Low Siew Hwa Kenneth v Public Prosecutor
[2003] SGHC 193

Case Number : MA 316/2002

Decision Date : 29 August 2003

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : Edmond Pereira (Edmond Pereira & Partners) for the appellant; Eddy Tham (Deputy Public Prosecutor) for the respondent

Parties : Low Siew Hwa Kenneth — Public Prosecutor

Criminal Procedure and Sentencing – Appeal – Findings of fact by trial judge – Approach to be taken by appellate court

Criminal Procedure and Sentencing – Impeachment – No formal application to impeach credit of accused person and witness – Whether trial judge required to make impeachment ruling

Criminal Procedure and Sentencing – Sentencing – Criminal breach of trust and cheating under ss 409 and 420 of the Penal Code (Cap 224, 1985 Rev Ed) – Whether sentence imposed by trial judge manifestly excessive given accused's position of high trust and responsibility

1 The appellant was convicted on four counts of criminal breach of trust under s 409 of the Penal Code (Cap 224) and one count of cheating under s 420 of the Penal Code. He was sentenced to terms of imprisonment of 30 months, 15 months, 30 months and 12 months for the first, second, third and fifth charges respectively. These were the s 409 charges. The appellant was also sentenced to 12 months' imprisonment for the fourth charge, the s 420 offence. The sentences on the first two charges were ordered to run consecutively, for a total sentence of 45 months' imprisonment. At the end of the hearing before me, I dismissed both the appeal against conviction and sentence. I now give my reasons.

Background

2 Romar Positioning Equipment Pte Ltd ('RPE'), Romar Technologies Pte Ltd ('RT') and GETS Pte Ltd ('GETS') formed a group of companies ('the Romar Group'). The Romar Group's main business was the design, manufacture, rental and sale of welding machinery. The appellant was a director of RT and GETS until September 1999. Jonathan Lim Keng Hock ('Jonathan') was a director of GETS and the managing director of RPE and RT. Wan Pak Chew ('PC') was a director of RPE and RT until April 1999.

3 Any two of the three men could sign cheques on behalf of RPE and RT. Although the appellant was not a director of RPE, he was an authorised cheque signatory. Cheques for GETS had to be signed by both the appellant and Jonathan. Jonathan took frequent overseas business trips and PC would also go on overseas trips sometimes. In 1996, Jonathan started travelling very frequently because of large overseas projects. He was away for about half of that year. In 1997, he was away for about 300 days. Before leaving for such trips, Jonathan would sometimes pre-sign cheques.

4 Employees of the Romar Group included Kelly Lee Gek Kiang ('Kelly') who was overall in charge of the accounts until June 1999. Cynthia Yong Lai Kang ('Cynthia') assisted with the accounts and Alex Ashok ('Alex') handled administrative matters.

5 The appellant was also a partner of Romindo, a business registered in Singapore, together with Hedi Setia Gunawan ('Hedi'). Either of them could sign cheques for Romindo. Hedi was also a director of PT Romindo Mitraperkasa ('PT Romindo'), an Indonesian company, which acted as the

Romar Group's agents in Indonesia. The understanding between the appellant and Hedi was that Romindo's bank account would only be used to pay the Romar Group for purchases of welding machines and to receive commissions from the Romar Group in Singapore currency.

6 The appellant was a partner of Ardent Engineering Construction ('Ardent') as well, with Marie Teo Boon Choo ('Marie') but he was the one who dealt with the operations of Ardent. Marie was the sole proprietor of Serenity Woodcraft and Serene Craft, two interior designing businesses. The three businesses shared premises.

The Prosecution's Case

First charge

7 The prosecution's case was that the appellant misappropriated a sum of $80,000 from GETS on or about 23 September 1997. A cash cheque for the said sum was banked into his personal bank account. The cheque bore the signatures of Jonathan and the appellant. The payment voucher for the cheque was prepared by Kelly and signed by the appellant. Cynthia altered the original entries in the payment voucher as instructed by Kelly. The corrections were done sometime after October 1997 after Kelly rejoined the Romar Group. There was a fictitious invoice purportedly by 'Tung Ya', a Taiwanese company, with Kelly's handwriting and the appellant's signature. This invoice corresponded with the corrected entries in the payment voucher and also with the accounting entries.

