Public Prosecutor

AND

Gricelle Cabalquinto Dyanan

(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 25 of 2026)

Pg Hjh Masni Pg Hj Bahar, Judge
Date of Sentence: 17th November, 2026.

Headnote: S 408 Penal Code- Criminal Breach of trust-Section 3(1)(a) of the Criminal Asset Recovery Order, 2012- money laundering- Pleaded guilty- Appropriate sentence.

DPP Hajah Mu'izzah binti Haji Sabli for the Public Prosecutor.
Mr Czar Calabazaron and Mr Joseph Wong (M/S Rudi Lee, Annie Kon & Associates) for the Defendant.

Cases cited:
Public Prosecutor v Mohammad Yusmin Hatta bin Md Yusop, COA Criminal Appeal No 23 of 2016
Public Prosecutor v Norhanisah bin Hj Md Nor, COA Criminal Appeal No 6 of 2018
Hjh Roziah binti Haji Talip v Public Prosecutor, COA Criminal Appeal No 18 of 2019
Razimi bin Hj Tajuddin v Public Prosecutor, COA Criminal Appeal No 8 of 2017
Public Prosecutor v Pg Hussin bin Pg Sulaiman, HC, Criminal Appeal No 8 of 2017
Zhong Xiao Hui and others v Public Prosecutor, COA Criminal Motion No 25, 26, 27, 29, 10, 9 of 201

SENTENCE

Pg Hjh Masni Pg Hj Bahar, Judge:

INTRODUCTION:

1. The Defendant, Gricelle Cabalquinto Dyanan, is charged with three counts of criminal breach of trust, contrary to section 408 Penal Code, Cap 22 and 5 counts for money laundering, contrary to Section 3(1)(a) of the Criminal Asset Recovery Order, 2012.

2. She is represented by Mr Czar Calabazaron and Mr Joseph Wong of Messrs Rudi Lee and Anor.

Charges:

3. The Defendant's Counsel informed the Court that the Defendant understood the charges against her and their respective penalties and that she was ready to enter her plea. The Defendant further confirmed to the Court that she was fluent in English. Accordingly, the charges and their respective penalties were read and explained to the Defendant in English in Court. The charges and their respective penalties were as follows:

1st Charge:

That you, on diverse occasions between 1st of May 2024 and 30th April 2025, at Fullgold Goldsmith, Plaza Seria, Jalan Sultan Omar Ali Seria, in Brunei Darussalam, being employed as a Gold Specialist at the said Fullgold Goldsmith, and in such capacity entrusted with property to wit, gold jewelleries in the total weight of approximately 238.4g, did commit criminal breach of trust in respect of such property, and you have thereby committed an offence punishable under Section 408 of the Penal Code, Chapter 22.

2nd Charge:

That you, on diverse occasions between 1st of May 2025 and 30th April 2026, at Fullgold Goldsmith, Plaza Seria, Jalan Sultan Omar Ali Seria, in Brunei Darussalam, being employed as a Gold Specialist at the said Fullgold Goldsmith, and in such capacity entrusted with property to wit, gold jewelleries in the total weight of approximately 3975.03g, did commit criminal breach of trust in respect of such property, and you have thereby committed an offence punishable under Section 408 of the Penal Code, Chapter 22.

3rd Charge:

That you, on diverse occasions between 1st of May 2026 and 17th August 2026, at Fullgold Goldsmith, Plaza Seria, Jalan Sultan Omar Ali Seria, in Brunei Darussalam, being employed as a Gold Specialist at the said Fullgold Goldsmith, and in such capacity entrusted with property to wit, gold jewelleries in the total weight of approximately 4572.35g, did commit criminal breach of trust in respect of such property, and you have thereby committed an offence punishable under Section 408 of the Penal Code, Chapter 22.

4th Charge:

That you, on 4th April 2026, in Brunei Darussalam, did engage indirectly in a transaction involving properties that you knew are proceeds of crime, to wit, through the selling of gold jewelleries with a total weight of approximately 67.4g, by one Mildred Elumir Abad to Waly Goldsmith, and you have thereby committed an offence punishable under Section 3(1)(a) of the Criminal Asset Recovery Order, 2012.

5th Charge:

That you, on 7th April 2026, in Brunei Darussalam, did engage indirectly in a transaction involving properties that you knew are proceeds of crime, to wit, through the selling of gold jewelleries with a total weight of approximately 71g, by one Mildred Elumir Abad to Waly Goldsmith, and you have thereby committed an offence punishable under Section 3(1)(a) of the Criminal Asset Recovery Order, 2012.

