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**THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE COURT OF KAMPALA AT BUGANDA ROAD
CRIMINAL CASE NO. 490 OF 2020**

UGANDA:..... PROSECUTOR

VERSUS

ASITE BENARD AND ANOTHER ACCUSED.

**JUDGMENT BEFORE HER WORSHIP AYO MIRIAM E.OKELLO
CHIEF MAGISTRATE**

The two accused persons Asite Benard (A1 and Ezama Brian (A2) are charged with unlawful possession of protected species contrary to section 36(1) and 71(1) (b) Uganda Wildlife Authority 2019.

The particulars are that the two accused persons the two accused persons on 5th/05/2020 at Kyebando Kawempe division in Kampala District had in their passion to live pangolins without the wildlife Use Rights.

The accused are presumed innocent until proven guilty. The burden lies with the prosecution to prove beyond reasonable doubt that the accused committed the offence. To secure a conviction the following ingredients must be proved.

1. That the Pangolins are protected species under Uganda Wildlife Authority.
2. Accused persons were in possession.
3. Accused had no valid permit/Use rights.

Resolution:

1st ingredient whether pangolins are amongst the protected species.

PWII Sgt Makembo Abudallah in his evidence told Court that he examined the two pangolins. He confirmed to Court that they fall under the endangered species. There is no doubt that pangolins are listed under the 3rd schedule.

2nd ingredient whether the accused in possession.

PW1 in his testimony stated that he got information that some people were trafficking in pangolin. He moved to the scene around Bahai Temple and he saw A1 carrying a black bag. Inside it there were 2 live pangolins and was arrested. A1 was in company of A2.

Both PWIII and IV who investigated the matter corroborated the evidence of PW1 that there were 2 live pangolins found in possession of the accused. The photos of the two pangolins were taken and exhibited. The live Pangolins were taken back in the wild.

I am satisfied the two were in possession of the 2 live Pangolins.

The accused person in their defence chose to keep quiet and throughout the trial, none of the accused intimated to Court that they had a valid wildlife use Right. This is a clear manifestation that they were in possession of the Pangolin Illegally.

Having evaluated the evidence adduced, I am convinced that the prosecution proved beyond doubt that the accused were in possession of the two live Pangolins without any wildlife Use Right. I find them guilty and convict them accordingly.

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Sgd: **Ayo Miriam E. Okello**
Chief Magistrate
18th / 11 / 2020

18/11/2020

Accused in Court

Winnie State

Andrew Counsel for accused

Liz Clerk.

Court: Judgment read in open Court.

Respond:

No previous record. They are first offenders, the accused persons took Court a full trial. They have spent 6 Months on remand. Cases of possessions are rampant especially to Pangolins, this denies the country revenue. I pray for a reformative sentence.

Mitigation:

They are first offenders and youthful and can reform. The period spent on remand helps them reform. The pangolins were found alive. I pray the period spent on remand is sufficient.

SENTENCE:

The State has prayed for reformative sentence. The Pangolins were found alive and handed back to the Uganda Wildlife Authority.

I believe the convicts have learnt their lessons. They must engage in better businesses.

Court has considered the time they have spent on remand and now sentence them to six Months Imprisonment. Sentence starts from the date of remand.

.....*M Okello*.....
Sgd: Ayo Miriam E. Okello
Chief Magistrate
18th /11/2020