8 Jonathan testified that he was unaware of the payment and he did not recall signing the cheque but he thought it could be a cheque pre-signed by him before leaving for one of his overseas trips. He confirmed that there was no such transaction with Tung Ya.

Second charge

9 The appellant misappropriated a sum of $23,100 from RPE on or about 11 June 1997. Again, a cash cheque had been prepared by Kelly and signed by Jonathan and the appellant. Marie banked the cheque into Ardent's account. The payment voucher for the cheque stated that payment was made to a company called 'Fukusuke'. The voucher was filled out in Kelly's handwriting while the signature on the voucher resembled PC's.

10 According to Jonathan, he believed the cheque was a pre-signed cheque as he was not in Singapore between 6 to 12 June 1997. He confirmed with Fukusuke that it had never received the said sum. PC testified that he did not sign the payment voucher and that he had never seen the voucher or the cheque before.

Third charge

11 The appellant misappropriated a sum of $90,000 from RT by cashing a cheque on 25 June 1997, based on a fictitious Nitron Industrial Inc ('Nitron') invoice, which he himself had signed for. The cheque was filled in by Kelly and signed by PC and the appellant. Kelly prepared the payment voucher for the cheque and it was signed by PC. The name of the payee on the voucher was 'Nitron', which was written next to the original letters 'RPE'.

12 PC testified that Kelly had given him the cheque and payment voucher to sign. He had signed the payment voucher in the belief that it was an inter-company transfer of $90,000 from RT to RPE, which was common practice within the Romar Group whenever there were insufficient funds in RPE's account. If 'Nitron' had been stated as the payee, PC averred that he would have checked on the

payment. Jonathan confirmed that there was no such transaction with Nitron.

Fourth charge

13 This was the cheating charge. In April 1999, Sin Ek Engineering Pte Ltd ('Sin Ek') rented a welding machine from RPE. The appellant and Ng Chwee Peck ('Ng') of Sin Ek arranged the rental agreement. Subsequently, Sin Ek wanted to purchase the machine and Ng asked Geraldine Tan Mei Ling ('Geraldine') of Sin Ek to liase with the appellant and conclude the sale. The prosecution's case was that the appellant deceived Geraldine into believing that the machine belonged to Romindo when it actually belonged to RPE.

14 The appellant had produced a fictitious invoice from Romindo. The signature on the invoice resembled Hedi's. The appellant informed Geraldine that the machine belonged to Romindo and not RPE when she questioned him about its ownership. Geraldine had thought that the machine belonged to RPE but she believed the appellant and duly issued a cheque for $12,000 to Romindo, which the appellant banked into Romindo's account. The appellant also signed the Sin Ek payment voucher.

15 Hedi testified that he did not prepare or sign the invoice from Romindo. Sometime in September 1999, the appellant had called him and asked for a purchase order from PT Romindo for a welding machine and it was to be backdated to 16 April 1999. The appellant dictated all the words in the purchase order and asked for a corresponding handwritten note. Hedi faxed it to the appellant on 22 September 1999, thinking that it was needed for competition reasons. The appellant did not tell Hedi the purpose of the purchase order. Later, when Hedi demanded to know what the purchase order and the invoice were for, the appellant failed to give him a reply.

Fifth charge

16 On or about 27 January 1998, the appellant misappropriated a sum of $18,000 from RT. The money was taken by a cash cheque, which the appellant had himself prepared. Jonathan and the appellant signed the cheque. The payment voucher for the cheque was unsigned. Jonathan said that this cheque had also been pre-signed before he went overseas and he did not know the purpose of the cheque. Cynthia testified that she could not locate the payment voucher for the cheque when she had to fill in the corresponding accounting records. She made the accounting entries in accordance with Kelly's instructions.

The Defence

First charge

17 The appellant maintained that Jonathan had agreed to make this payment to him because the appellant had bought some shares on his behalf. He claimed that there was a record of these shares in a file kept in his office in the Romar Group but he did not take the file with him when he left the Romar Group. Jonathan subsequently refused to return the file so the appellant lodged a police report upon the advice of his lawyers.

18 The appellant also explained that the sum of $80,000 had been derived from the inflated costs of renovating RPE's factory premises at 18 Tuas Crescent. The renovation contract had been awarded to Audex Pte Ltd ('Audex') and the appellant alleged that Jonathan had enlisted Audex's help to inflate the costs, so as to obtain a larger loan from the bank and to satisfy Jurong Town Corporation's requirements for renewal of the lease. A whole series of transactions involving several

companies and the creation of fictitious invoices by Audex and GETS were purportedly carried out to this end. Kelly and Tan Teck Yong ('Tan'), who was the logistics manager of Audex, corroborated the appellant's defence.

