



**Public Prosecutor**

**AND**

**Mohd Hajidin bin Mahmud**

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**(High Court of Brunei Darussalam)  
(Criminal Trial No. 11 of 2014)**

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**Steven Chong, J.  
28 August 2014**

Criminal law – Sentence – Multiple house-breaking offences.

PO Shamshuddin Bin Hj Kamaluddin for the Public Prosecutor.  
Defendant unrepresented.

**Case cited:**

*Mohammad Joll bin Tumih and Another v Public Prosecutor* [Criminal Appeal No. 5 of 2005].

**Steven Chong, J.:**

The defendant pleaded guilty to the following 7 charges:

***“1<sup>st</sup> Charge***

*That you, on the 22<sup>nd</sup> day of June 2014, at about 7 p.m., after sunset and before sunrise, at Istana Edinburgh, Jalan Perdana Menteri, Bandar Seri Begawan, in Brunei Darussalam, did commit house-breaking by night by entering into a building belonging to His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam, used as a human dwelling in order to the commission of an offence punishable with imprisonment, to wit, theft and you have thereby committed an offence punishable under section 457 of the Penal Code.*



## **2<sup>nd</sup> Charge**

*That you, on the 22<sup>nd</sup> day of June 2014, at about 7 p.m., at Istana Edinburgh, Jalan Perdana Menteri, Bandar Seri Begawan, in Brunei Darussalam, did commit mischief by causing damage to a door with a crowbar to the amount of \$5,000 and you have thereby committed an offence punishable under section 427 of the Penal Code.*

## **3<sup>rd</sup> Charge**

*That you, on the 25<sup>th</sup> day of June 2014, between 2 am and 5 am, after sunset and before sunrise, at Istana Nurul Iman, Jalan Raja Isteri Pengiran Anak Saleha, Bandar Seri Begawan, in Brunei Darussalam, did commit lurking house-trespass by night by entering into a building belonging to His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam, used as a human dwelling in order to the commission of an offence punishable with imprisonment, to wit, theft and you have thereby committed an offence punishable under section 457 of the Penal Code.*

## **4<sup>th</sup> Charge**

*That you, on or about the 27<sup>th</sup> day of November 2009, between 2 am and 5 am, after sunset and before sunrise, at Istana Nurul Iman, Jalan Raja Isteri Pengiran Anak Saleha, Bandar Seri Begawan, in Brunei Darussalam, did commit lurking house-trespass by night by entering into the building belonging to His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam, used as a human dwelling in order to the commission of an offence punishable with imprisonment, to wit, theft and you have thereby committed an offence punishable under section 457 of the Penal Code.*

## **5<sup>th</sup> Charge**

*That you, on or about the 5<sup>th</sup> day of July 2009, at night after sunset and before sunrise, at Istana Nurul Iman, Jalan Raja Isteri Pengiran Anak Saleha, Bandar Seri Begawan, in Brunei Darussalam, did commit lurking house-trespass by night by entering into the building belonging to His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam, used as a human dwelling in order to the commission of an offence*



*punishable with imprisonment, to wit, theft and you have thereby committed an offence punishable under section 457 of the Penal Code.*

#### **6<sup>th</sup> Charge**

*That you, on or about the 17<sup>th</sup> day of October 2005, at night, after sunset and before sunrise, at Istana Nurul Iman, Jalan Raja Isteri Pengiran Anak Saleha, Bandar Seri Begawan, in Brunei Darussalam, did commit house-breaking by night by entering into the building belonging to His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam, used as a human dwelling in order to the commission of an offence punishable with imprisonment, to wit, theft and you have thereby committed an offence punishable under section 457 of the Penal Code.*

#### **7<sup>th</sup> Charge**

*That you, sometime in July 2005, at night after sunset and before sunrise, at Istana Nurul Iman, Jalan Raja Isteri Pengiran Anak Saleha, Bandar Seri Begawan, in Brunei Darussalam, did commit house-breaking by night by entering into the building belonging to His Majesty the Sultan and Yang Di-Pertuan of Negara Brunei Darussalam, used as a human dwelling in order to the commission of an offence punishable with imprisonment, to wit, theft and you have thereby committed an offence punishable under section 457 of the Penal Code.”*

Additionally, the defendant admitted to the following 3 offences which he asked to be taken into consideration in the sentence to be imposed pursuant to section 13A of the Criminal Procedure Code (“T.I.C. offences”):

- “1) That you, on the 22<sup>nd</sup> day of June 2014, at about 7 p.m. at Istana Edinburgh, Jalan Perdana Menteri, Bandar Seri Begawan, in Brunei Darussalam, did commit mischief by causing damage to a large bowl with decorative horse-shaped legs to the amount of more than \$25 and you have thereby committed an offence punishable under section 427 of the Penal Code.*
- 2) That you, on or about the 17<sup>th</sup> day of October 2005, at Istana Nurul Iman, Jalan Raja Isteri Pengiran Anak Saleha, Bandar Seri Begawan, in Brunei Darussalam, did commit mischief by causing damage to a sliding door to the amount of more than \$25 and you have thereby*



*committed an offence punishable under section 427 of the Penal Code.*

- 3) *That you, sometime in July 2005, at Istana Nurul Iman, Jalan Raja Isteri Pengiran Anak Saleha, Bandar Seri Begawan, in Brunei Darussalam, did commit mischief by causing damage to a sliding door near Balai Kenangan Al-Marhum Begawan to the amount of more than \$25 and you have thereby committed an offence punishable under section 427 of the Penal Code.”*

The defendant admitted unreservedly to the ‘*Statement of Facts*’ in which the particulars of the commission of the offences have been set out.

Reference was made by the Prosecution Officer to *Mohammad Joll bin Tumih and Another v Public Prosecutor* [Criminal Appeal No. 5 of 2005] to assist the court in determining sentence.

The defendant, who is aged 45, urged the court to take into account his guilty plea and clear record and to impose a lenient sentence.

I do give full credit to the defendant for his guilty plea and clean record but there is no room for leniency. House-breaking is a serious offence. Those who enter Brunei Darussalam to commit house-breaking in order to steal must expect the sentences to be severe. Public interest demands a deterrent sentence. A lenient sentence will not deter.

Considering the defendant had come from Sabah on six separate occasions between July 2005 to 22 June 2014 to commit these offences, and that valuable items were stolen and sold by him for profit, the sentences shall be as follows (one third discount is given on each charge for the guilty plea):

- 1<sup>st</sup> Charge: 3 years and 2 strokes.
- 2<sup>nd</sup> Charge: 1 year and 2 strokes.
- 3<sup>rd</sup> Charge: 3 years and 2 strokes.
- 4<sup>th</sup> Charge: 3 years and 2 strokes.
- 5<sup>th</sup> Charge: 3 years and 2 strokes.
- 6<sup>th</sup> Charge: 3 years and 2 strokes.
- 7<sup>th</sup> Charge: 3 years and 2 strokes.



In respect of the T.I.C. offences the sentences shall be 1 year and 2 strokes on each offence.

Having regard to the overall criminality of the offences the sentences of imprisonment on the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup> Charges and 1 year on the 5<sup>th</sup> Charge are to be consecutive and the strokes cumulative. The sentences of imprisonment on the 2<sup>nd</sup>, 6<sup>th</sup> and 7<sup>th</sup> Charges and on the T.I.C. offences are to be concurrent and the strokes non-cumulative.

In the result the sentence is 10 years and 8 strokes. A sentence of 15 years would have been imposed if the defendant had been convicted after a trial.

**DATO PADUKA STEVEN CHONG**  
Judge, High Court