

IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA, SITTING IN
ITS OCTOBER TERM, A.D. 2024.

BEFORE HER HONOR : SIE-A-NYENE G. YUOH.....CHIEF JUSTICE
BEFORE HER HONOR : JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : YUSSIF D. KABA.....ASSOCIATE JUSTICE
BEFORE HIS HONOR : YAMIE QUIQUI GBEISAY, SR.....ASSOCIATE JUSTICE
BEFORE HER HONOR : CEANEH D. CLINTON JOHNSON.....ASSOCIATE JUSTICE

IN RE: Report of the Grievance and Ethics Committee on a complaint filed by Madam
Letitia A. Reeves and Madam Rose Sherman against Cllr. John Saah Nyumah.

Heard: November 12, 2024

Decided: February 18, 2025

MADAM JUSTICE WOLOKOLIE DELIVERED THE OPINION OF THE COURT

On May 5, 2021, complainants Madam Letitia A Reeves and Madam Rose Sherman filed a complaint against the respondent, Counsellor John Saah Nyumah, before the Honorable Supreme Court through a letter addressed to former Chief Justice, His Honor Francis S. Korkpor Sr. The content of the letter of complaint reads:

"May 5, 2021
His Honor Francis Korkpor
Chief Justice, Republic of Liberia
Temple of Justice, Capitol Hill
Monrovia, Liberia

Your Honor, we wish to extend warm greetings to you during this New Year. We wish to bring to your attention a very grave problem that we are faced with since 2015 up to this point, and we pray that you will be able to help us remedy this situation.

On November 25, 2015, my cousin, Mrs. Rose Sherman, and I hired the services of Counsellor John Saah Nyumah to handle a case at Springs Payne Airfield where several persons have encroached on our property.

After several meetings with the parties involved, a few of them agreed to settle out of court. We were reluctant to go to that route but he advised that us that it was the way to go, so he being the Lawyer; we agreed. He requested fifteen percent of each payment made plus legal fees of US\$10,000.00 (Ten Thousand United States Dollars). He informed us in 2018 that he needed another Lawyer to assist him and we asked Counsellor David Gibson who agreed but unfortunately nothing positive have resulted from this.

Up to present he has: (a) collected several thousands of dollars, and has not given any recent accurate financial statement, (b) made no effort to get the case in court

since 2015, (c) Whenever we meet with him, he has so many excuses for not taking our case to court, and presently he refuses to answer our calls and respond to our text messages. There are multiple instances where we have raised issues and questioned his professional behavior.

We have been requesting a list of the various categories of people: (a) a list of defendants that we are taking to court, (b) a list of people who are purchasing the property, and (c) those who have paid and those who have balances and how much.

He told me that one of the buyers had completed her payment for a house spot and wanted a deed. The day I took the surveyor to do the survey, the lady said she paid for a lot and not a house spot. She was very rude and disrespectful to me so I decided against selling her the land. I refunded her money in the amount of (\$1,700.00) to Counsellor Nyumah and up to present he has not given the money to the lady.

Because this is the sixth year and nothing has been done, we are kindly requesting your kind help to please intercede and find out why he has failed to work with Counsellor Gibson to bring an end to this case. It does not make sense to get a new lawyer because he has collected thousands of dollars and I am not sure he has money to refund us. We are really in a bind and asking for your help in getting him to bring the case to an end.

We await your kind and speedy response to our request.

Sincerely Yours,

(Mrs.) Letitia A. Reeves

(Mrs.) Rose Sherman

0886 – 596 – 706"

Upon receipt of the complainant's complaint, His Honor Francis S. Korpkor Sr. then presiding as Chief Justice of the Supreme Court of Liberia, forwarded this complaint to the Grievance and Ethics Committee (GEC) chaired by Counsellor George E. Henries, with a mandate to the GEC to investigate and report its findings upon completion.

The Code of Moral and Professional Ethics for Lawyers adopted by the Supreme Court of Liberia is in line with the Constitutional provision of Article 75 of the 1986 Constitution of Liberia which allows for the Supreme Court to adopt laws to govern the conduct of lawyers in Liberia. Consistent with same, the Supreme Court adopted a Revised Code of Moral and Professional Ethics for Lawyers in January 1999, which allows for the establishment of a Grievance and Ethics Committee (GEC) to investigate lawyers charged with violation of the Code, and make recommendations for further actions by the Supreme Court.

