

IN THE MATTER OF EMMANUEL CHUKWUBIKO ABARAONYE, solicitor

- AND -

IN THE MATTER OF THE SOLICITORS ACT 1974

Mr. D E Fordham (in the Chair)
Mr. R B Bamford
Mr. R P L McMurtrie

Date Of Hearing: 25th July 1996

FINDINGS

of the Solicitors' Disciplinary Tribunal
constituted under the Solicitors Act 1974

An application was duly made on behalf of the Solicitors Complaints Bureau by Roger Field solicitor of Inhedge House 31 Wolverhampton Street, Dudley, West Midlands, DY1 1EY on the 19th June 1995 that Emmanuel Chukubiko Abaraonye c/o Laundry Installations Limited, 74 Christchurch Road, Owerri, IMQ state, Nigeria solicitor might be required to answer the allegations contained in the statement which accompanied the application and that such order might be made as the Tribunal should think right.

The allegations were that the respondent had been guilty of conduct unbecoming a solicitor in each of the following circumstances, namely that he had:-

- (i) practised in breach of the Solicitors Accounts Rules 1986 despite notice having been given to him that the Law Society's powers of intervention in respect of his practice had become exercisable;
- (ii) failed to ensure that the office at which he practised was and could reasonably be seen to be properly supervised;

- (iii) failed promptly or at all to discharge his liability for the payment of Counsel's proper fees;
- (iv) failed to exercise proper supervision over an unadmitted person who was a member of his staff.

The application was heard at the Court Room, No. 60 Carey Street, London WC2 on the 25th July 1996 when Roger Field solicitor and partner in the firm of Messrs Higgs & Sons, Inhedge House, 31 Wolverhampton Street, Dudley, West Midlands appeared for the applicant and the respondent did not appear and was not represented.

The evidence before the Tribunal included exhibits "ECA1" and "ECA2".

At the conclusion of the hearing the Tribunal ORDERED that the respondent Emmanuel Chukwubiko Abaraonye c/o Laundry Installations Limited, 74 Christchurch Road, Owerri, IMQ State, Nigeria solicitor be Struck Off the Roll of solicitors and they further Ordered him to pay the costs of and incidental to the application and enquiry fixed in the sum of £2,512.00 inclusive.

The facts are set out in paragraphs 1 to 15 hereunder:-

1. The respondent was admitted a solicitor in 1978. At the material times the respondent carried on practice on his own account under the style of Stuart A West & Co., ("SW") at 104C St. John Street, P O Box 673, London EC1M 4BN. The Law Society intervened into the practice on 6th February 1992.
2. The Solicitors Complaints Bureau (The Bureau) wrote to the respondent on 8th January 1992 and requested his explanation, inter alia, for his failure to supervise his office properly and for his failure to attend an inspection of his books of account by the Bureau's Investigation Accountant. He did not reply. Further letters which were written to him on 20th January, 11th February and 28th February did not attract response. At their meeting on 29th April 1992 the Conduct Committee of the Adjudication and Appeals Committee considered a complaint that the respondent had practised in breach of the Solicitors Accounts Rules 1986 despite notice having been given that the Law Society's powers of intervention in respect of his practice had become exercisable and they resolved that disciplinary proceedings should be instituted against him.
3. In May 1990 the General Council of the Bar (The Council) began correspondence with the Bureau concerning the alleged non-payment of fees to a number of counsel in both private and legally aided matters. The Bureau corresponded with the respondent and some progress was made culminating in a letter from him to the Bureau of 12th June 1991. However, thereafter the respondent did not reply to further letters which the Bureau wrote to him on 3rd July and 6th August save that by letter of 14th August 1991 the Bureau was informed that the respondent was on holiday and would deal with the matter on his return. He did not do so despite further letters from the Bureau of 19th September 1991 and 4th February 1992.
4. By letter of 11th February 1993 the Council informed the applicant of the up to date position which revealed a large number of fees still unpaid. At their meeting on 30th

March 1994 the Conduct Committee of the Adjudication and Appeals Committee considered this matter and resolved to refer the respondent's conduct to the Solicitors Disciplinary Tribunal.

