

PUBLIC PROSECUTOR
V
FLORIE GRACE BAHOR

Coram: Hon. Chief Justice V. Lunabek

Counsel: L Lunabek for the State
J T Aru for the Defendant

Date of Plea: 7 June. 2022

Date of Sentence: 23 June 2023

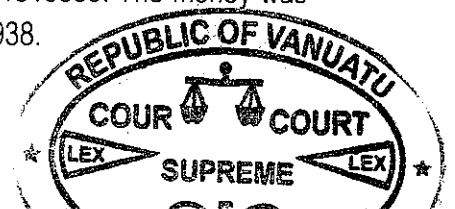
SENTENCE

A. Introduction

1. Defendant Florie Grace Bahor ("FGB") appears today for sentence. On 7 June 2022, she had entered guilty pleas on three (3) Counts of Money Laundering, contrary to Sections 11(2)(a) and 11(2)(b) of the Proceeds of Crime (Amendment) Act No. 09 of 2017.

B. Facts

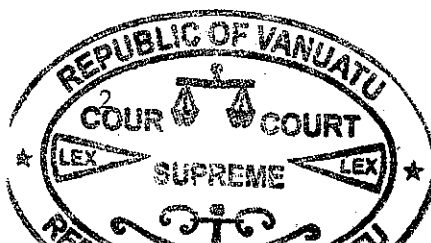
2. The facts were these. The offences of money laundering were committed around the month of August 2017.
3. The complainant is one Garry Morrison, a New Zealander, who had an ANZ Bank account number: 1813539 in August 2017.
4. The complainant Mr Garry Morrison noticed that money was being transferred out from his ANZ Bank Account Number 1813539 into the defendant's ANZ Bank Account Number: 1851938.
5. A total of VT450,000 was debited from his ANZ Bank Account Number: 1813539. The money was credited into Mrs Florie Grace Bahor's ANZ Bank Account Number 1851938.



6. Defendant Florie Grace Bahor was communicating with a person in Malaysia around August 2017 via Facebook.
7. She was told by the person she was communicating with, that he owned a furniture company and the proceeds of sale of the furniture would come into her account.
8. Defendant Bahor at the time did not have any ANZ Bank account, so she went and opened the ANZ account of 1851938 on the 17th of August 2017.
9. She opened it as a savings account on the 17th of August 2017. The account was established under her name and also she is the sole signatory to the account.
10. Around the following dates, those following transactions were made from Mr Gary Morrison's account into Defendant Bahor's ANZ account 1851938:

Date	Amount debited	Account debited from	Account credited to
24 August 2017	VT50,000	Gary Morrison ANZ Account number: 1813539	Florie Grace Bahor ANZ Account number: 1851938
24 August 2017	VT50,000	Gary Morrison ANZ Account number: 1813539	Florie Grace Bahor ANZ Account number: 1851938
25 August 2017	VT50,000	Gary Morrison ANZ Account number: 1813539	Florie Grace Bahor ANZ Account number: 1851938
25 August 2017	VT50,000	Gary Morrison ANZ Account number: 1813539	Florie Grace Bahor ANZ Account number: 1851938
28 August 2017	VT50,000	Gary Morrison ANZ Account number: 1813539	Florie Grace Bahor ANZ Account number: 1851938
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11. A total amount of VT450,000 was debited from Mr Gary Morrison's ANZ Account number 1813539 into Mrs Bahor's ANZ account number 1851938.
12. A complaint was made on the 6th September 2017 by Mr Gary Morrison in relation to some suspicious transactions made out of his ANZ Bank account number 1813539 made on several dates.
13. After the money was transferred into the defendant's ANZ Bank Account, the money was withdrawn and remitted to Malaysia.



