

SOLICITORS DISCIPLINARY TRIBUNAL

IN THE MATTER OF THE SOLICITORS ACT 1974

Case No. 12537-2024

BETWEEN:

RITA IFEYINWA CHRIS-GARUBA (a.k.a KUKU) Applicant

and

SOLICITORS REGULATION AUTHORITY LTD. Respondent

Before:

Mr W Ellerton (in the Chair)

Mrs L Boyce

Mrs L McMahon-Hathway

Date of Hearing: 10 May 2024

Appearances

Chima Umezuruike, Counsel, of Clerks Room Barristers, Equity House, Blackbrook Park Avenue, Taunton, TA1 2PX, for the Applicant.

Montu Miah, Counsel, of the Solicitors Regulation Authority Limited, The Cube, 199 Wharfside Street. B1 1RN, for the Respondent.

JUDGMENT

Relevant Background

1. Mrs Chris Garuba was registered in England and Wales as a Foreign Lawyer (RFL) in 1996. She was admitted as a solicitor to the Roll of England and Wales in 1998. In both capacities, as an RFL and a solicitor, she practised at Cyril Waterton Solicitors (“the Firm”), London. The Firm was the subject of an intervention in 1999.

Substantive Proceedings in 2000

2. As a consequence of the intervention into the Firm, Mrs Chris-Garuba and Mr Axel Christian Nares appeared before the Tribunal. Allegations levelled at both Respondents can broadly be categorised as failures to comply with the Solicitors Accounts Rules comprising of:
 - (i) Improper use of the client account.
 - (ii) Failure to comply with a professional undertaking.
 - (iii) Failure to comply with a direction made by the Assistant Director of the Office for the Supervision of Solicitors.
3. Additionally, Mrs Chris-Garuba faced allegations predicated on:
 - (i) Obtaining a mortgage by deception in selling a property that she owned, in her married name and selling it to herself, in her maiden name.
 - (ii) Misleading a client.
4. All of the allegations set out above were denied but found proved beyond reasonable doubt, by the Tribunal. Mrs Chris-Garuba was sanctioned to an Order striking her from the Roll of Solicitors for England and Wales.

First Application for Restoration to the Roll in 2017 (“the First Application”)

5. Mrs Chris Garuba’s application was lodged in 2017 and determined in 2018. Mrs Chris Garuba relied upon documentary and oral evidence to demonstrate her rehabilitation and unblemished legal practice in Nigeria since 1999.
6. The Tribunal refused the First Application. The crux of its determination was centred on the fact that (a) the seriousness of the dishonesty previously found proved, (b) lack of demonstrable experience within the jurisdiction of England and Wales and (c) lack of genuine insight on the part of Mrs Chris-Garuba.

Present Application for Restoration to the Roll (“the Present Application”)

7. The Present Application was dated 12 December 2023 and was supported by witness statements of Mrs Chris-Garuba dated 6 and 14 December 2023 as well as documentary evidence which included:
 - Letter of Good Standing from the Nigerian Bar dated 13 November 2023.

- Nigeria Police Character Certificate dated 9 November 2023.
- Eight testimonials in the form of affidavits from members of the Nigerian judiciary and legal profession as well as her husband, Chris Abutu Garuba dated 2 November 2023.
- Various papers delivered within the legal sector of Nigeria from 2012 – 2016 on matters of law and practice.
- Letters from the Legal Practitioners’ Privileges Committee dated 31 August 2020 and 16 August 2021.
- Letters from the Council of Legal Education (a Nigerian Law School) dated 10 December 2014, 24 April 2015 and 30 March 2016 as regards internships.

Applicant (Mrs Chris-Garuba (a.k.a Kuku) Submissions

7. Mr Umezuruike submitted that the application was in the terms set out in Mrs Chris Garuba’s witness statements. She sought restoration to the Roll given the length of time that had elapsed since the substantive proceedings and the demonstrable rehabilitation on the part of Mrs Chris-Garuba. Mr Unezuruike made plain that the application was advanced to assist Mrs Chris-Garuba in advancing her career in Nigeria. She had no intention to practice as a solicitor in England and Wales and was prepared to provide an undertaking not to apply for a practising certificate in that regard.

