to be in cash and paid in full before your release from custody in December 2022 and before a meeting scheduled with a Mr Lethizie on 27 December 2022 when you would sign the lease transfer documents. Mr Matariki paid VT260,000 to you as a deposit for a lease transfer by instalments which he, his wife Judith Maseng and niece Marian Naka delivered at different times to you at the Tropical Market Correctional centre, via the sentry gate. Mr Matariki, Mrs Maseng and you communicated by phone, Facebook and Messenger prior to making payment and you confirmed each time that you had received the payment. You had access to a phone and could keep over VT5,000 cash for the reasons given in Mr Leo's evidence.



3. You received all of the VT260,000, however there was no meeting on 27 December 2022 or at all, and no lease has been transferred to Mr Matariki. Mr Matariki paid the VT260,000 to you after a series of interactions between you, Mr Matariki and Mrs Maseng which resulted in Mr Matariki and Mrs Maseng trusting you and even regarded you as family.
4. You said that you would refund half of the VT260,000 to begin with and then the rest later. However, you have not paid back any of the money to Mr Matariki. The evidence of the Correctional officers as to the money they received and brought to you did not total VT260,000 however I accepted and found on Mr Matariki's evidence as the person who sent the money that he paid a total of VT260,000. Given the foregoing, I found that you obtained VT260,000 from Mr Matariki by means of deception.
5. I also found on the evidence that you dishonestly obtained the money from Mr Matariki because you 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 you would pay back the money, that has not occurred either (Count 1).
6. Sometime between November 2022 and December 2022, you told Mrs Maseng that you were selling roofing iron sheets, at VT10,000 for 6 iron sheets x6 metres. You told Mrs Maseng about your selling iron sheets immediately after you paid VT50,000 for her Canon camera therefore she trusted you and gave you VT10,000 as payment for iron sheets. However, despite your multiple promises to deliver the iron sheets, you did not deliver any. Hence I found that you obtained VT10,000 from Mrs Maseng by means of deception.
7. I also found on the evidence that you dishonestly obtained the money from Mrs Maseng because you 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 you for delivery of the iron sheets. In January 2023, you refunded the VT10,000 to Mrs Maseng following your phone conversation with the Police. I considered that this simply underscored the Prosecution case (Count 2).
8. The sentence start point is assessed having regard to the maximum sentence available, and the mitigating and aggravating factors of the offending.
9. The maximum sentence prescribed in the *Penal Code* [CAP. 135] for this offence is 12 years imprisonment (s. 130B).



10. The mitigating factor of the offending is that as to Count 2, you have refunded VT10,000 to Mrs Maseng.
11. The aggravating factors of the offending include:
- Severe breach of trust;
 - Significant degree of planning and premeditation;
 - Two victims;
 - The offending involved a series of transactions with the defendant's ongoing deceptive conduct escalating over time, as he continued to make false promises to the victims;
 - The loss suffered by the victims with no prospect of reparation for the victim who suffered the larger financial loss; and
 - The emotional harm suffered by the two victims.
12. The factors set out above require a global sentence start point of 2 years imprisonment.
13. You told the pre-sentence report writer that you are 37 years old. I note that in *Public Prosecutor v Lawac* [2021] VUSC 10, dated 27 January 2021, you were recorded as being 40 years old. Your Certificate of Previous Convictions from the Vanuatu Police Force, attached to the Prosecution's sentencing submissions, states your date of birth to be such that you are now 38 years old. You denied all the offending to the pre-sentence report writer hence you are not remorseful for the offending. You are stated to be willing to perform a custom reconciliation however have not performed one nor have you paid any compensation to the complainants. There can be no reduction from the sentence start point for these unexceptional personal factors.
14. You have previous convictions. By the Prosecution's count, you have a total of 30 prior dishonesty convictions, and one of indecent assault, spanning a period of 21 years. The Prosecution submitted that the persistent pattern of fraud in your criminal record and a clear failure to reform demand an uplift which more appropriately reflects your recidivism and ongoing disregard for the law, reinforces general and specific deterrence, and upholds public confidence in the criminal justice system. I agree. Accordingly, I set an uplift from the sentence start point of 1 year.
15. Taking these matters into account, the end sentences imposed are 3 years imprisonment (Count 1) and 1 year imprisonment (Count 2). The sentences are to run concurrently.



16. You have been remanded in custody since 23 June 2024. The sentence start date is accordingly back-dated to 23 June 2024 to take into account the time that you have already served and to preserve your parole rights.
17. The sentencing principles applicable in this case are holding you accountable for your criminal conduct, protecting the community, to denounce the criminal conduct, and to deter you and others from acting in this manner in future.
18. The offending is serious, and the repeat nature of your offending dictates that a suspension of any part of the sentence is simply not appropriate. Only a term of actual imprisonment can properly address the gravity of your actions, provide sufficient specific and general deterrence, and protect unsuspecting members of the community from you.
19. You have 14 days to appeal the sentence.

**DATED at Port Vila this 26th day of March 2025
BY THE COURT**

VM Trier
Justice Viran Molisa Trier