The GEC upon receipt of the complaint from the Chief Justice sent a communication to Counsellor Nyumah informing him of the complaint filed by the complainants and requesting that his response to the complaint be submitted within ten (10) days.

The GEC having received the response from Counsellor Nyumah, on September 29, 2021, cited the parties for an investigation into the matter.

The complainants reiterated their issues as stated in their complaint alleging that on November 25, 2015, they hired the services of the Century Law Offices for the purpose of constituting legal actions against several persons that had encroached upon and were occupying their property situated in the Springs Field Area in Monrovia, and though there was an agreement with the Law Offices, Counsellor Nyumah who was assigned the matter has been unprofessional as explained in their complaint.

The respondent, Counsellor Nyumah, admitted that the matter was assigned to him along with Counsellor Joyce Reeves Woods who worked with him at the Century Law Offices; that having met with the occupants on the land, some conceded to repurchase the property occupied by them over a period of time, and payments for the repurchase of property were made to the Century Law Offices by several of the occupants to the secretary of the Law Office, and after deductions of the respective legal fees and 15% commission on each payment, the money was then consistently remitted by the secretary to the complainants and there were records to said effect. The respondent stated that contrary to claims by complainant, he did file legal actions at the Civil Law Court against occupants who refused to comply with the decision to rebuy the property at the Civil Law Court, and contended that at no time did the complainants request any refund of the stated US\$1,700 as alleged in their complaint.

The respondent explained that he later left the Century Law Offices and moved to the S.S.S Law Chambers, and with the consent of the complainants, he continued to handle the complainants' case at his new law office, collecting payments mostly through his office secretary who made and gave receipts to the complainants as evidence of payments and remittances.

At the conclusion of testimonies, the Committee then requested both complainants and respondent to submit comprehensive reports in relations to the financial transactions between them. After the accountants of both parties submitted their financial reports, the Committee noted some discrepancies and requested that both parties have their accountants work together to reconcile their reports and resubmit a proper financial report.

At the submission of the reconciliated report, it was revealed that an amount of United States Six Thousand Three hundred and Twenty Dollars (US\$6,320.00) was outstanding and due the complainants.

The GEC, in its report submitted to the Supreme Court, stated that it found from its investigation conducted, that based upon the testimonies of the parties and a review of all evidence adduced during the investigation, there was an outstanding amount of United States Dollars US\$6,320.00 which could not be properly accounted for by Respondent Nyumah, and by that, he had violated Rule 15 of the Moral and Ethical Code of Lawyers which states: "A lawyer should refrain from any act whereby for his personal benefit or gain he abuses or take advantage of the confidence reposed in him by his client. Money collected for his client, or other money or property of his said client coming into his possession because of his professional duty to his client should be reported and accounted for promptly, and should not under any circumstances be comingled with his own or be used by him."

The report concluded that respondent's actions were in bad faith and constituted a breach of the high ethical standards required of lawyers as well as a violation of Rule 15 of the Code of Moral and Ethical Conduct which cautions lawyers against comingling of finances entrusted to them by clients. The GEC therefore found that Respondent Nyumah having comingled his clients' money with that of his Law Offices', and being unable to account for US\$6,320.00 of the funds collected for the complainants, he violated Rule 15 of the Code. The GEC stated that Respondent Nyumah was under a duty to always strive to uphold the honor and maintain the dignity of the legal profession.

Upon an assignment issued by the Court for the hearing of the matter, Counsellors Kuku Y. Dorbor, Bartur Cora Homes Varmah, J. Awia Vankan and Tommy N. Dougbah appointed by the Court as *amici curiae*, appeared and presented that the failure of Respondent Nyumah to maintain an accurate accounting records of the total payments made to him or his Law Offices over the period was equivalent to his inability to take seize of said financial matters and to properly supervise his staff responsible to ensure that appropriate records were kept of payments made, make appropriate deductions, and subsequently remit funds to complainants. This, they said, reflected deficiencies in handling his client affairs and constituted negligence not expected of a lawyer.

They recommended that lawyers engaged in the collection of funds on behalf of clients open separate accounts with a bank and have all funds directly deposited into the clients' accounts since it is highly likely that funds collected in bits and pieces might eventually be unaccounted for, though not intentionally but through sheer negligence.

The *amici curiae* concluded that it found no co-mingling of funds by the respondent, but that the Century Law Offices and the S.S.S. Law Chambers were negligent in handling the complainants' funds, and in this regard, these law offices be made to pay the outstanding

amount to the complainants, and that the respondent also be warned to handle his clients funds properly.

