

ABDUL RAHMAN BIN HAJI ABDUL HAMID

AND

PUBLIC PROSECUTOR

**(Court of Appeal of Brunei Darussalam)
(Criminal Appeal No. 2 of 2016)**

Before: Mortimer P, Burrell and Seagroatt JJ A.
12th May 2016

Headnote: Convicted after trial of theft of \$100,000 from employers. Breach of Trust by security company supervisor. Sentence of 3 years 6 months. Appeal against sentence dismissed.

Applicant in person
DPP Kamaliah Fadhilah Hj Ibrahim for Respondent

Case cited in the judgment:

Samson bin Purad (D1), Pg Mohd Irwan bin Pg Hj Mahmud (D2), Hamdi bin Admin@Jini (D3) V Public Prosecutor (Criminal Appeal No 21 Of 2014)

Seagroatt, JA.:

This applicant was convicted after trial before Judge Hj Abdullah Soefri bin POKSM DSP Hj Abidin on the 7th March 2016. His trial commenced in April 2015 but was not concluded until October 2015. Judgment was not delivered for at least another 5 months. The offence of which he was convicted was that of committing a criminal breach of trust in respect of property belonging to his employer, the security company G4S. In short he stole BND \$100,000 of their money. He was charged with three other employees all of whom pleaded guilty, and gave evidence against him of the circumstances in which the theft was carried out, which evidence was accepted by the trial judge. He now appeals against his sentence of 3 years and 6 months.

He was employed by G4S as a supervisor at the time of the offence having commenced employment with the company in November 2012. The offence was committed in July 2014.

He was in charge of teams delivering monies collected from banks to branches of the Bank of Islam of Brunei Darussalam. On the occasion in question he instructed a team comprised of the other three defendants.

The amounts of money to be delivered were set out on a daily trip sheet together with the various bank branches which were to receive the monies. The schedule was as follows:

BIBD main branch	\$4 million
BIBD ATM	\$4.9 million
BIBD Seri branch	\$850,000
BIBD Tanjung Bunut	\$705,000
BIBD Manggis Bunut	\$650,000

The first four scheduled deliveries were carried out properly and in accordance with the instructions, save that the amount in the security bag scheduled for delivery to Tanjung Bunut was \$100,000 more than the amount to be received and acknowledged by it. In other words there was \$805,000 in the bag for that branch. This excess sum was put in a new sealed bag.

This apparent surplus should in fact have been in the bag to be delivered to Manggis Bunut branch in order to ensure that this branch did receive the amount intended for it viz. \$650,000. In fact that branch's bag contained only \$550,000. Nonetheless, in error, the sum of \$650,000 was recorded as received by Manggis Bunut.

The so-called surplus was brought back to the headquarters of G4S and the appellant, as supervisor of the team, was informed.

In short the appellant decided to steal it and share it with the other three defendants as the members of the team which had made the scheduled deliveries.

Unfortunately for them it came to light quite quickly. An employee of Manggis Bunut telephoned to say their books did not balance and they were \$100,000 short on their delivery. They made an error on the fax recording this by stating that they should have received \$550,000 – they intended to say \$650,000. Once this was clarified G4S knew that \$100,000 was missing and set about tracking it down.

Although the appellant sought to create a complicated defence with his co-defendants it was not effective. He and his co-defendants, to whom he had already distributed some of the money, were arrested. The co-defendants revealed what had happened.

The appellant was sentenced to a term of 3 years 6 months imprisonment, a starting point of 4 years having been decided upon by the Judge, discounted by 6 months to reflect the clear record. The appellant was also ordered to pay compensation of \$32,500 the amount from which he benefited after distributing the balance to his co-defendants. His co-defendants had their sentence reduced on appeal to terms of 27 months each and ordered to pay compensation in the sum they received, subject to whatever was recovered as still in their hands. The original judge had imposed sentences of 3 years and 2 months.

The judge's basis for the sentence

The appellant was unarguably in a position of trust and enjoyed the trust of his employers who had promoted him to supervisor from security crewman, the post

occupied by each of his co-defendants. He had compromised his team of crewmen by bringing them into his dishonest scheme.

This was not a modest sum of money. Earlier decisions have made it clear that such breaches of trust inevitably call for immediate imprisonment. This appellant was entrusted with handling substantial sums of money for a security company in whom the public must have complete confidence.

The judge's approach to the sentence of this appellant cannot be faulted. We do not need to repeat the serious factors which led to his imposing a sentence which was more than that of the co-defendants who had pleaded guilty. In our view this appellant should receive a sentence which is significantly more than his co-accused for the reasons already set out.

The trial judge, when sentencing the other three defendants, did not draw sufficient distinction between this applicant and his co-defendants as to the level of their respective criminality – a mere 4 months. The Court of Appeal corrected this from a sentence of 38 months (3 years 2 months) to 27 months (2 years 3 months). This now presents an appropriate distinction.

(See: *Samson bin Purad (D1)*, *Pg Mohd Irwan bin Pg Hj Mahmud (D2)*, *Hamdi bin Admin@Jini (D3)* and *Public Prosecutor (Court of Appeal of Brunei Darussalam)(Criminal Appeal No 21 Of 2014)*)

For the reasons set out the sentence is neither wrong in principle nor manifestly excessive and therefore this appeal is dismissed.

Mortimer, P.

Burrell, J.A.

Seagroatt, J.A