5. In October, 1989 Fisher Meredith solicitors of Stockwell, London (FM) complained to the Bureau about alleged behaviour of SW in the course of wardship and matrimonial proceedings between FM's client, Mrs.F., and SW's client, Mr.F.
6. At the hearing of Mrs F's restored judgement summons in the wardship suit in October 1988 Mr F denied having any beneficial interest whatsoever in a property in London. As soon as those proceedings were suitably compromised the court proceeded to hear Mrs F's application in the matrimonial suit for an injunction because Mr F's denial of any interest in the property was not accepted. On 11th October 1988 an Order was made in the matrimonial suit restraining Mr F himself or by his servants or agents or otherwise from disposing or charging or otherwise dealing with all or any of his assets, whether real or personal property or whether the same be held absolutely or beneficially and from removing any of his assets out of the jurisdiction and from selling, charging or otherwise dealing with the property or any interest therein.
7. SW filed Notice of Acting in the matrimonial suit on 8th November 1988.
8. In December 1988 other solicitors registered the property at H M Land Registry Harrow in the name of Mr F.
9. Mrs D's second Judgment Summons came before the Court on 10th-13th April 1989. SW represented Mr F and his evidence was that he had then no beneficial interest in the property and that he had never had any such interest. Judgement was given on 13th April 1989 and the Judge stated "in terms" that having heard all the evidence including that of Mr F he was satisfied that Mr F had been deliberately lying to him and lying to try to escape his liabilities. The Judge stated that he was "therefore quite satisfied that (Mr F) having tried to sell the property several times, he must be the beneficial owner of the long lease and therefore had assets of £175,000 admittedly tied up in the property. The case put to the court by Mr F was that he had never had any beneficial interest in the property." Following the judgement FM wrote to the Harrow District Land Registry on behalf of Mrs F registering an inhibition against the registered proprietor.
10. FM subsequently learned from the Harrow District Land Registry that SW on 20th April 1989 applied on behalf of Mr F and another man to transfer Mr F's registered interest into the name of that other party. This was received by Harrow District Land Registry on 24th April 1989. FM understood that the transfer of Mr F's name into that of the other gentleman predated 13th April 1989 and it appeared to them that SW had purported to act for both vendor and purchaser. The Harrow District Lane Registry had refused to register the Transfer in the light of the inhibition so that property remained registered in the name of Mr F. SW were notified accordingly.
11. Because of the above steps taken, FM made the following complaints against SW;

- (a) That SW had knowingly acted for Mr F in the transfer or purported transfer of his beneficial interest in the property to another, contrary to the injunction of 11th October 1988.
 - (b) That SW must have known that in so doing Mr F was attempting to defeat Mrs F's claim in the matrimonial suit and/or prospects of recovering monies due from him in the wardship proceedings.
 - (c) That SW had allowed Mr F to present his case to the court in April 1989 on the basis that he had and had had no beneficial interest in the property when SW well knew this not to be true. FM claimed, therefore, that SW had misled the court, had tried to mislead the Harrow District Land Registry, had acted in bad faith towards Mrs. F and generally had acted in a manner totally unbecoming solicitor.
12. Two further matters emerged subsequently;
 - (a) On or about 1st February 1989 Graham Peries & Co. solicitors had received instructions from Mr F to act for him on the sale of the property to Mr L who had been represented by SW. Contracts had been exchanged with completion for 28th February 1989 and on completion two mortgages had been discharged and the net proceeds had been remitted to Mr F. SW had, therefore, acted for a purchaser in a conveyancing transaction while at the same time acting for the vendor who, to their knowledge, as they had represented him in the wardship and matrimonial proceedings, had been restrained by the High Court from disposing of the property.
 - (b) In April 1989 National Westminster Bank Plc., (Natwest) had taken a mortgage over the property which had post-dated the injunction of 11th October 1988, of which they had no knowledge. Subsequently Mr F indicated to Natwest that he might shortly sell the property and redeem the charge and in April 1989 SW had written to Natwest indicating that they acted for a debtor of Mr F who would shortly be paying the monies due to Mr F. Natwest had delayed any action in reliance upon that letter. Natwest had not been aware that SW had also acted for Mr F during the relevant period or that an injunction had been granted on 11th October 1988.
13. The Bureau took up the complaints with the respondent in lengthy correspondence. He claimed that the day to day conduct of Mr F's matters lay in the hands of Mr O who was a member of the English Bar and who had practised at the Bar in Ghana for a number of years. He was in the process of changing over from the Bar to become a solicitor and was working for other solicitors in London.
14. The respondent rejected the complaints against his firm having gleaned information from Mr O and having looked at the relevant files. He claimed that the allegations were false and, in relation to the central issue of the case, he maintained that he had had no personal knowledge of the injunction of October 1988. He added that Mr O had told him that he had not known of it at the time when the property was sold in February 1989. Whilst FM claimed that they had written to SW enclosing a copy of the injunction on 16th November 1988 such a letter and the enclosures were not in the

