

Adib Sufri Bin Mohd Asri

AND

Public Prosecutor

**(Court of Appeal of Brunei Darussalam)
(Criminal Appeal No. 9 of 2023)**

Steven Chong, C.J.; Burrell and Seagroatt, JJA

Date of Judgment: 23rd November, 2023.

Criminal law – House-breaking – House-trespass – Sentence

Appellant In Person.

PO Hjh Siti Mu'izzah HJ Sabli for the Public Prosecutor/Respondent.

J U D G M E N T

Steven Chong, C.J.:

On 22 May 2023 in the Intermediate Court before Judge Radin Safiee Bin Radin Mas Basiuni the appellant pleaded guilty to two charges of house-breaking and one charge of house-trespass contrary to sections 457 and 451 of the Penal Code respectively.

The appellant was sentenced to a total of 5 years and 2 months' imprisonment and 2 strokes.

This is an appeal against sentence by the appellant.

The facts

Briefly summarized and in chronological order the facts were as follows.

In the early hours of 22 January 2023 the appellant and an accomplice drove to Kampong Sungai Hanching and broke into a house through a window. Inside the house they stole a gas cylinder, two televisions, a rice cooker, some canned food and a toolbox. The total value of the items was over \$2,600.00.

A neighbour noticed the kitchen door of the house was open in the morning. She made a phone call to the owner who was in Miri at the time. She went over to the house and discovered it had been ransacked. A police report was made.

The following month, on the night of 16 February 2023, the appellant and two accomplices drove to Jalan Pasir Berakas and entered a house through the front door which was not locked. Inside the house they stole \$300.00 in cash and personal items including an iPad and a MacBook laptop with an estimated total value of \$3,900.00.

Next day, on the night of 17 February 2023, the appellant and the two accomplices drove to Kampong Manggis Satu and broke into a house which was used as an office by prying open a window with a screwdriver. Inside the house they stole some cash and other items including a hard disk.

Previous convictions

The appellant has five convictions for theft related offences committed between 2017 and 2019.

The sentence

In relation to the two house-breaking charges the Judge took a starting point sentence of 5 years 6 months' imprisonment and 2 strokes. Allowing a discount of one third for the guilty pleas resulted in a sentence of 3 years 8 months' imprisonment and 2 strokes on each charge.

Turning to the house-trespass charge the Judge decided on a starting point sentence of 3 years' imprisonment and giving a discount of one third for the guilty plea arrived at a sentence of 2 years' imprisonment.

The Judge ordered the sentences of imprisonment of one year on the second house-breaking charge and 6 months on the house-trespass charge to be consecutive to the first house-breaking charge and the strokes to be non-cumulative resulting in a total of 5 years 2 months and 2 strokes.

The appeal

The appellant, aged 34, appeals against the sentence imposed on the ground it was excessive considering he had pleaded guilty at the first opportunity and had expressed his remorse. He also urged the court to consider the welfare of his family.

Decision

In our judgment having regard to the multiplicity of offences committed by the appellant over a short span of about one month and his antecedent history of committing similar offences there is no arguable basis for suggesting that the sentences imposed by the Judge either individually or in totality were excessive.

The appeal is dismissed.

STEVEN CHONG, C.J.

BURRELL, J.A.

SEAGROATT, J.A.