Second charge

19 The defence here was that the sum of $23,100 was repayment to the appellant for Kian Ho shares bought on Jonathan's behalf with money borrowed from Ardent. The appellant then gave Marie the cheque and asked her to bank it into Ardent's account.

20 Romar Group had invested in a project called Ayeyarwady Resources ('AR'). RPE and RT were to contribute equally to cash calls towards AR. Because RPE paid on behalf of RT towards two cash calls in October and December 1996, RT accordingly repaid RPE a sum of $107,100. The sum of $23,100 was the balance after the respective sums of $64,000 and $20,000 had been withdrawn to pay bonuses to the staff and directors of the Romar Group. Kelly corroborated the appellant's defence.

Third charge

21 The appellant claimed that the scam in this case was Jonathan's way of repaying him because he had paid Jonathan's gambling debts for him. Sometime in mid-1996, the appellant, Jonathan and Kwek Chee Tong ('Kwek') had gone on the same cruise. Jonathan had asked the appellant to borrow gambling chips worth $50,000 from Kwek twice, thus borrowing $100,000 altogether. Kwek gambled on Jonathan's behalf. Jonathan also told the appellant to ask Kwek whether the debt could be paid in instalments and Kwek had agreed.

22 After they had returned from the cruise, Jonathan told the appellant to pay Kwek, so the appellant made payments of $3000 and $22,000 to Kwek from his personal bank account. In June 1997, Jonathan told the appellant that the cash cheque of $90,000 was for him to pay the outstanding $75,000 due to Kwek. Jonathan also said that he would account for the $90,000 as a loan from RPE.

23 The appellant then put $89,200 into his personal bank account and gave Jonathan $800. In June, August and December 1997, the appellant issued three cheques to Kwek, for the sums of $35,000, $20,000 and $20,000, amounting to a total of $75,000. Apparently, Jonathan wanted to delay payment as he hoped that Kwek's company, Kian Ho Bearings, would help the Romar Group by issuing letters of credit.

24 Kelly testified that Jonathan instructed her to prepare the cheque and the payment voucher for the sum of $90,000 and he taught her how to fill in the fictitious Nitron invoice. Jonathan also taught her and her staff to make the relevant accounting entries. Apart from covering up the sum of $90,000, Kelly claimed that the Nitron invoice, which was for US$212,703, had also been used to cover up RPE's payment of US$149,400.24 towards an AR cash call in December 1997.

Fourth charge

25 The appellant strenuously maintained that the welding machine had already been sold to Romindo by the time Sin Ek offered to buy the machine. The appellant had decided to sell the machine to PT Romindo for $11,200 and Hedi had sent the purchase order around 16 April 1999. However, before the expiry of the rental contract with Sin Ek, Ng desired to buy the machine and asked the

appellant to ask PT Romindo if Sin Ek could have the machine instead. Hedi apparently agreed to sell the machine for $12,000 and Ng was agreeable to it.

26 A convoluted arrangement to complete the transactions was thought up. This convoluted arrangement was required partly because PT Romindo was not supposed to sell in the Singapore market. The appellant initially decided that RPE would issue a sales order for $11,200 to Sin Ek and Romindo would also issue an invoice for $12,000 to Sin Ek. Romindo would then collect the $12,000 from Sin Ek and pay RPE $11,200 on behalf of Sin Ek, keeping the remaining sum of $800 as profit from the sale.

27 Subsequently, the power source of the machine was faulty so the appellant gave a credit note of $515 to Sin Ek. Since there was a reduction in the profit margin, the appellant told Hedi to forgo the sale and Hedi agreed. However, the appellant said later that he had told Hedi to forgo the profit and not the sale.

28 The appellant then changed the price in the sales order from $11,200 to $12,000 as RPE was to receive $12,000 from Sin Ek. The appellant asked Alex to prepare the Romindo invoice for $12,000 and signed it on behalf of Hedi. Romindo was to pay RPE on Sin Ek's behalf upon the issuance of RPE's invoice. The appellant did not know why RPE did not issue an invoice to Sin Ek for payment.