file. The respondent acknowledged that a member of his firm had attended the hearing in April 1989 but sought to disassociate his firm from what Mr F had said in relation to his denial of any interest in the property. He had not exercised the level of supervision over the work of Mr O that he would have considered necessary with a much younger man of lesser experience.

15. The matters the subject of the complaint had also been taken up in correspondence by the Bureau and by the applicant with Mr O. His position was that he did not have the day to day conduct of the affairs of Mr F. He said that the respondent had the effective conduct of those matters.

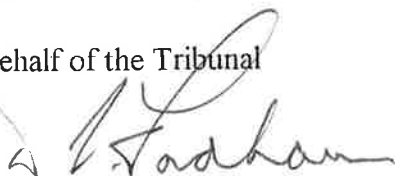
The submission of the applicant

16. At material times SW were acting for Mr F in matrimonial and wardship proceedings brought by Mrs F. It was clear that at the same time SW acted for Mr L in the purchase from Mr F of the property. In addition to acting for Mr L, SW applied for registration of the Transfer by Mr F on 20th April 1989. The conveyancing transaction followed the injunction on 11th October 1988. SW were in court in April 1989 when Mr F gave evidence that he had and had had no beneficial interest in the property.
17. It was denied by the respondent and by Mr O that SW acted in the conveyancing associated with the property at a time when they knew of the terms of the injunction. However, SW prepared a brief to counsel to appeal on behalf of Mr F at the Divorce Registry on 15th December 1988 which brief bore the respondent's reference and which invited counsel to contact Mr O should he require further information. With the brief there was enclosed a copy of a letter written by FM on 17th October 1988 which contained a clear reference to the injunction made on 11th October 1988 and its terms. The steps taken by SW in April 1989 to register the Transfer by Mr F were taken at a time when SW were fixed with knowledge of the injunction. The letter written to Natwest in April 1989 by SW did not reveal that SW were acting for Mr F.
18. The respondent appeared to have left the country without having any regard for the outstanding allegations on the disciplinary proceedings.

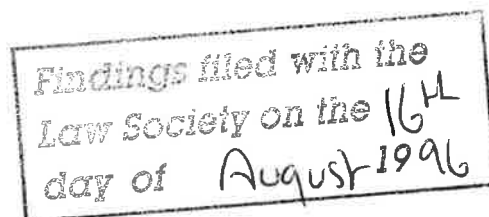
The Tribunal FOUND the allegations to have been substantiated. The respondent's behaviour had been entirely unacceptable and it was right that he should be struck off the Roll of Solicitors and pay the costs of and incidental to the application and enquiry in a fixed sum.

DATED this 9th day of August 1996

on behalf of the Tribunal



D.E. Fordham
Chairman



Findings filed with the
Law Society on the 16th
day of August 1996

