Mokhtar Bin Jamaha

AND

Public Prosecutor

(High Court of Brunei Darussalam)
(Criminal Appeal No. 36 of 2020)

Steven Chong, CJ
17 November 2020

Criminal law – Driving a car without insurance coverage – Inconvenience not a "special reason" for not ordering disqualification – ss.3(1) and 3(2) of the Motor Vehicles (Third Party Risks) Act.

Appellant unrepresented.
PO Syazwani Binti Jumat for the Public Prosecutor/Respondent.

Cases cited:
Public Prosecutor v Lim Jin Lee and Salina Binti Mohd Saleh [2000] 2 JCBD 217
Public Prosecutor v Marcus Tee Peng Tan [2011] 1 JCBD 254

Steven Chong, CJ (ex tempore):

On 28 September 2020 in the Magistrate's Court the appellant pleaded guilty to driving a car when he was not insured against third party risks contrary to section 3(1) of the Motor Vehicles Insurance (Third Party Risks) Act.

Magistrate Kamaliah Fadhilah Binti Ibrahim imposed a fine of $750 and ordered the appellant to be disqualified from driving for 12 months.

The appellant appeals against the disqualification order on the ground that it has caused inconvenience to him not being able to drive to work and take his children to school.

In brief the facts were that on the morning of 2 March 2020 the appellant was driving his car along the Anduki/Seria Highway when he was stopped at a police roadblock. Upon inspection by the police it was discovered that the insurance policy of the car had expired on 19 December 2018.

On conviction for driving without insurance coverage it is mandatory pursuant to section 3(2) of the Motor Vehicles Insurance (Third Party Risks) Act that the offender be disqualified from driving for 12 months or longer, unless there are "*special reasons*" for not doing so.

It is settled law that "*special reasons*" must relate to the offence itself and not to the offender: *Public Prosecutor v Lim Jin Lee and Salina Binti Mohd Saleh* [2000] 2 JCBD 217.

Clearly, the inconvenience to the appellant of not being permitted to drive cannot constitute a "*special reason*" for not disqualifying him as it is personal to him and not connected to the offence itself.

As this court observed in *Public Prosecutor v Marcus Tee Peng Tan* [2011] 1 JCBD 254:

"*The test for "special reasons" is a stringent one for good reason. In so far as driving a car without insurance is concerned, it is a serious matter because it may leave other road users, in the event of an accident resulting in injury or death, without adequate, or worse still, without any, compensation.*"

It is to be noted that the appellant drove his car for over one year knowing he was uninsured. The driving disqualification is fully deserved.

This appeal is devoid of merit and is dismissed accordingly.

DATO SERI PADUKA STEVEN CHONG
Chief Justice