Fifth charge

29 The appellant claimed that Jonathan had told him to go to the bank to cash the cheque and pass the money to Kelly, without telling him the purpose of the money. However, he had the impression that the money was for bonuses for either the staff or the three directors since it was close to Chinese New Year. He duly cashed the cheque and passed the money to Kelly in a DBS envelope.

30 Subsequently in June 1999, before Kelly left the Romar Group, she passed the same envelope containing the money to the appellant for safekeeping. There was a note on the envelope in Kelly's handwriting, stating "CP (common pool) in the safe" but the appellant did not know why Kelly wrote these words. He then kept the envelope in his briefcase under his table in his office in the Romar Group, till his services were terminated in September 1999. He claimed that he could not return the money to Jonathan as Jonathan was overseas and PC had already left the Romar Group. Again, Kelly corroborated his version of events.

31 The appellant only returned the money through his solicitors on 23 September 1999 when he realised that the money was part of a civil suit, High Court Suit No 1378 of 1999 ('the civil suit'), taken against him. He maintained that the money was in his possession only because he had taken the briefcase containing the money with him on 22 September 1999, the day his services were terminated.

The decision below

32 In relation to the four s 409 charges, the trial judge found that the ingredients of the offences had been established because: (a) the appellant was entrusted with dominion over property, being the various sums of money; (b) he was so entrusted in the way of his business as agent of the Romar Group; and (c) there was dishonest misappropriation of the property. Together with Kelly, he had devised an elaborate plan to hide their misdeeds through fictitious invoices and false accounting entries.

33 As for the s 420 cheating charge, the elements of the charge had been made out because: (a) the appellant had the dishonest intention to induce Geraldine to deliver property, being the sum of $12,000; (b) Geraldine was deceived: and (c) thus induced, she delivered the property. As such, the prosecution had proven its case beyond a reasonable doubt against the appellant on all the five charges.

34 The key prosecution witness, Jonathan, was found to be consistent and credible. More importantly, solid documentary evidence and credible witnesses, such as Cynthia, Alex, Geraldine, PC and Hedi had supported Jonathan's version of events.

35 In contrast, the trial judge found the credit of the appellant, Kelly and Marie to be impeached. The testimonies given by the appellant and Kelly were internally inconsistent, weak and incredible at times. Other defence witnesses, such as Tan and Kwek were unlikely to be independent witnesses.

Appeal against conviction

36 This was a classic example of a case where the veracity of witnesses was in issue and where the outcome of the case depended almost entirely on whose testimony the trial judge believed.

37 The appellant's grounds of appeal were mainly that the trial judge erred in rejecting his version of events. The appellant also contended that the trial judge erred in failing to make an impeachment ruling during the trial, which prejudiced the appellant's defence.

38 I shall now deal with each of these arguments in turn.

Whether the trial judge erred in rejecting the appellant's version of events

39 The appellant's numerous grounds of appeal mainly reiterated his defence at the court below. Even those grounds of appeal which were pleaded as the trial judge's 'errors in fact and in law' were essentially findings of fact where the appellant claimed that the trial judge accorded the wrong weight to certain pieces of evidence. As I noted during the hearing before me, counsel should be careful not to use such terminology loosely and end up misleading the court.

40 It is settled law that an appellate court will not disturb a lower court's findings of fact unless they were clearly reached against the weight of evidence or they were plainly wrong: *PP v Chong Siew Chin* [2002] 1 SLR 117. An appellate court, if it wishes to reverse the trial judge's decision, has to not merely entertain doubts whether the decision was right but has to be convinced that it was wrong: *PP v Poh Oh Sim* [1990] SLR 1047, *Azman Bin Abdullah v PP* [1998] 2 SLR 704. In examining the evidence, an appellate court has to bear in mind that it has neither seen nor heard the witnesses and has to pay due regard to the trial judges' findings and their reasons: *Lim Ah Poh v PP* [1992] 1 SLR 713, *Soh Lip Hwa v PP* [2001] 4 SLR 198.

41 At the hearing before me, counsel for the appellant strenuously argued that the trial judge failed to consider that Jonathan was the mastermind and manipulator behind the labyrinth of irregular transactions. It was contended that if Jonathan had really been concentrating on his overseas business, then he should not have had the presence of mind and the time to give instructions to prepare documents which were false or inflated. Furthermore, Jonathan's mere denial of knowledge of the payments and purpose of the payments to the appellant was unconvincing.