Oral Evidence of Mrs Chris-Garuba (a.k.a Kuku)

8. Mrs Chris-Garuba accepted that she had denied the substantive allegations because at the material time she did not realise that she had been dishonest. Her fear and shame had “forced her to deny [the allegations]”.
9. Conversely, Mrs Chris-Garuba now appreciated the seriousness of her dishonest misconduct which she stated was “foolish [as she] did something that [she] shouldn’t have” in obtaining the mortgage by deception. Mrs Chris-Garuba hoped to “make up” for the same by her subsequent conduct.
10. Mrs Chris-Garuba stated that the Tribunal’s concerns regarding her lack of rehabilitation within the profession in England and Wales was not relevant in circumstances where she had returned to Nigeria, married her second husband, started a family, established a law firm and continued to practice in Nigeria. She further stated that she had, however, given “advice on Nigerian Law to UK residents” in relation to commercial matters, immigration, tax and real estate investment. She had provided this advice “over the years and continue[d] to do so” by way of remote communication with clients.
11. Mrs Chris-Garuba advanced the fact that she had no intention of practising law in England and Wales as an exceptional circumstance. Her motive in seeking restoration to the Roll was to advance her legal career in Nigeria in terms of either appointment as a senior advocate (akin to King’s Counsel in the UK) or as a member of the judiciary.

Mrs Chris-Garuba stated that she had not been able to progress in either direction as she had been struck from the Roll 24 years ago.

12. In cross examination, Mrs Chris-Garuba accepted that she practised law at the Firm as an RFL from 1996 then a solicitor in 1998. The allegations spanned from 1997 – 1999. The SRA intervention took place in 1999.
13. Mrs Chris-Garuba accepted that from 1998, as a newly qualified solicitor in England and Wales, her work had to be supervised for a period of three years. That had not happened as she left the jurisdiction in 1999, when the substantive allegations became known to her, and returned to Nigeria. Mrs Chris-Garuba stated that “the barristers were aware” that she had returned to Nigeria. She accepted that her attendance at the substantive hearing in 2000 “could’ve been” due, in part, to the SRA having to place advertisements in English written newspapers in Lagos alerting her to the same.
14. Mrs Chris-Garuba did not accept, as it was suggested by Mr Miah, that she had fled the jurisdiction. Her reasons for leaving were numerous including, (a) intervention of the Firm, (b) her substantial mortgage, (c) having to sell her home and (d) needing somewhere else to live. Mrs Chris-Garuba stated repeatedly that she had returned for the substantive hearing in any event.
15. Mr Miah cross examined Mrs Chris-Garuba on her insight in respect of the substantive allegations. In terms of the mortgage fraud, the errors on the mortgage application related to her date of birth, the use of her married name (to sell) and maiden name (to buy) her home. Mrs Chris-Garuba apologised, stated it was wrong but maintained that her intention was “not to deceive.” At the material time she was in the midst of a divorce and was worried that her husband would “go after” the property. Her motivation was to prevent that and she was sorry that it all went wrong but if the property remained in her married name “he would get it”. She further stated that she did not need to obtain the mortgage by deception in the end.
16. Mrs Chris-Garuba stated that she can “see now that it was wrong. At the time [she] felt shame, embarrassment and disgust [such that she thought] can I cover it up?” Mrs Chris-Garuba stated that she was “in denial and could not admit such misconduct. [She] was much older now and can see that.” Mrs Chris-Garuba reiterated that she had acted foolishly but was “not seeking to minimise the severity of impact on [her] or [her] family.”
17. Mr Miah took Mrs Chris-Garuba to her first witness statement in which she had stated:

“... §28 *I am very sorry for obtaining the mortgage by deception. There is no excuse or justification for what I did. I deeply regret it.*

... §29 *I have learnt my lesson. Since then, there has not been any complaint against me. I have avoided doing anything that remotely looks like misconduct, and I will continue to do so...*”
18. Mr Miah asked Mrs Chris-Garuba why she failed to address in her witness statement or her oral evidence before the Tribunal her insight as regards the other substantive allegations found proved. She responded that her focus was on “the serious allegations”.

She relied on the fact that the judgment on the First Application had focussed on the mortgage fraud which was why she had. Mrs Chris-Garuba further stated that “no client funds were misappropriated ... [she was] not saying [the other allegations] were irrelevant but [the First Application] had moved on to concentrate on the mortgage fraud.”

Respondent (SRA) Submissions

19. Mr Miah submitted that the application for restoration should be refused given that Mrs Chris-Garuba (a) had not completed the newly qualified solicitor supervision before leaving the UK, (b) exhibited a significant lack of insight, (c) failed to evidence any form of rehabilitation in terms of practice within the jurisdiction and (d) had failed to meet the high bar required in terms of exceptional circumstances.

