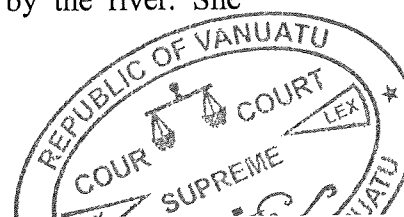


PUBLIC PROSECUTOR VS- TANGO LOPEZ

Coram: Mr. Justice Oliver A. Saksak
Counsel: Damien Boe for the Public Prosecutor
Jane T Aru for the Defendant
Date of Plea: 6th March 2018 and 27th March 2019
Date of Sentence: 29th March 2019

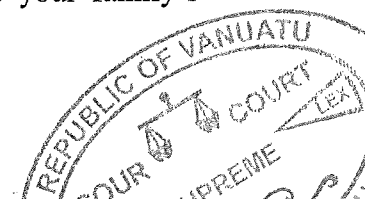
SENTENCE

1. Tango Lopez you initially pleaded not-guilty on 6th March 2018 to one count of attempted sexual intercourse without consent and one count of act of indecency without consent. You however pleaded guilty to one count of act of indecency without consent.
2. On 24th March 2019 you were rearraigned and you then pleaded guilty to the charge of act of indecency without consent but not guilty to the attempted sexual intercourse without consent. The prosecution applied for nolle prosequi under section 29 of the Criminal Procedure Code Act [CAP 136] and the Court entered nolle prosequi. You have been acquitted of that serious charge.
3. You are here today for sentence only in relation to the two remaining charges of act of indecency without consent. The maximum penalty for this offence is 7 years imprisonment.
4. The facts are simple. On 2nd January 2018 at about 7:00am at Lelevea Village you held onto a 22 year old women by the name of Racheal John. You touched her breasts and her vagina. You have admitted doing these.
5. Rachael John was intending to go for a swim in the river. You are related to her. You followed her and asked her for sex. She told you off because you are her “ brother”. You left her for a while but followed her again, grabbed her by the river. She



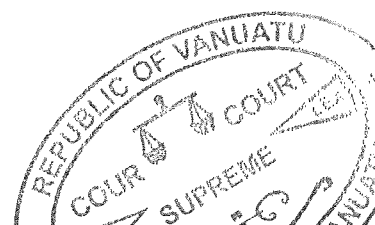
struggled hard to get free. In the struggle her t-shirt was broken. During the struggle you touched her breasts and her vagina. She struggled harder and called out then you let go of her. She then ran back to the village and reported the incident to one of her mothers by the name of Hamelton. You swore at her. You have accepted those facts. You had a absolutely no reason or excuse to do this. You are a married man.

6. Taking all these factors together with the seriousness of your offendings I consider the appropriate punishment for you is to be a custodial sentence. And the starting sentence shall be 2 years imprisonment for the charge in count 2 and 2 years imprisonment for the charge in count 3. These sentences are to be served concurrently.
7. In consider there should be an uplift of 2 years for the following aggravating features- Breach of trust, force used, damage done to the complainant's clothes, and the abusive language thrown at her.
8. Your concurrent sentence is now 4 years imprisonment. You are convicted and sentenced to a concurrent sentence of 4 years imprisonment.
9. Courts have a duty to impose sentences that are fittingly appropriate for offences committed but also to impose punishments that act as a deterrence to you as the offender and other like-minded person, to mark public disapproval of your actions, and to protect the young, the weak and vulnerable members of the society. And it is for those purposes that the Court is sentencing you this way today.
10. I now consider your mitigating circumstances. I have seen your same Day Report and note that you are a married men with one child who died recently on 24th March 2019. This has sparked up some disagreement between you and your wife but you have managed to contained and resolved the situation. You have contributed well to your community. Your wife says you are a good and supportive husband. You have apologised to her for your behaviour. Your father speaks well of you. You were President of your church assembly in 2018 and a regular attendee. Your desire to be an elder of the church in the future. Your ambition is to improve your family's



standard of living by building a good house. You support yourself and your family by seeking garden produce and copra occasionally. You attended studies at INTV but unable to complete due to financial difficulties. You have no ill health except for a knee problem. You are skilful in carpentry. You are 26 years old. You were kept in remand from 9th February 2018 to 6th March 2018 when you were released on bail. You are currently on bail.

11. For your offending you said you were under the influence of alcohol. You later realised your mistake and returned to apologise to the complainant. And you have sought forgiveness from God. You have apologised also to the Court for breaking the law. You are currently looking after your grandfather who has suffered a stroke. However there is no medical certificate to confirm this. You performed a custom fine of a pig worth VT 5.000 and a mat valued at VT 2.000 but these were given to the victim's uncles instead of to the victim. Chief Philip Rue confirms this and verified by Frederick Warag. You have no previous criminal history.
12. I deduct 12 months (1 year) for your total sentence for custom fine, apology and remorse, and clean past record. Your end sentence is now 3 years imprisonment.
13. You are entitled to a further 1/3 reduction for your early guilty plea in March 2018. 12 months are deducted from 3 years leaving the balance of 2 years imprisonment.
14. I consider your offending fall within the lower end of the scale of this kind of offending. And for your other factors personal to you, your sentence of 2 years imprisonment is suspended for a period of years on good behaviour. This is imposed under section 57 of the Penal Code Act. If you commit this offence again or any other criminal offence for which you would be charged and convicted, you will go to prison to serve your term of 2 years imprisonment.
15. In addition I sentence you to community work of 60 hours pursuant to section 58N and 58P of the Act. You must perform your 60 hours within 12 months from the date hereof. If you fail to do so the Probation Officer will report to the Court and your sentence will be reviewed. You must report to the Probation Officer as soon as



practicable, not later than 72 hours to discuss further your sentence of community work.

16. That is the sentence of the Court. You have a right of appeal against this sentence within 14 days, if you are not happy with it.

DATED at Betarara, North Maewo, this 29th day of March 2019

BY THE COURT


OLIVER.A.SAKSAK*

Judge