6th Charge:

That you, on 21st April 2026, in Brunei Darussalam, did engage indirectly in a transaction involving properties that you knew are proceeds of crime, to wit, through the selling of gold jewelleries with a total weight of approximately 57.2g, by one Mildred Elumir Abad to Waly Goldsmith, and you have thereby committed an offence punishable under Section 3(1)(a) of the Criminal Asset Recovery Order, 2012.

7th Charge:

That you, on 28th April 2026, in Brunei Darussalam, did engage indirectly in a transaction involving properties that you knew are proceeds of crime, to wit, through the selling of gold jewelries with a total weight of approximately 56.4g, by one Mildred Elumir Abad to Waly Goldsmith, and you have thereby committed an offence punishable under Section 3(1)(a) of the Criminal Asset Recovery Order, 2012.

8th Charge:

That you, on 13th May 2026, in Brunei Darussalam, did engage indirectly in a transaction involving properties that you knew are proceeds of crime, to wit, through the selling of gold jewelries with a total weight of approximately 64.4g, by one Siti Fatimah binti Jaidin to Waly Goldsmith, and you have thereby committed an offence punishable under Section 3(1)(a) of the Criminal Asset Recovery Order, 2012.

Penalty:

4. Section 408 Penal Code warrants for an Imprisonment for not exceeding 15 years and fine. The offence under section 3(1) CARO warrants for a fine not exceeding $500,000, imprisonment for a term not exceeding 10 years or both.

Section 175 CPC:

5. The Defendant pleaded guilty to all the charges. This Court accepts her guilty pleas as this Court is satisfied that the Defendant understood the nature and consequences of her plea. Accordingly, section 175 CPC is duly complied with.

Statement of Facts:

6. The Statement of Facts was subsequently read out and explained to the Defendant in open court. The Defendant admitted to the following facts.

7. The Defendant admitted that she was employed as a Gold Specialist at Fullgold Goldsmith where she was responsible for managing inventory, safeguarding gold jewellery, attending to customers and maintaining purchase and instalment payment records.

1st, 2nd and 3rd charges:

8. On 17 August 2026, one Chow Guo Jye, the owner of Fullgold Goldsmith and also the complainant, was reviewing the available jewellery stock at the premises. He made an enquiry pertaining to a recent acquired gold necklace weighing 100g. The Defendant informed the complainant that the necklace had been reserved by a customer and was kept in the safe vault. Notwithstanding the explanation by the Defendant, the complainant requested to inspect the said necklace.

9. The complainant later discovered that the said gold necklace was missing from the safe vault. When questioned, the Defendant admitted to selling the necklace to another goldsmith, along with other jewelleries belonging to Fullgold Goldsmith. A police report was subsequently lodged, leading to her arrest.

10. Investigations revealed that between May 2024 and August 2026, the Defendant had dishonestly misappropriated gold jewelleries entrusted to her during her employment. To conceal her actions, she prepared fictitious purchase receipts under false customer names, making the transactions appear to be legitimate instalment purchases.

11. The Defendant admitted that she sought assistance from acquaintances, including one Mildred Elumir Abad ("Mildred") and Siti Fatimah binti Jaidin ("Siti Fatimah"), to sell the misappropriated jewelleries to other goldsmith establishments. The proceeds from these sales were handed over to the Defendant, who subsequently remitted most of the money to her family in the Philippines.

12. The misappropriation involved the following:

CHARGE	**PERIOD**	**PIECES**	**VALUE**
1ST Charge	May 2024- April 2025	17	$35,098
2ND Charge	May 2025- April 2026	256	$927, 595

3RD Charge	May 2026-August 2026	371	$897,538
TOTAL		644	$1,860.231

13. In relation to the 4th to 8th charges, Defendant identified five transactions involving jewelleries sold to Waly Goldsmith through the assistance of Mildred (4th to the 7th charges) and Siti Fatimah between April and May 2026 (8th Charge). These transactions involved 13 pieces of gold jewelleries, with total proceeds amounting to $45,100.

CHARGE	DATE	WEIGHT (GM)	VALUES
4th Charge	4th April 2026	67.40	BND $8,800
5th Charge	7th April 2026	71.00	BND 9,900
6th Charge	21st April 2026	57.20	BND $8,360
7th Charge	28th April 2026	56.40	BND$8,800
8th Charge	13th May 2026	64.40	BND$9240
	TOTAL	316.40	BND$45,100

14. Of the 644 pieces misappropriated, only 122 pieces, weighing 1,059.23g, were recovered by the Police and positively identified by the complainant. The remaining 522 pieces were not recovered.

