

Arinah Binti Ali

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 2 of 2023)**

Steven Chong, C.J.

18 April 2023

Criminal law – Possession of unexcised cigarettes – Sentence

Appellant In Person.

PO Syafina Abd Hadzid for Public Prosecutor.

Steven Chong, C.J. (ex tempore):

On 5 January 2023 in the Magistrate’s Court the appellant pleaded guilty to the possession of unexcised cigarettes contrary to section 146(1)(d) of the Excise Order 2006.

Senior Magistrate Ery Sufitriana Binti Haji Abdul Rahman sentenced the appellant to a fine of \$29,000 or in default 15 months’ imprisonment and ordered payment to be made within 8 months.

The appellant appeals for the fine to be reduced and payment to be made by monthly instalments of \$250 on the ground of financial hardship.

Shortly stated the facts were that on the afternoon of 22 August 2022 customs officers raided the appellant’s house in Telesai following a tip-off that she was selling contraband cigarettes. A search of the house yielded several cartons of unexcised cigarettes which the appellant admitted she intended to sell to members of the public. The excise duty evaded amounted to \$1,443.00.

This is the appellant’s second conviction for possession of unexcised cigarettes. In relation to her previous conviction in 2017, a fine of \$1,705.00 was imposed.

Given the appellant's prior conviction, the Senior Magistrate was required to apply a multiplier of not less than 20 times the amount of excise duty evaded in determining the fine to be imposed.

The fine of \$29,000 imposed by the Senior Magistrate is premised on the abovementioned prescribed minimum multiplier and there is no justification whatever to interfere with it.

As to the appellant's proposal to pay the fine by monthly instalment of \$250.00, I agree with the submission of the prosecution that allowing her over 9 years to make payment would be detrimental to the objective of deterrence in the sentence.

For these reasons the appeal is dismissed.

DATO SERI PADUKA STEVEN CHONG
Chief Justice