

IN THE LEGAL PRACTITIONERS DISCIPLINARY COMMITTEE
BODY OF BENCHERS
HOLDEN AT ABUJA

COMPLAINT NO.: BB/LPDC/295/2020

BETWEEN

MONDAY OMON OJO

- APPLICANT

AND

EDWARD OSEGHALE

- RESPONDENT

CORAM

- | | |
|---|-----------------------|
| 1. HON. JUSTICE DR. ISHAQ BELLO, OFR. | CHAIRMAN |
| 2. AHMED MUSTAPHA GONIRI, ESQ. | MEMBER |
| 3. MR. UMEH KALU, SAN | MEMBER |
| 4. EBENEZER OBEYA, ESQ. | MEMBER |
| 5. HON. SULAIMAN USMAN, SAN, AG SOKOTO | MEMBER |

FINAL DIRECTION

DELIVERED ON THE 8TH DAY OF MAY, 2023

This matter was initiated via an Originating Application dated the 12th day of October, 2020 and filed at the Registry of this Committee on the 28th day of October, 2020. The Application herein was delivered by **TheNigerianLawyer** Monday Omon Ojo acting as Attorney of Eigbokhan Kingsley.

The facts of the complaint are that Mr. Eigbokhan Kingsley instructed the Respondent, a legal practitioner to perfect the title of his landed property at the Ministry of Lands, Alausa, Ikeja, Lagos State. Mr. Eigbokhan handed over relevant title documents relating to the said landed property to the Respondent as counsel. Some of the title documents that were handed over to the Respondent by Mr. Eigbokhan included:

- i. a copy of a Deed of Assignment dated 27th September, 2018
- ii. a Power of Attorney in respect of the landed property dated 14th May, 2019
- iii. Copies of receipts of payment made by Mr. Eigbokhan to the Estate Developers of the Estate – Homeland Realtors Ventures

In addition to Mr. Eigbokhan handing over these documents to the Respondent, he equally made payments to the Respondents on demand for part payment of property registration and survey fees totaling N 100, 000. The Respondent equally collected various sums of money totaling



N 405, 000 from Mr. Eigbokhan (his client) for one year Land Use payment, Building Approval and Property Development.

Following delays by the Respondent in updating Mr. Eigbokhan on the progress of the perfection of the title, he became suspicious of the Respondent in the due discharge of his obligations to him leading to a loss of confidence in his ability to deliver. On consistent demands for evidence of payment to the Lands Registry by Mr. Eigbokhan on the Respondent, the Respondent sent a copy of a Survey Plan to the Petitioner as evidence of work done.

The Petitioner further asserts that on a critical analysis of the Survey Plan procured by the Respondent as evidence of work done, it was discovered that the Survey Plan was a forgery and intended to deceive the Petitioner. The Petitioner gave details and particulars of the alleged forged Survey Plan as could be seen on the face of the documents.

The anomalies on the Survey Plan led to further inquiry on the Respondent's status as a legal practitioner which further revealed that the Respondent had long been operating on a false and deceitful office address. Inquiries made of the Respondent's given office address of 5th Floor, NIPOST Building, Obalende, Lagos showed that nobody knows him there as he has no office at the given office address.

Entreaties on the Respondent by the Petitioner to return the land title documents given to him and the various funds for processing the perfection of the land title documents were unheeded resulting to this Petition.

TheNigeriaLawyer

Available records from the proceedings in this matter clearly shows that the complaint is undefended. All processes meant for Respondent were served by means of substituted service on the application of the Applicant and on the orders of this Committee. There is evidence from the records and records of proceedings as contained in the affidavit of service sworn to by Monday Omon Ojo to the effect that upon the Order of the Committee made on the 14th day of July 2021 for an Order of substituted service of the originating processes in this proceedings, service of the originating processes was effected on the Respondent via email to the Respondent's email address and equally to the Respondent's Whatsapp number.

The affidavit of service of the originating processes equally shows that the originating processes were pasted on the notice boards of the High Court of Justice, Tadfawa Balewa Square, Lagos and the Nigerian Bar Association, Ikeja High Court Secretariat on August 17th, 2021. Attached to the affidavits of service were copies of photographs marked Exhibit Ojo B showing pictures of the originating processes and orders of the Committee for substituted service as pasted on the notice boards.