42 In contrast, the appellant was made out to be a weak-willed and submissive person who

unknowingly facilitated Jonathan's schemes. Apparently, it was only during the civil suit that the appellant learnt from Kelly that the payment vouchers and invoices used to support the various payments had been inflated or forged. Counsel for the appellant also submitted that the trial judge did not properly consider the fact that since the appellant had no dealings with some of the companies used for the movement of moneys, he could not have devised the scams.

43 In my view, the arguments advanced by counsel were of no merit. The trial judge had taken into account these arguments in coming to her decision. She had also found Jonathan to be honest and forthcoming, even with his involvement in directing six irregular transactions, where false or irregular documents and accounting entries were used to inflate company expenses so as to evade paying taxes. The trial judge noted that these transactions were for the good of the companies and the companies did not suffer any losses. Furthermore, the Romar Group had fully accounted for all these irregular transactions to the Inland Revenue Authority of Singapore.

44 On the other hand, it was the appellant who had tried to minimise his involvement in the irregular transactions while exaggerating that of Jonathan's with baseless accusations and wild speculations. Kelly had supported the appellant's defence in full, sometimes to the most minute of details. However, the trial judge found that the evidence of the appellant and Kelly was patently inconsistent, illogical and at times ludicrous. Moreover, the appellant had been unable to produce any documentary evidence in support of his claims that he had acted only at Jonathan's behest. Both prosecution and defence witnesses alike had also roundly contradicted his evidence. Worse still, prosecution witnesses testified that both the appellant and Kelly had tried to persuade them to give false evidence.

45 Besides Kelly's dishonesty and her inconsistent statements, the trial judge rightly noted that she was not an independent witness. First, when problems between Jonathan and the appellant surfaced in June 1999, Kelly left the Romar Group to work for Marie, who enjoyed a close relationship with the appellant. He is the father of Marie's child. Second, Kelly helped the appellant prepare for the civil suit, as well as his defence at the trial below. Third, she was willing to help the appellant to the extent of asking Cynthia to fabricate evidence in his favour.

46 Furthermore, I should add that, as I noted in *Jimina Jacee d/o C D Athananasius v PP* [2000] 1 SLR 205, due weight should be accorded to a trial judge's assessment of a witness' credibility based on demeanour in court. The trial judge was entitled to find that the appellant was not what the defence made him out to be - the meek and subservient employee who followed Jonathan's every command. In stark contrast, the trial judge found that the appellant was clearly an intelligent, sharp and alert man who answered ably in court.

47 Apart from the trial judge's assessment of the appellant's and Kelly's poor creditworthiness, the trial judge also gave clear and compelling reasons why the defence could not withstand scrutiny. Having perused the evidence, I could find no fault with the trial judge's findings. They were not plainly wrong or clearly reached against the weight of evidence. As such, I dismissed the appeal against conviction.

48 I only wish to comment further on a point of contention relating to the impeachment proceedings against the appellant and Kelly.

Whether the trial judge erred in not making an impeachment ruling at the trial

49 Counsel for the appellant argued that the trial judge's failure to make an impeachment ruling either at the close of the impeachment proceedings or at the end of the trial had prejudiced the

appellant because the defence had assumed during the trial that the appellant's and Kelly's credit would not be impeached. Hence, as no clear ruling had been made, the discrepancies in the appellant's and Kelly's testimonies ought not to be held against them.

50 This submission cannot stand. The law on this matter has been decisively laid down in the case of *Loganatha Venkatesan & Ors v PP* [2000] 3 SLR 677, where the Court of Appeal held that there is no requirement that the trial judge must, at any stage of the trial, make a ruling on whether the credit of a witness is impeached. All that is required is that the court must consider the discrepancies and the explanation proffered by the witness for the purpose of an overall assessment of his credibility. Regardless of whether his credit is impeached, the duty of the court to evaluate the evidence in its entirety to determine which aspect to believe remains.

51 As such, the trial judge did not err in not making a ruling at the trial that the credit of the appellant and Kelly had been impeached.

52 The appellant also relied on the cases of *PP v Somwang Phatthanasaeng* [1992] 1 SLR 138 and *PP v Mohammed Faizal Shah* [1998] 1 SLR 333 for the proposition that just because the credit of an accused person has been impeached does not necessarily mean that all his evidence must be disregarded. The appellant alleged that the trial judge disbelieved the testimonies of the appellant and Kelly mainly because of the impeachment of their credit.