The Tribunal’s Decision

20. The Tribunal referred to its Guidance Note on Other Powers of the Tribunal (6th Edition – March 2022) which stated that an application for restoration to the Roll should be supported by a statement setting out:
- Details of the original order of the Tribunal leading to strike off removal.
 - Details of the Applicant’s employment and training history since the Tribunal’s order.
 - Details of the Applicant’s intentions as to and any offers of employment within the legal profession in the event the application is successful.
21. The Tribunal, in considering the application paid significant regard to (amongst other things):
- The guidance provided by Bolton v Law Society 1 WLR 512:
“... Only infrequently, particularly in recent years, has [the Tribunal] been willing to order the restoration to the Roll of a solicitor against whom serious dishonesty had been established, even after a passage of years, and even where the solicitor had made every effort to re-establish himself and redeem his reputation ... the most fundamental (purpose of sanction] of all: to maintain the reputation of the solicitors’ profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied re-admission...”
 - The guidance provided by Lord Donaldson in Case No. 5 of 1987 (unreported):
“... however sympathetic one may be towards an individual member of either branch of the legal profession, if you fall very seriously below the standards of that profession and are expelled from it, there is a public interest in the profession itself in hardening its heart if any question arises of your rejoining it. Neither branch of the profession is short of people who have never fallen from

grace. There is considerable public interest in the public as a whole being able to deal with members of those professions knowing that, save in the most exceptional circumstances, they can be sure that none of them have ever been guilty of any dishonesty at all...

- The principle promulgated in Solicitors Regulation Authority v Kaberry [2012] EWHC 3883 (Admin) that:

“... a finding of dishonesty by the Tribunal or a criminal conviction recorded against an applicant involving dishonesty can constitute an almost insurmountable obstacle to a successful application for restoration...”

22. The Tribunal considered carefully the Tribunal’s Judgments of 2000 and 2017, the oral evidence received and the submissions of the parties. The Tribunal found that the matters leading to Mrs Chris-Garuba (a.k.a Kuku)’s removal from the Roll were of the utmost gravity.
23. The underlying dishonest misconduct comprised of her repeatedly lying to two sets of solicitors in order to sell a property from herself (in her married name) to herself (in her maiden name). The other failures related to (a) misuse of client monies, (b) failure to keep books of account properly written up, (c) failure to comply with a professional undertaking and (d) failure to comply with a direction issued by the Assistant Director of the Office for Supervision of Solicitors. Those failures demonstrated a flagrant disregard of the standards and obligations of a solicitor.
24. The Tribunal accepted that 24 years had passed since Mrs Chris-Garuba had been Struck off the Roll of Solicitors. Time in and of itself did not warrant restoration to the Roll. The crux of the issue was the steps taken by Mrs Chris-Garuba to remedy, demonstrably so, the underlying misconduct which resulted in the Order Striking her from the Roll.
25. Whilst the Tribunal noted the profession achievements of Mrs Chris-Garuba in Nigeria, there was no evidence of any, let alone substantial or satisfactory, employment within the legal profession in England and Wales. By Mrs Chris Garuba’s own admission, the legal system in Nigeria was not as robust or rigorous as that within England and Wales. The evidence advanced by Mrs Chris Garuba of her legal experience in Nigeria was therefore of limited assistance to the Tribunal.
26. Mrs Chris-Garuba made plain that she had no intention of practising law within England and Wales. She was prepared to make an undertaking to that effect. The Tribunal did not consider this to be relevant or persuasive as regards the application. The Tribunal was required to consider the application on its merits and determine whether the public would be protected, the reputation of the profession within England and Wales would be upheld and whether public confidence in the regulatory process would be maintained in the event that Mrs Chris-Garuba were granted restoration to the Roll. The Tribunal found that none of those factors were adequately, if at all met on the written application, oral evidence and submission received.
27. The Tribunal determined that it would not be in the public interest restore Mr Chris Garuba to the Roll of Solicitors.

28. The Tribunal therefore REFUSED the application.

Costs

29. Mr Miah applied for the Respondent SRA costs in defending the application of £3,224 as particularised in the Statement of Costs dated 24 April 2024.

30. Mr Umezuruike did not oppose the application.

The Tribunal's Decision

31. The Tribunal considered the costs claimed to be reasonable and proportionate to the application.

32. The Tribunal noted that Mrs Chris-Garuba had not filed a Statement of Means, nor had any submissions been advanced on her behalf as to her means at the hearing.

33. The Tribunal therefore GRANTED the application for costs as claimed.

Statement of Full Order

34. The Tribunal ORDERED that the application of RITA IFEYINWA CHRIS-GARUBA, for restoration to the Roll of Solicitors be REFUSED and it further Ordered that the Applicant do pay the costs of and incidental to the response to this application fixed in the sum of £3,224.00.

Dated this 24th day of June 2024

On behalf of the Tribunal

W Ellerton

W Ellerton
Chair

JUDGMENT FILED WITH THE LAW SOCIETY
24 JUNE 2024