CERTIFIED TRUE COPY

There is yet another affidavit of service sworn to by Monday Omon Ojo of counsel to the Petitioner evidencing substituted service on the Respondent of the Hearing Notice following an Order of this Committee made on the 14th day of July, 2021 directing substituted service of the Hearing Notice on the Respondent by pasting same on the 5th Floor, NIPOST Building, Obalende, Lagos and the Ikeja Branch Office of the Nigerian Bar Association. Exhibit D attached to the affidavit of service is another affidavit of service sent to the Petitioner's counsel by the Deputy Sheriff of the Lagos State High Court marked Exhibit Ojo C showing pictures of the pasting on the building as ordered.

An additional evidence of service marked Exhibit Ojo D is evidence of Hearing Notice sent to the Respondent's email address on the 18th day of November, 2022 by 4.21 pm. A copy of the said email sent to the Respondent is marked as Exhibit Ojo E. Finally, on the issue of service of processes on the Respondent is an affidavit of service sworn to on the 28th day of March, 2023 by Monday Omon Ojo of counsel to the Petitioners, evidencing yet another substituted service on the Respondent of the Hearing Notice and Final Written Address of the Petitioner as Ordered by this Committee by pasting same on a notice board by the Sheriff at the 5th Floor, NIPOST Building, Obalende, Lagos and the Ikeja Branch Secretariat of the Nigerian Bar Association. The said Sheriff took photographs of the pasted processes which were printed and exhibited as Exhibit Ojo F. Equally attached to the affidavit of service of counsel is the sworn affidavit of the Sheriff marked as Exhibit Ojo G.

TheNigerianLawyer

In addition to the above means of substituted service on the Respondent is an email message sent to the Respondent's email address and whatsapp number containing the Petitioners Final Written Address and Hearing Notice as Ordered by this Committee marked as Exhibits Ojo H and Ojo I. Both email and whatsapp messages were sent to the Respondent on the 23rd day of March, 2023 at 2.25pm.

I have taken pains and time in enumerating the various forms and evidence of service of the originating processes and other processes in this proceedings on the Respondent in full realization of the essence of service of relevant processes on parties in proceedings such as this. Service, especially on the Respondent is fundamental and touches on the jurisdiction of the Committee to proceed with the hearing. Any proceedings conducted without service of the Originating processes on the Respondent is an exercise in futility. Proceedings without service on the adverse party denies such adverse party of fair hearing and such proceedings and any judgment derived therefrom is subject to being set aside and upturned on Appeal.

See **O & O Networks Ltd. v. Broad Comms. Ltd. (2021) 5 NWLR (Pt. 1770) 454 @ 492 [Paras. D – H]** where it was held that:

“A party to a Suit has an inalienable right to be served with the Court processes. A violation of that right to a party equates with breach of his inviolable to fair hearing as entrenched in Section 36(1) of the Constitution, as amended. It must be stressed, pronto, that the right to service of court processes is sui juris.”

and **Emeka V. Okoroafor (2017) 11 NWLR (Pt. 1577) 410 @ 461** where it was held that:

“it is therefore settled beyond dispute that the service of an originating process on a party to an action is a condition precedent to the exercise of the court’s jurisdiction, as any party against whom a suit or process is filed has the right to know that a suit had been instituted against him, what the claims are and an opportunity to defend himself, if he has a defence thereto”

See also **Ihedioha v. Okorocha (2016) 1 NWLR (Pt. 1492) 148 @ 179** where the Supreme Court held as follows:

“I must emphasize that the service of process is an important aspect of the judicial process. Failure to serve a party with court process offends section 36(1) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Any breach of this principle renders the proceedings a nullity”

It is in the light of the foregoing that I have laboured in x-raying all the efforts employed in discharging this fundamental burden of service on the Respondent. It is more apt and necessary to devote ample time in satisfying myself that every attempt was made to bring the existence of this proceedings to the knowledge and notice of the Respondent, since the Complaint remains undefended despite the serial Orders for substituted service made by this Committee. Having satisfied myself that the Respondent has knowledge and notice of the pendency of this complaint and has decided not to put up an appearance in defence, I will proceed to consider the complaint of the Petitioner on the merit.

The Petitioner’s case as earlier stated in the introductory paragraphs of this Direction borders on the Respondent’s failure to discharge the legal services for which he was engaged by the Petitioner. The Respondent’s failure to meet the obligations to the Petitioner as counsel led to the demand for the refund of the fees and money earlier paid to him for the perfection of allied land title documents. The Petitioner’s incessant and constant demands on the Respondent for evidence of service delivery led to the Respondent procuring Survey Plans and other receipts which the Petitioner considered to be forged.

