

Public Prosecutor

AND

Irnowati Binti Ibrahim (D1)
Mutiah Binti Saleh (D2)

(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 53 of 2017)

Muhammed Faisal Bin PDJLD DSP Haji Kefli, Judge
2nd August 2017

*Criminal Law – S.454 Penal Code – Section 15(1) Immigration Act – S.411 Penal Code – Plea
of Guilty - Sentencing*

DPP Muhammad Qamarul Affyian Bin Abdul Rahman for Public Prosecutor.
Defendants In Person.

SENTENCE

Muhammed Faisal, Judge:

The defendants are charged together. D1 faces one charge under Section 454 Penal Code and D2 faces a charge under Section 411 Penal Code and a charge under Section 15(1) of the Immigration Act.

The charges are as follows:-

“1st Charge (D1 Only)

That you, on 13th of July 2017, between 2300 hours and 2330 hours, committed housebreaking by entering into locked room at house No 10, Spg 41-24-6, RPN Kg Mentiri, Jln Kota Batu, in Brunei Darussalam, a building used as a human dwelling in possession of Hjh Fatimah Binti Hj Hashim, for the purpose of committing a certain offence punishable under Section 454 of the Penal Code, Chapter 22 read with Section 34 of the same.

Amended 2nd Charge (D2 Only)

That you, sometime on the 15th of July 2017, in the vicinity of Simpang 89, Kg Sinarubai, Bengkurong in Brunei Darussalam, did honestly receive property which you know or have reason to believe to be stolen property, to wit, \$5000 Brunei

Dollars in cash, belonging to Hjh Fatimah Binti Hj Hashim and you have thereby committed an offence punishable under Section 411 of the Penal Code, Chapter 22.

Additional 3rd Charge (D2 Only)

That you, from the 12th day of May 2016 to the 16th day of July 2017, in Brunei Darussalam, not being a person entitled or authorized to remain in Brunei Darussalam, did without reasonable cause remain in Brunei Darussalam after the expiry of your Employment Pass on the 12th day of May 2016 issued to you, and you have thereby committed an offence under Section 15(1) of the Immigration Act, Chapter 17, and punishable under Section 15(2) (b) of the same.”

Both defendants have pleaded guilty. Statement of facts are as follows:

“D1 is a 36 year old Indonesian National who holds an Indonesian Passport bearing passport number AT995216. D2 is a 41 year old Indonesian national who holds an Indonesian passport bearing passport number A7936528.

1st Charge (against D1 only) and 2nd Charge (against D2 only)

On the 13th of July 2017, at about 2300, D1 was at No 10, Spg 41-24-6, RPN Kpg Mentiri, Jln Kota Batu in Brunei Darussalam. At that time, the D1 was working as a maid for the complainant, Hjh Fatimah Binti Hj Hashim, for \$20 a day at the said address. On that night, the complainant who was at that time in her bedroom on the first floor was informed by D1 that she was unable to perform her chores in the kitchen as she felt pain in her right hand. As a result, the complainant then went locked her bedroom door and went down to the kitchen based on the ground floor. D1 stayed on the first floor.

Shortly after, the complainant went to the first floor to discover that the first floor door at the top of the stairs was locked. She told D1 to unlock the door and she did not do so she would call the Police. As there was no response she proceeded gain entry to the first floor through another entrance outside of the said house. The complainant saw that her room door was open and discovered that two of her bags were missing. The two bags contained the following:

- a) Cash monies totalling B\$18,100;*
- b) Three (3) pieces of gold necklaces;*
- c) Two (2) pieces of gold bracelets;*
- d) Seventeen (17) pieces of gold rings;*
- e) Four (4) pieces of gold earrings;*
- f) Seven (7) pieces of gold locket;*
- g) Nine (9) pieces of gold brooches; and*
- h) One (1) piece of gold coin.*

The complainant then lodged a report to the police to report about the missing items. At that time, D1 was no longer in the house and was suspected to have run away. Police investigations led to D1 and D2 arrest on the 16th of July 2017. Investigation

revealed that on the 13th of July 2017, at about 2300, D1 called D2. D1 informed D2 to pick her up at the said address at around 2315.