15. During investigations, the Defendant admitted to dishonestly misappropriating the jewelleries over a period exceeding two years, thereby committing criminal breach of trust in the course of her employment.

16. The Defendant admitted that she has resided in Brunei Darussalam for approximately 12 years and she has never committed any offence. On record, the Defendant has no previous convictions.

Mitigation:

17. Defence Counsel submitted in mitigation that the Defendant had pleaded guilty at the earliest opportunity, thereby saving the Court's and Prosecution's time. As such, the Defendant was entitled to a one-third discount from the starting point.

18. Defence Counsel further highlighted other mitigating factors, namely that the Defendant had no previous convictions and had cooperated with the police during the investigation. It was also submitted that the Defendant committed the offence due to financial difficulties, as her late grandmother was suffering from cancer and required money for her treatment.

Sentencing Consideration:

19. In determining the appropriate sentence, this Court agrees that the Defendant is entitled to one-third off for her early pleas of guilty and her clear record despite having resided in Brunei Darussalam for approximately 12 years. She is therefore treated as a first offender.

20. However, these mitigating circumstances must be weighed against the nature and seriousness of the offences, the circumstances in which they were committed, the aggravating and mitigating factors.

21. It is serious in nature due to her nature of employment. The Defendant was employed as a gold specialist and was entrusted with the responsibility of handling and managing gold belonging to the employer. By virtue of this position, the Defendant was expected to act honestly and to safeguard the property placed under the Defendant's care. However, the Defendant abused that trust by dishonestly misappropriating approximately 9,000 grams of gold valued at more than BND1.5 million.

22. In addition to that, the offences were not committed on a single occasion. Defendant had misappropriated the money and concealed her dishonest action for a period of approximately two years. This Defendant's actions were not an act of isolation. It was repeatedly act of dishonesty. The additional five charges under the Criminal Asset Recovery Order, 2012, further add to the seriousness of the Defendant's conduct.

23. The Defendant also proceeded to sell the misappropriated gold privately without authorisation for personal financial gain.

24. The amount stolen is very substantial.

25. Based on the foregoing reasons, a substantial custodial sentence is necessary to reflect the gravity of the offences.

Appropriate Sentence:

26. The Defendant has pleaded guilty to three charges of criminal breach of trust under Section 408 of the Penal Code, Chapter 22, and five charges under Section 3(1) of the Criminal Asset Recovery Order (CARO), 2012.

27. In determining the appropriate sentence for criminal breach of trust, the Court has considered the authorities cited by the Prosecution. The Defence Counsel concurred with the Prosecution's submission on sentencing.

28. In ***Public Prosecutor v Mohammad Yusmin Hatta bin Md Yusop***, which involved the misappropriation of BND54,901.75, the Court considered a starting point of three years' imprisonment appropriate. In ***Public Prosecutor v Norhanisah bin Hj Md Nor***, involving BND154,700.00, a starting point of three years' imprisonment was reduced to two years after taking into account the offender's guilty plea, clear record and other mitigating circumstances.

29. In ***Hjh Roziah binti Haji Talip v Public Prosecutor***, involving BND163,800.11, the Court of Appeal upheld a starting point of four years and six months' imprisonment for criminal breach of trust, which was reduced by six months on account of delay. The Court of Appeal also upheld consecutive sentences for criminal breach of trust and money-laundering offences, having regard to their distinct nature.

30. In ***Razimi bin Hj Tajuddin v Public Prosecutor***, involving BND458,106.88, the Court of Appeal reduced the sentence to four years' imprisonment after considering the offender's previous good record, long service and other mitigating circumstances.

31. As for the offences under the Criminal Asset Recovery Order, 2012, the Court has considered ***Public Prosecutor v Pg Hussin bin Pg Sulaiman***, where a starting point of three years' imprisonment was reduced to two years following a guilty plea. Similarly, in ***Zhong Xiao Hui and others v Public Prosecutor*** and ***Hjh Roziah***, sentences of two years' imprisonment were imposed for money-laundering offences.