It is important to state at this stage that since the Respondent did not put up appearance and neither did he engage any counsel, the complaint presented by the Petitioner remains unchallenged and

uncontroverted. In the circumstance of the facts presented by the Petitioner being uncontroverted, this Committee has no option than to enter judgment in favour of the Petitioners.

However, we must state here that we do not possess the vires to inquire into the complaint of forgery of Survey Plans, as those are matters in the realm of criminality which the Committee does not possess the jurisdiction to entertain. See **Ndukwe V. LPDC (2007) 5 NWLR (Pt. 1026) 1 @ 28** where it was held as follows:

“That apart, by the provisions of section 10 of the Legal Practitioners Act, the 1st Respondent was established to exercise and does exercise disciplinary jurisdiction over members of the legal profession. The 1st respondent has no jurisdiction to try criminal cases neither has it ever pretended to have such jurisdiction by even attempting to exercise it.”

It is obvious from the facts of this Complaint that there was a lawyer – client relationship between the Petitioner and the Respondent in this matter. The Respondent’s services were engaged by the Petitioner for the performance of ascertained legal services. There is evidence that the Respondent failed woefully in the discharge of the legal service and in fact did not present any evidence of delivery of the service. This act of non – performance offends Rules 1 and 14 of the Rules of Professional Conduct for Legal Practitioners.

I find the conduct of the Respondent irresponsible and condemnable. It is the attitude of legal practitioners like the Respondent that portrays the legal profession in bad light.

TheNigerianLawyer

DIRECTION

We the Legal Practitioners Disciplinary Committee hereby find the Respondent EDWARD OSEGHAE, ESQ **LIABLE** of infamous conduct in a professional manner as alleged in the Originating Application filed by the Applicants.

We are satisfied that the proper order to make in the circumstance is to DIRECT that Respondent EDWARD OSEGHAE, ESQ be, and is hereby suspended from the Roll of Legal Practitioners and from engaging in the business of practicing law for a period of TWO YEARS from the date of this DIRECTION.

THE CHIEF REGISTRAR OF THE SUPREME COURT is hereby DIRECTED to effect the above order and to make a notation of this

CERTIFIED TRUE COPY

DIRECTION against the name of the Respondent EDWARD OSEGHAE, ESQ on the Roll of Legal Practitioners. This ORDER shall forthwith be brought to the attention of the CHIEF REGISTRAR OF THE SUPREME COURT. We further ORDER that NOTICE of this DIRECTION be immediately given and brought to the attention of the Respondent, the presence of the Respondent at the proceedings of this Committee where this DIRECTION is read shall be deemed to be sufficient personal service, by publication in any edition of the PUNCH Newspaper and also by publication in the Federal Gazette as required by law. Copies of this DIRECTION must also be served on the president of the Nigerian Bar Association who will take steps to notify the General Council of the Bar, National Executive Committee of the Nigerian Bar Association, and other organs of the NBA. We also DIRECT that the entire judgment encompassing this DIRECTION shall be brought to the attention of their Lordships, the Chief Justice of Nigeria, the President of the Court of Appeal, President of the National Industrial Court, the Honourable Chief Judges of the High Court of FCT, Federal High Court and the High Courts of all other States of the Federation, President of the Customary Court of Appeal of all States of the Federation and heads of all other Courts wherein a legal practitioner is entitled to audience by virtue of his office as legal practitioner in Nigeria, the Attorney General of the Federation and the entire Attorneys General of the remaining 36 States of the Federation. The order shall also be served on the Inspector General of the Police, Commissioners of Police in the other States of the Federation.

TheNigeriaLawyer

We further ORDER that the RESPONDENT, EDWARD OSEGHAE refunds forthwith, the sum of N405,000.00 to the Petitioner.

We make no Order as to costs.

This shall be the Direction of this Committee.

Dated at Abuja, this 8th day of May, 2023

SIGNED

1. HON. JUSTICE DR. ISHAQ BELLO, OFR.
2. AHMED MUSTAPHA GONIRI, ESQ.
3. EBENEZER OBEYA, ESQ.
4. HON. SULAIMA N USMAN, SAN, AG SOKOTO
5. MR. UMEH KALU, SAN

Ishaq Bello
..... CHAIRMAN
Ahmed Mustapha
..... MEMBER
..... MEMBER
..... MEMBER
Ume Kalu
..... MEMBER

LEGAL PRACTITIONERS DISCIPLINARY
COMMITTEE
CERTIFIED TRUE COPY
15 APR 2024
Registrar: ZIBAI B. KATUNG
Sign..... *ZBK*.....