Counsellor Anthony D. Mason, representing Respondent Nyumah, filed a brief and appeared before the Court on the day of the hearing. He informed the Court that at no time did Respondent Nyumah fail to answer calls from the complainants, or not make himself available for a conference; that the complainants had unhindered access to respondent's office since their engagement in 2015, and up to the date of the filing of their complaint. Counsel for the respondent stated that the respondent did file a case on the complainants' behalf which evidence he exhibited before the GEC; that the respondent took responsibility for the irregularities and discrepancies in handling the complainants' payments collected as it was principally due to his poor supervision over the collection and reporting of money mostly collected by the secretary of his firms. He however informed the bench that the GEC had no basis for concluding in its report that he comingled the complainants' funds with his, especially when he was not personally involved in the collection and delivery of all the money to the complainants. He conceded however that there was a lack of proper accounting and a poor supervision of the collection process.

This Court, in considering the final report of the GEC as well as the advice from the appointed *amici curiae* and their recommendations made, ask the question whether or not given the facts and circumstances, the respondent conduct amounts to a violation of the Code of Moral and Professional Ethics prescribed for Lawyers?

The GEC's found that the respondent comingled his clients' funds with that of his offices; that all payments were made either to the secretary of the respondent's law offices or directly to him and nowhere in the records before us is it shown how the funds collected were handled in the law offices in which the respondent worked.

Comingling of funds is established where a firm or lawyer shows no evidence of how funds collected for varied clients are kept and handled, whether in separate accounts or reflected in a record accounting system. In this case, the respondent did not show how funds collected by his Offices or by him for the complainants were professionally handled. If the funds for the complainants had been professionally Handled, there would not have been all the back and forth in reconciling the complainants' account.

It must be stated that issues of such nature of lawyers comingling funds entrusted to them in the execution of their professional duties is not new to this court as this court has taken action to discourage such conduct in the practice of law in this jurisdiction by suspending lawyers found to have committed said act: In Re: *Allison v Counsellor Jones*, Supreme Court's

Opinion, October Term, A.D. 2012; IN RE: *Anwar A. Saoud v. Gibson*, Supreme Court Opinion, October Term, A.D. 2016.

We note that as admitted by the respondent, most of the complainants' funds were paid to the secretaries of the Century Law Offices and later the S.S.S. Law Office where the respondent moved to work; that because of the confidence reposed in the respondent, the complainants transferred their retainership along with the respondent to the S.S.S. Law Chambers. Legally the both Law Offices should be accountable for the refund of the outstanding US\$6,320.00 as the *amici curiae* have advised and not the respondent as an individual, but as the respondent himself admitted, he also received payments at varied times. He was therefore under a professional duty to supervise and ensure that proper accounting was done in handling the complainants' funds when received. Even when he left the Century Law Offices along with the complainants as his client, he should have left with a proper report of all money paid and remitted to the complainants by the secretary at the Century Law Office. He himself admitted in his brief to the lack of proper accounting and poor supervision of his collection processes.

As stated, mishandling of client's funds are recognized vices being addressed in Rule 15 of the Code of Moral and Professional Ethics of Lawyers and this Court considers where it was established that the respondent in this case comingled his clients' funds with that of his law offices, and could not account for United States Six Thousand Three Hundred & Twenty Dollars (US\$6,320.00) of the funds due to poor supervision, he is in violation of RULE 15 and therefore the Court will not disturb the findings of the GEC.

WHEREFORE AND IN VIEW OF THE FOREGOING, the findings and recommendation of the GEC are affirmed. Counsellor John Saah Nyumah is ordered to refund the unaccountable amount of Six Thousand Three Hundred and Twenty United State Dollars (US\$6,320.00) forthwith. His failure to comply with this order, he shall be suspended from the practice of law. The Clerk of Court is ordered to inform the parties of this decision. AND IT IS HEREBY SO ORDERED.

WHEN THIS CASE WAS CALLED FOR HEARING, THE LAWYERS APPEARING AS AMICI CURIEA FOR THE COURT WERE COUNSELLORS BHATUR CORA HOLMES- VARMAH, J. AWIA VANKAN, KUKU Y. DORBOR AND TOMMY DOUGBAH. COUNSELLOR D. ANTHONY APPEARRED FOR THE RESPONDENT.