32. Having considered the substantial value of the jewelleries misappropriated, the prolonged and repeated nature of the dishonest conduct, the serious breach of the employer's trust and the subsequent dealings with the proceeds of the offences and its totality culpability, this Court agrees with the Prosecution's recommendation that a global sentence of seven years and six months' imprisonment is appropriate and proportionate.

Sentence:

33. Following the case law cited above, this Court impose the following sentence on the Defendant.

    1st Charge:

34. For the 1st charge, the amount appropriated was B$35,098. This Court impose a starting point of 3 years' imprisonment reduced to 2 years' imprisonment for her plea of guilty and clean record.

35. For the first charge, the Defendant is sentenced to 2 years' imprisonment.

    2nd and 3rd charge:

36. For the second charge, the Defendant misappropriated the sum of B$927,595 and for the third charge, she misappropriated the sum of BND897,538. The Court agrees with the Prosecution that the second and third charges warrant a substantially higher starting point than the first charge. The amount involved in each of those charges is close to BND900,000.00 or more and not all of the jewelleries were recovered.

37. This Court considers that a starting point of seven and a half (7½) years' imprisonment for each of the second and third charges is justified. Taking into account of the Defendant guilty plea and clean record, this Defendant is entitled to one-third discount from the said starting point, which brings us to 5 years' imprisonment.

38. For the second and the third charges, the Defendant is sentence to 5 years' imprisonment for each charge.

    4th – 8th charges:

39. Turning to the five charges under section 3(1)(a) of the Criminal Asset Recovery Order, 2012, this Court has considered the authorities submitted by the Prosecution. These authorities provide useful guidance on the appropriate sentence for offences involving the proceeds of criminal conduct. This Court accepts the Prosecution's submission that a starting point of three years' imprisonment for each of the five charges under the Criminal Asset Recovery Order, 2012, is appropriate, with a reduction to two years' imprisonment upon consideration of the Defendant's guilty plea and other mitigating factors.

Individual Sentence:

40. The individual sentence imposed on the Defendant are as follows:

    1st charge: 2 years' imprisonment

    2nd charge: 5 years' imprisonment

3rd charge: 5 years' imprisonment

4th charge: 2 years' imprisonment

5th charge: 2 years' imprisonment

6th charge: 2 years' imprisonment

7th charge: 2 years' imprisonment

8th charge: 2 years' imprisonment.

Totality Principle:

41. Following the case of *Hjh Roziah*, the Court of Appeal upheld the imposition of consecutive sentences for criminal breach of trust and money-laundering offences. This Court echoed the Court of Appeal decisions in this present case that a consecutive sentence is justified to reflect the distinct nature of the offences and the Defendant's overall criminality.

42. However, a combine totality sentence would be excessive and this Court has to be mindful of the principle of totality.

43. Having considered the facts, the authorities cited, the aggravating and mitigating circumstances and the totality of the offences, this Court agrees with the Prosecution's recommendation that a global sentence of seven years and six months' imprisonment is appropriate and proportionate.

44. To achieve the global 7½ years' imprisonment, this Court impose the following order:

    <u>Section 408 Penal Code, Cap 22:</u>

    a. 1st charge: This Court takes 6 months from the 2 years' imprisonment.

    b. 2nd & 3rd charge: This Court order that the 5 years' sentence of the second and third charge to run concurrently with each other, which brings a total of 5 years' imprisonment

45. This Court ordered that the 6 months' imprisonment from the first charge to run consecutively with the concurrent sentence of the 5 years' imprisonment of the second and the third charge and that the remaining 18 months' imprisonment shall run concurrently with those sentences, which brings a total of 5½ years' imprisonment for the first, second and the third charge.

    <u>Section 3(1) of the Criminal Asset Recovery Order, 2012</u>

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46. For the fourth to the eight charge, the charge of CARO, this Court order for the individual sentence of 2 years' imprisonment to run concurrently with each other which brings a total of 2 years' imprisonment.

47. Therefore, the cumulative sentence of five years and six months' (5½ years) imprisonment in respect of the 1st, 2nd and the 3rd charges, this Court orders that it shall run consecutively with the concurrent sentences imposed for the 4th to the 8th charges, resulting in a total sentence of 7½ years' imprisonment.

48. In this premise, the Defendant is hereby sentenced to a global term of 7½ years' imprisonment.

49. This Court order that the Defendant is to serve this 7½ years' imprisonment from the date the Defendant was remanded.

50. This Court also order for all the recovered jewelleries to be returned back to the rightful owner.

PG HJH MASNI PG HJ BAHAR
Judge, Intermediate Court