

IN THE MATTER OF THE LEGAL PRACTITIONERS ACT 2000 ACT No 15 OF 2000, PART V

IN THE MATTER OF A COMPLAINT AGAINST MOHAMED MANSARAY, A LEGAL PRACTITIONER BROUGHT BY ALPHA BELO KOROMA

Coram:

Hon. Justice Glenna Thompson JSC

Derek Beoku-Betts Esq.

Ms Sally Vinod - Khatumal

Ms Millicent Stronge

Delivered on ^{3rd} the ^{Dec} Ruling 2020

Introduction

1. By a letter dated 6th December 2018, Alpha Bela Koroma (the Complainant) formally made a complaint against Mohamed Mansaray, a Legal Practitioner. The complaint was further set out in an affidavit sworn to on the 10th December 2018 in compliance with section 31(2) of the Legal Practitioners Act 2000 as amended. The legal Practitioner Mr Mohamed Mansaray filed an affidavit in opposition sworn to on the 21st November 2019 and attached thereto is a copy of an unsigned and incomplete conveyance.
2. The matter first came up for hearing on the 5th November 2019, with the Complainant present but the Legal Practitioner was absent. When the matter came ^{was} up again on the 12th November 2019, the Complainant was present but yet again the Legal Practitioner was absent. The matter was adjourned to the 19th November 2019 with an order for Mr Mansaray to file his affidavit in opposition by Thursday 14th November 2019. An order was also made for a Notice of Hearing to be served on Mr Mansaray by Friday 15th November 2019. When the matter came up on the 19th November 2019, both parties were present but it could not proceed as there was no quorum. Hearings finally started on the 5th November 2020 when both parties were present. The Complainant gave evidence in chief and was cross examined by Mr Mansaray. The matter was then adjourned part-heard to the 24th November 2020 for Mr Mansaray to open his case, but on that day he was absent. The Secretary to the Disciplinary Committee informed the Committee that Mr Mansaray had contacted her to state the he had lost his mother's younger sister. The matter was then adjourned the 26th November 2020

for the hearing to continue. On the 26th November, Mr Mansaray was not present despite being informed by the Secretary. The Complainant was present. The matter was therefore withdrawn for Ruling.

The Complaint

3. The Complainant stated in his affidavit that sometime in October 2015, he contracted the services of Mr Mansaray to prepare a Deed of Gift in relation to a property at Fonima, Goderich, in the Western Area of Sierra Leone on behalf of his friend Abu Bakarr Sankoh who resides out of the jurisdiction. He consulted Mr Mansaray's services at his premises at Consider Lane, Wellington. To prepare and register the Deed of Gift, he was charged Le8,000,000.00 (Eight million leones). Since then he has tried to contact Mr Mansaray through his telephone and his address but all have proved futile. He seeks the necessary action so that he can get his registered document or his money back.

The Response

4. Mr Mansaray in his affidavit states that he knows the complainant and that he consulted him together with a Mr Sankoh in respect of a property in the west end of Freetown belonging to his friend and his wife who live overseas. That it was clear from the instructions that the owners of the property were having an argument over the property. Terms of payment were discussed which included providing them with a surveyor who would do a plan in the children's names. Payment of his fees of Le8,000,000.00 was paid and the conveyance was prepared for the owners to sign. That Mr Sankoh visited Sierra Leone briefly by which time he (Mr Mansaray) was out of the jurisdiction, but they spoke on the phone. By the time he returned, Mr Sankoh had travelled back because of an emergency. That the surveyor he contacted did not complete the work because of the frequent changing of the Director of Surveys and because he travelled to Japan for further studies. That the complainant has explained to him the deteriorating relationship between the owners causing the conveyance to still be unsigned and dated and thereby disenabling him from proceeding to its final registration. That he and the Complainant had been in constant touch with the Complainant visiting him at his premises and in court at Waterloo. The unsigned and incomplete conveyance was attached as Exhibit A.