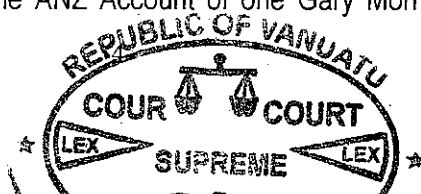
14. There were 2 people involved in the withdrawals and the remittance of funds to Malaysia. Defendant Bahor herself as well as her daughter, Ms Jenny Bahor.
15. There were three different occasions where defendant Bahor had made withdrawals from her account after the transfer from the complainant's account were made.
16. On 25th of August 2017, an amount of VT1,000 was withdrawn from the ATM machine from defendant Bahor's ANZ Account Number: 1851938.
17. On 25th of August 2017, an amount of VT200,000 was withdrawn from Mrs Bahor's ANZ account Number: 1851938.
18. On the 28th of August 2017, an amount of VT250,000 was withdrawn from Mrs Bahor's ANZ account number: 1851938.
19. The money withdrawn from Mrs Bahor's account were then remitted to Malaysia.
20. On 25th of August 2017, an amount of VT180,000 was remitted via Western Union Vanuatu Post to an individual by the name of Paulson Fred in Malaysia. Ms Jenny Bahor, following the instructions of her mother Mrs Florie Grace Bahor, made the withdrawals at the ANZ bank account.
21. Jenny Bahor also was the one who remitted the funds to Malaysia. She remitted VT172,140 with a transfer fee of VT7,860 and kept a commission of VT20,000. She used Florie Grace Bahor's ANZ ATM card as identification.
22. On 28th August 2017, an amount of VT225,000 was remitted via Western Union Vanuatu Post to an individual named Paulson Fred in Malaysia. Ms Florie Grace Bahor was the one who withdrew that amount at the Bank and then remitted the funds into Western Union towards Malaysia.
23. The amount of VT216,031 was transferred to Malaysia and the transfer fee was VT8,969.
24. Defendant Bahor had a total of VT450,000 transferred into her ANZ Bank account. She withdrew from that amount in her account a total of VT405,000. She kept a total of VT45,000 in her account.
25. The total amount that was transferred to Malaysia without the transfer fees was VT388,171.
26. In her record of interview of 19th of March 2019, defendant Bahor admitted to having communicated with a person in Malaysia although she does not recall the name.
27. She admitted that the person in Malaysia had told her that he was owning a furniture business and said that when people were buying furniture then the money collected would go inside her account. She was then asked to withdraw and send it to him.



28. She said that she does not know Paulson Fred but that was the name she was given by the person in Malaysia to transfer the money to, through Western Union.
29. She was given information via Facebook that the money had been transferred into her ANZ account and was instructed to withdraw the money and transfer it to Paulson Fred in Malaysia via Western Union.
30. She gave instruction to Jenny Bahor her daughter to do withdrawals at the ANZ Bank.

C. Sentence Start Point

31. The offence of money laundering carries a maximum sentence of, if committed by a natural person, of a fine not exceeding VT50 million or imprisonment not exceeding 25 years or both [see Proceeds of Crime (Amendment) Act 2017 (No. 9 of 2017) which commenced on the 16th of June 2017].
32. The prosecution submitted that in this case, the following aggravating factors exist:
 - (i) The defendant having doubts about the provenances of the money in her account but still proceeded to transfer the funds back to Malaysia. The person she was contacting had a different name than the person she was transferring money to in Malaysia.
 - (ii) The defendant did not take steps to at least check the company information, if the company was a legitimate company.
 - (iii) The defendant did not take steps to check the provenance of the money that she was receiving inside her ANZ Bank account.
33. The defence submitted that the offence is based on the fact that there was no due diligence check on the genuinity of the business and the owner including all factors related thereof. Failure to check the origins of the monies siphoned into the defendant's account form part of the element of Section 11(2)(a) and (b).
34. I agree with the defence submission above and that there are no aggravating factors for this particular offending.
35. In the present case, defendant Bahor was in contact with a person in Malaysia in or about August 2017. In August 2017, she opened a bank account at the ANZ Bank, Port Vila as she did not have an account in that bank in her own name. From 24 August 2017 to 28 August 2017 a total amount of VT450,000 was debited from the ANZ Account of one Gary Morrison into Mrs Bahor's ANZ

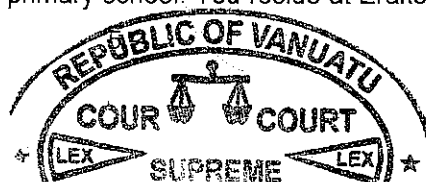


Account. After the money was transferred into Defendant Bahor's bank account, she and her daughter (Ms Jenny Bahor) withdrew and remitted the money to Malaysia. Defendant Bahor withdrew and remitted the funds to Malaysia on 3 separate occasions in August 2017. The total money she withdrew from her account was VT405,000. She kept VT45,000 in her account. The total amount she transferred to Malaysia without the transfer fees was VT388,171.