After informing the complainant that D1 was unable to perform her chores, D1 then waited for the complainant to go downstairs and cook.

After the complainant was downstairs, D1 gained entry into the complainant's locked room by sliding a card at the side of the door knob. In the room, D1 then proceeded to steal two of the complainants bag containing:

- a) Cash monies totalling B\$18,100;*
- b) Three (3) pieces of gold necklaces;*
- c) Two (2) pieces of gold bracelets;*
- d) Seventeen (17) pieces of gold rings;*
- e) Four (4) pieces of gold earrings;*
- f) Seven (7) pieces of gold locket;*
- g) Nine (9) pieces of gold brooches; and*
- h) One (1) piece of gold coin.*

She then brought the items with her and exited the house with the stolen items. D1 then proceeded to wait for D2 to pick her up at house nearby. After being picked up by D2, both D1 and D2 then stayed at their friend's house. On the 15th of July 2017, in the vicinity of Simpang 89, Kg Sinarubai, Bengkurong, D1 then gave \$5000 Brunei Dollars in cash to D2 in order to help D2 to go back to Indonesia. Between the time D1 left the house and when both of them were arrested, D1 and D2 managed to spend some of the stolen money. The police only managed to recover \$10,270 from D1 and \$4,035 from D2.

All the other remaining stolen items were recovered. The complainant has identified the items as hers. During police investigations, D1 admitted to have breaking into the complainant's bedroom and stealing the said stolen items. During police investigations, D2 admitted to have known that D1 stole the money and that she had received \$5000 from D1.

3rd charge (against D2 only)

Investigations carried out by the police also revealed that D2 first entered Brunei Darussalam on 12th May 2014 through Sungai Tujoh Immigration Control Post for employment under sponsorship of one GOO KIM CHIAN ("the employer"). D2 ran away from her employer on 8th February 2015 and D2's employer had lodged a police report on the matter and the defendant's passport was surrendered to the Enforcement Section of the immigration and National Registration Department. On 12th May 2016 the D2's employment pass had officially expired.

Therefore, D2 is found to have remained in Brunei Darussalam without a reasonable cause for a period of 403 days after the expiry of her Immigration pass on 12th May 2016 until the date she was arrested on 16th July 2017. D2, in her statement, admitted

that she had ran away from her employer sometime in 2015. On record, D2 is a first offender under the Immigration Act, Chapter 17.”

Both defendants have prior clean records. They have pleaded for lenient sentences. In total, cash of BND \$18,000.00 and numerous gold jewelleries were stolen as the result of D1's actions between D1 and D2, just over BND \$14,300.00 was recovered, along with the jewellery. The remaining odd BND \$5,000.00 were spent by both defendant.

D1 was an employee of the complainant, and she used her position to gain access to the complainant's bedroom. Apart from assisting in D1 getting away, D2 is also a person who had overstayed her employment pass in Brunei. With all these into consideration, my starting point for D1 sentence is 3 years' imprisonment, reduced by 1/3 for guilty plea.

For D2, for the 2nd charge my starting point, given the amount of cash is considerable, is 12 months' imprisonment, reduced by 1/3 for guilty plea. Their sentence is thus as follows:-

1st Charge

D1 : 2 years imprisonment.

2nd Charge

D2 : 8 month imprisonment.

3rd Charge

D2 : 3 month imprisonment and fine \$1500 in default 3 month imprisonment.

No whipping are imposed upon both defendants as both defendants are exempted from whipping. Sentence to run with effect from today. For D2, her sentences are to run consecutively and 1 month grace period to settle fine.

MUHAMMED FAISAL BIN PDJLD DSP HAJI KEFLI
Judge, Intermediate Court