The Hearing

5. The Complainant testified on the 5th November 2020. He stated that he was a trader selling building materials. In October 2015, his friend in the United States Abu Bakarr Sankoh asked him to find a lawyer for him that would do a Deed of Gift. He went to a lawyer who had previously done the conveyance, Elvis Kargbo but he was not available as he had travelled. He was asked to look for another lawyers and his cousin Amadu Jah told him about a lawyer called Mr Mansaray. He called Mr Mansaray who told him to meet him at Consider Lane, Wellington. He did so accompanied by Amadu Jah. He was charged Le10,000,000 but they agreed on a fee of Le8,000,000.00. The next day he went along with his friend Abu Bakarr Bangura and met Mr Mansaray at his house. Mr Mansaray did not give them a receipt as he said he had left the receipt at his office at 37 Percival Street and advised him to go to the office. When he went to 37 Percival Street, he was told that they had not seen Mr Mansaray for a long time. This all happened in the month of October 2015. The next day he went back to Mr Mansaray's house at Consider Lane where a receipt was issued although he has now lost it. He said Mr Mansaray asked him to ask Abu Bakarr for the LS number so he could start doing the work. The next day he went to see Mr Mansaray with the names of the children whose names should be on the document and Mr Mansaray told him he would get the document in 3 months' time. He was later given a copy to see if there's any mistake and he pointed out that the last child should read Abu Bakarr Sankoh (junior). He was told by Mr Mansaray that he'll correct it but he has still not received the Deed of Gift. He has lost count of the times that he has been to Mr Mansaray's house. Mr Mansaray would tell him that the Minister is absent, the Director of Lands is absent, the beacon number is lost etc. and Mr Mansaray does not take his calls. He wants his Le8,000,000.00.
6. In cross examination by Mr Mansaray, the Complainant accepted that the property was in joint names of the friend and his wife. He denied telling Mr Mansaray that his friend feared that if his wife came to Freetown she would seize the property. He denied knowing anything about the couple's relationship or that it was Mr Mansaray who came up with the suggestion for the parties to do a Deed of Gift in the names of their common children. He denied that Abu Bakarr and himself called Mr Mansaray together or that Abu Bakarr was to come to sign when he comes to town. He stated that the only time he connected Mr Sankoh and Mr Mansaray was to get the LS Number. He denied knowledge of whether Mr Sankoh's wife had been to town and that he never called

Mr Mansaray to tell him that Mr Sankoh was returning to the United States on short notice. He stated that when Mr Sankoh came to town he never took him to see Mr Mansaray. He repeated that Mr Mansaray gave him a document to check. The document has not been signed by Mr Sankoh and he does not know if Mrs Sankoh had signed it. He said that he had never been told by Mr Mansaray that the document was delayed because Mr Sankoh and his wife could not come together to sign the document. He denied being told by Mr Mansaray that the Director had been sacked but rather that he had travelled. He denied being told by Mr Mansaray to wait for the parties to be at peace.

Deliberations

7. Our first observation is that the Complainant is not the owner of the property which he instructed was to be transferred by a Deed of Gift. It beggars belief that a lawyer could accept oral instructions from a person unconnected with a property for that property to be transferred to others. Even if we accept Mr Mansaray's assertion in his affidavit that the Complainant was in the company of Mr Sankoh when he consulted him, by his cross examination he makes clear that the property was in joint ownership. Where were the instructions from the co-owner? If this is allowed to go unchallenged, it will effectively mean that any person could get hold of a conveyance and give instructions to any lawyer to transfer ownership on the pretext that they have been so authorized.
8. It is also clear from Mr Mansaray's affidavit that although he said the Complainant was accompanied by Mr Sankoh, it was the complainant who was giving the instructions. In paragraph 1 he deposed that "*..I know the Complainant herein who consulted my services together with one Mr Sankoh in respect of property in the West end of Freetown belonging to his friend and his wife staying overseas*" In paragraph 2 "*That from the explanation he gave me it became clear the owners of the said property are having argument over the property based on which advised that since they have children together let the property be conveyed to the children by way of a Deed of Gift which was agreed.*" (sic) Apart from the fact that the instructions were coming from the Complainant, there is no evidence of an engagement letter setting out the terms for the service he was going to be giving. This is even more important because there was a co-owner whose acquiescence was paramount and who was not present at this consultation. On what authority then was the Complainant giving those instructions?
9. Our second observation is that in paragraph 7, of his affidavit, Mr Mansaray deposed as follows: "*That the surveyor, I contracted to do the*

survey plan could not complete it for the reasons of the frequent changing of the director of Surveys and Lands and him travelling to study for further studies in Japan." Yet in the preceding paragraph (6) he says "That before I could return to Freetown for him to sign his own column on the conveyance he had traveled back based on an emergency according to the complainant." Also in paragraph 8 he deposed "That the complainant has been explaining to me the deteriorating relationship between the owners of the property thus causing the conveyance to be unsigned to date thereby disabling me to proceed to its final registration." A number of issues arise out of these three paragraphs. All surveyors do an advance copy of the plan, a copy of which is submitted to the lawyer to check and proceed with his drafting. Surely, if the surveyor had been instructed, he has had ample time to produce one for Mr Mansaray to work with and the owners to check. We are sure that if one had been produced, Mr Mansaray would have exhibited it and would have included the coordinates in the draft he exhibited as A. No Director of Surveys and Lands needs to be in his seat for an advanced copy. Further since 2015 to now, there have been many properties whose titles have passed to others. The effect of any change to the occupant of the position of Director of Surveys and Lands, frequent or otherwise is not a reason for a 5 year delay. Similarly, if the Surveyor instructed had left the country for further studies, we are satisfied that Mr Mansaray would have asked him to pass his file to some other surveyor or would have found a replacement himself. We are equally satisfied that Mr Mansaray would have asked for any deposits paid to be refunded for a job that is still incomplete 5 years after he was instructed. We also note that neither the name of the surveyor was mentioned nor any receipt of payment to him was produced and exhibited to his affidavit. We find it strange that Mr Mansaray does not say in his affidavit nor is there any evidence that the Complainant was told what proportion of the fees was his, what was for the Surveyor and what was for registration and tax including Goods and Services Tax.