36. Those are the circumstances of the offending to be considered as part of the assessment of the culpability of the offending. The circumstances of the offending occurred within 4 days in August 2017. It was coupled with the transfer of VT450,000 into the defendant's ANZ Bank custom's account. The defendant with the assistance of her daughter withdrew and remitted the monies overseas (Malaysia). A total of VT405,000 was transferred and remitted to unknown person in Malaysia. The actions of the defendant were pivotal to the fraud offences in the opening of an ANZ Bank account in 2017 as she did not have one account in that bank. She withdrew and remitted the monies overseas as instructed. She was careful to disguise the withdrawal and remittances of the monies overseas by using her daughter. The defendant was involved in three (3) specific withdrawals and remittances of monies overseas.
37. According to case law, the actions of the defendant can be termed as "*the simplest version*" of the offence with the lowest degree of culpability when comparing with the culpability of the real scammer unbeknown to the Court and the defendant, who hacked ANZ Bank customer database and illegally accessed the victim's bank accounts (see *Sumbe v Public Prosecutor* [2018] VUCA 56; *Public Prosecutor v Steve Bani* [2018] VUSC 70 and others).
38. The prosecutor submitted a sentence start point between 4 and a half and 5 years imprisonment for all counts concurrently based on the case of *Sumbe v Public Prosecutor* [2018] VUCA 56. The defence counsel reminded the Court that the *Sumbe* case involved 15 charges of money laundering under the old regime before the amendment of the Proceeds of crimes Act [CAP. 284] where the penalty was 10 years imprisonment or 10 million fine or both. Factually, the case of *Sumbe* is a little more serious than the present case. This said, I must take into consideration the new maximum sentence set under the Proceeds of Crimes (Amendment) act No. 09 of 2017 as part of a matrix for the purpose of considering a sentence start point, coupled with a fast scheme where an amount of VT450,000 was transferred into the defendant's account and an amount of VT405,000 was transferred and remitted out of the country (in Malaysia) within a duration of 4 or 5 days by the defendant and assisted by her daughter.
39. I set 4 years imprisonment as an appropriate start point sentence in the circumstances of this case.

D. Mitigating Factors

40. In mitigation, the pre-sentence report shows defendant Florie Grace Bahor, you are married with five (5) children and 3 of them attended primary school. You reside at Erakor Half Road. Your husband



and you own a construction company. You are a first time offender. You do not have a previous conviction. You have a clean record. You have good relationship with your family. You are in good health.

41. You looked after the women in flowery business where you reside at Erakor Half Road. Your chief and the members of your community spoke highly of you as an active lady member and well-respected community member in your community. Your chief is ready to assist you should a community based sentence is imposed on you.
42. You felt sorry for your offending and you showed insight to you offending. You regretted all your wrongful actions. You said you had learnt a lesson. You advised that you will never repeat the same offence again in the future. It is noted that you said you had reimbursed all the money in cash (VT144,000) to the ANZ Bank, though, no confirmation was obtained from the bank.
43. I give you an allowance of 12 months reduction. The balance remaining is 3 years imprisonment.
44. You pleaded guilty to these three counts of money laundering in the first opportunity given to you by the authorities. I give you a one third reduction for your guilty pleas. Your sentence is further reduced to 24 months. That is your end sentence.
45. I consider whether or not your end sentence of 24 months imprisonment could be suspended. I bear in mind of the circumstances of your offending, your personal circumstances described in the pre-sentence report. I bear also in mind of the deterrence to you and others in this type of offending. I note the prosecution submissions were not against the suspension of your imprisonment sentence. I suspend your end sentence of 2 years for a period of 2 years. I explain to you the effect and consequence of the suspension of 2 years period of your imprisonment sentence. You understand it.
46. You have 14 days to appeal this sentence if you are unsatisfied with it. This 14 days starts today.

Dated at Port Vila, this 23rd day of June 2023

BY THE COURT

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Vincent LUNABEK
Chief Justice.

