

**Public Prosecutor**

AND

**Muslim Bin Masri (D1)**  
**Tajulasikin Bin Mohd Shahirol Rizam (D2)**

---

**(Intermediate Court of Brunei Darussalam)**  
**(Criminal Trial No. 54 of 2017)**

---

Muhammed Faisal Bin PDJLD DSP Haji Kefli, Judge  
**23<sup>rd</sup> August 2017**

*Criminal Law – S.457 Penal Code – House breaking by night – Sentencing – Plea of Guilty – 1<sup>st</sup> offender.*

DPP Nor’adliatul Hidayah Binti Haji Mohd Zaidi for Public Prosecutor.  
Defendants In Person.

**SENTENCE**

**Muhammed Faisal, Judge:**

Both defendants are jointly charged for one offence under Section 457 Penal Code. The charge reads as follows:-

*“That both of you, sometime between the 20<sup>th</sup> day of July 2017 and on the 25<sup>th</sup> day of July 2017, at a house address, No. 24 G, Spg. 32, Kg. Bengkurong Masin in Brunei Darussalam, in furtherance of your common intention, committed housebreaking by night, by entering into the said house used as a human dwelling, belonging to Nur Adilla Alyssa Binti Abdul Rahman @ Jijah Anak Janin (F. 45), in order to the commission of an offence punishable with imprisonment, to wit, theft of:*

- 1) One Acer Laptop 13 inch;*
- 2) One Acer Laptop 11 inch;*
- 3) One Dell Laptop;*
- 4) One Utoo Pad;*
- 5) One Canon Camera; and*
- 6) One Samsung Tab*

*belonging to the said Nur Adilla Alyssa Binti Abdul Rahman @ Jijah Anak Janin and both of you have thereby committed an offence punishable under Section 457 of the Penal Code, Chapter 22 read together with Section 34 of the same.”*

Both defendants have pleaded guilty at the 1<sup>st</sup> opportunity. I will take this into consideration. For clarify and completeness, the statement of facts are reproduced below:-

*“D1 is a 33 years old male Bruneian National who is currently unemployed. D2 is a 31 years old male Bruneian National who is currently unemployed. On 20<sup>th</sup> July 2017, Nur Adilla Alyssa Binti Abdul Rahman @ Jijah Anak Janin (‘the complainant’) who lives at No. 24G, Spg 32, Kg Bengkurong Masin in Brunei Darussalam (‘the complainant’s house’), went for a trip to Kuala Lumpur for five days and left her house unoccupied. Before she left for her trip, she locked all doors and windows.*

*When the complainant returned home from her trip on 25<sup>th</sup> July 2017 at about 0130 hours, she realized that a section of her ceiling was damaged. She then went to check her house and found the following items were missing from the bedrooms:*

- 1) One Acer Laptop 13 inch;*
- 2) One Acer Laptop 11 inch;*
- 3) One Dell Laptop;*
- 4) One Utoo Pad;*
- 5) One Canon Camera; and*
- 6) One Samsung Tab*

*The complainant then lodged a police report on the same day. Upon police investigations, the police arrested D1 and D2 on 26<sup>th</sup> July 2017. Police investigation revealed that D1 was the complainant’s neighbor who lives next to the complainant’s house (adjoining house) at No 24H, Spg 32, Kg Bengkurong Masin in Brunei Darussalam (‘D1’s house’). Sometime between 20<sup>th</sup> July 2017 and 25<sup>th</sup> July 2017 at around past midnight and before subuh prayer, D2 went to D1’s house. D1 proposed D2 to go to his neighbour’s house (the complainant’s house) through the ceiling in order to commit theft since D1’s house is connected to the complainant’s house.*

*D2 then went on top of a washing machine and started poking D1’s ceiling using a screwdriver belonging to D1 and successfully removed a section of the ceiling. When he was inside the roof, he started to remove a section of the ceiling of the complainant’s house and from there, D2 successfully gained entry to the complainant’s house, specifically the complainant’s kitchen. When he was inside the complainant’s house, D2 then opened the rear door for D1 to enter. D1 then entered the house and D2 went outside and acted as a lookout.*

*Inside the complainant’s house, D1 took the following items (‘the stolen items’) from the bedrooms:*

- 1) One Acer Laptop 13 inch;*
- 2) One Acer Laptop 11 inch;*
- 3) One Dell Laptop;*
- 4) One Utoo Pad;*
- 5) One Canon Camera; and*
- 6) One Samsung Tab*

*D1 then exited the complainant's house carrying with him all of the stolen items and brought it back to his house. D1 and D2 then split the stolen items amongst themselves. D1 kept one Acer Laptop 13inch, one Dell Laptop, one Utoo Pad and One Samsung Tab whilst D2 got one Canon camera and one Acer Laptop 11inch. D1 managed to sell all of the stolen items to several buyers and got BND\$118.00 from the proceeds of sales whilst D2 sold all of the stolen items for BND\$30.00.*

*Both D1 and D2 admits to committing house-breaking at the complainants' house at night between 20<sup>th</sup> July 2017 and 25<sup>th</sup> July 2017 and both of them mentioned that the proceeds of sales were used for their personal needs. Police managed to recover all of the stolen items and the estimate of the stolen items are said to be worth around BND\$5,000. The screwdriver that they used in the commission of the offence was also recovered. On record, D1 has no previous convictions relating to theft offences whilst D2 has no previous convictions."*

In considering the defendants' sentences, I have taken into consideration of their plea in mitigation, where they have pleaded for leniency and consideration. I have also taken into consideration of the fact that both defendants have either no previous convictions, or no prior convictions for theft related offences.

I also taken into consideration that all items that was stolen, have been recovered. The offence of housebreaking carries an imprisonment sentence of 5 years, with whipping, and if the offence intended to be committed is theft, the term of imprisonment may extend to 15 years, as in this particular instant.

It is thus a serious offence and this court looks at it as so. From the facts of this case, there are no reasons for me to go below the current sentencing practices for offences of similar nature. As such, my starting point, shall be an imprisonment sentence of 4 years, which is reduced by 1/3 for their plea of guilty.

I also impose whipping of 2 strokes, for each defendant. The defendants, are thus sentenced to 2 years' imprisonment, and 2 strokes whipping. Sentence is backdated to the date of institution of proceeding. I further order, that, all the recovered stolen properties, to be returned to the rightful owner.

**MUHAMMED FAISAL BIN PDJLD DSP HAJI KEFLI**  
Judge, Intermediate Court