10. Further we find Mr Mansaray's affidavit contradictory, if there is no survey plan what difference does it make if the owners are unavailable to sign the conveyance for him "*to proceed to its final registration?*" Whether they are at peace or not, whether their relationship was deteriorating or not or whether they were available and in his office or not, the fact is that he could not proceed to final registration without the signed survey plan. We find that his paragraph 8 is an attempt to make a complete mockery of these proceedings. In any event, if all things were equal, there was nothing stopping him from sending the

document to the United States to be signed in front of a notary public. We shall not comment on the use of a local address for parties who were domiciled in the United States and who would have witnessed it.

Conclusion

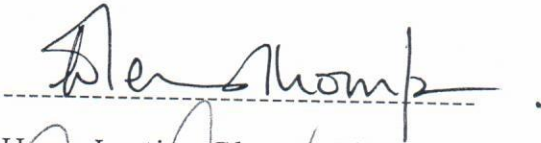
11. In the end this case is really about a legal practitioner failing to do work for which he has been paid. Mr Mansaray does not deny being paid Le8,000,000.00. We also note that he had communicated with the Secretary that he intends to refund the money to the Complainant. Unfortunately that is not where it ends. The fact that Mr Mansaray failed to carry out work for which he had been paid without any reasonable explanation is itself a disciplinary offence. It is an unprofessional and dishonourable or unworthy conduct for a legal practitioner to receive remuneration for the performance of professional work and failing, without reasonable excuse, to perform such work within a reasonable time pursuant to Section 38 (1) (m) of the Legal Practitioners Act 2000 as amended. We therefore find that Mr Mansaray has breached the following Rules of the Legal Practitioners (Code of Conduct) Rule, 2010
 - i. Rule 2 - Failing to uphold at all times the standards, dignity and high standing of the legal profession
 - ii. Rule 25 (1) – Failing to ensure that his practice is efficiently and properly administered and shall, in particular take all reasonable and practicable steps to ensure that professional engagements are fulfilled or that early notice is given if they cannot be fulfilled.
12. Further we find that Mr Mansaray has treated this Disciplinary Committee with levity. This matter had to be taken out of the list on more than one occasion when Mr Mansaray would either not be contactable or will find one excuse or another for being unavailable. We find this behaviour unacceptable. The Disciplinary Committee is there for a purpose and it cannot allow its work to be hampered by the tardiness of those who have been brought before it. It is for this reason that the Committee decided that no more adjournments would be granted at the request of Mr Mansaray and withdrew the file for ruling.

13. In view of our findings, this Committee recommends the following:

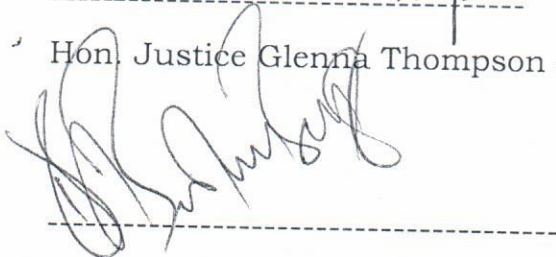
- i. Mr Mansaray refunds the full amount of Le 8,000,000 to the Complainant Mr Aplha Belo Koroma.
- ii. Mr Mansaray pays the sum of Le1,000,000 as costs to the Complainant.
- iii. Mr Mansaray to be suspended from practicing as a Legal Practitioner for a period of 12 months.

Refund + Costs to be paid on or before 21/7/2021

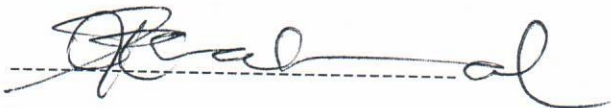
Signed:



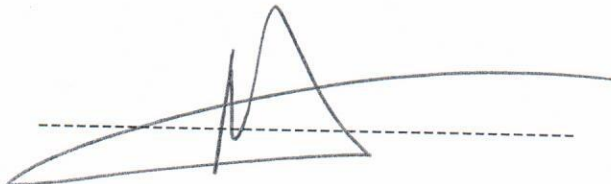
Hon. Justice Glenna Thompson JSC



Derek Beoku-Betts Esq.



Mrs Sally Vinod- Khatumal



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