53 It is evident that this was not the case. The trial judge had carefully scrutinised the whole of the evidence to determine which aspects might be true and which aspects should be disregarded. Indeed, her very detailed grounds of decision attested to this. The trial judge had undoubtedly considered the reliability and strength of the appellant's and Kelly's evidence, independent of the impeachment proceedings.

54 Since the trial judge had been very thorough in her assessment of the evidence and she had taken into account the entirety of the evidence in arriving at her decision, there was clearly no injustice done to the appellant in giving little or no weight to the evidence of the appellant and Kelly.

55 Counsel for the appellant added that the trial judge had been wrong to impeach the appellant's credit since there had been no application for impeachment at the court below when the statement (exhibit P80) was tendered by the prosecution.

56 A perusal of the record of proceedings shows that while the prosecution did not formally apply for the appellant's credit to be impeached, it was understood by the trial judge, the prosecution and the defence, that the prosecution was applying for this.

57 When the prosecution applied to cross-examine on the statement, defence counsel asked for, and was given, reasonable time to take instructions from the appellant on the statements before he was cross-examined on them. The trial judge also proceeded to confirm that the appellant had made the statements voluntarily. Since the statements were not contested, the trial judge admitted them. The prosecution then explained the discrepancies to the appellant and the appellant was given a fair and full opportunity to explain the inconsistencies.

58 These steps taken by the trial judge, the prosecution and the defence, were consistent with the usual court procedures in relation to impeachment. In my judgment, the appellant had been treated fairly and justly and it would be erroneous to assert that the trial judge had been wrong in impeaching the appellant's credit just because there had been no formal application to impeach his credit.

59 I now turn to the appeal against sentence.

Appeal against Sentence

60 It is well-established that an appellate court will not generally interfere with the sentence passed by a trial court unless there was some error of fact or principle, or the sentence was manifestly excessive or unjust: *Tan Koon Swan v P*P [1986] SLR 126*, Lim Poh Tee v PP* [2001] 1 SLR 674.

61 The appellant did not raise any specific grounds for his appeal. There were also no mitigating factors of much value. Notwithstanding that, I still considered if the sentence was manifestly excessive in the circumstances.

62 A person found guilty of an offence of criminal breach of trust under s 409 of the Penal Code may be sentenced to imprisonment for life, or for a term, which may extend to 10 years and also be liable to a fine. The punishment provided for an offence of cheating under s 420 of the Penal Code is imprisonment for a term, which may extend to seven years and a fine.

63 With regard to the s 409 charges, I have previously noted in *Sarjit Singh s/o Mehar Singh v PP* [2002] 4 SLR 762 that convictions under s 409 of the Penal Code are more serious than simple criminal breach of trust cases, since under the situations envisioned by the provision, the offender was ex hypothesi standing in a fiduciary type relationship with the victim of the offence.

64 Accordingly, the trial judge had been mindful that the appellant had committed the four s 409 offences whilst in a position of high trust and responsibility and his wrongdoings had to be viewed with severity. These were not offences committed on the spur of the moment but schemes that had been elaborately engineered. The appellant had misappropriated a sum of $211,100 over a period of about half a year.

65 The appellant had also shown no signs of remorse or repentance for the commission of the offences. The repayment of $18,000 under the fifth charge could not be considered restitution since the repayment was meant to bolster his defence and he remained adamant that he did not dishonestly misappropriate the sums. The trial judge had nevertheless taken this repayment into account in considering the total loss to the companies.

66 In ordering only the first two sentences to run consecutively and in not selecting the two longest sentences, it was clear that the trial judge had not been unduly harsh. The total sentence of 45 months' imprisonment imposed on the appellant could not be said to be manifestly excessive.

67 Similarly, for the s 420 charge, the appellant did not demonstrate any remorse. He did not repay the sum of $12,000 as restitution but again, used it to shore up his defence. Further, he was a de facto director of RPE and a partner of Romindo but abused both positions to bring his dishonest plans to fruition. The term of 12 months' imprisonment imposed was clearly within the acceptable range. In any event, the sentence for this charge did not affect the overall sentence imposed since it was ordered to run concurrently with the sentences for the s 409 charges.

68 For the foregoing reasons, I ordered the appeal against sentence to be dismissed.

Appeal against conviction and sentence dismissed.