

IN THE COREN ENGINEERING DISCIPLINARY TRIBUNAL
HOLDEN IN ABUJA

ON WEDNESDAY, THE 28TH DAY OF JULY, 2021

BEFORE THE PANEL:

- | | | |
|--|---|----------|
| 1) ENGR. ALI. A. RABIU, FNSE. F. ASCE - | - | CHAIRMAN |
| <i>(President of Council for the Regulation of Engineering in Nigeria - COREN)</i> | | |
| 2) ENGR. BABAGANA MOHAMMED FNSE | - | MEMBER |
| 3) ENGR. TECH. AHMAD, MUHAMMED YABAGI, FNATE | - | MEMBER |
| 4) ENGR. TANKO GYANG, ENGN. CRAFTSMAN, FNAEC | - | MEMBER |
| 5) ENGR. PROF. SADIQ Z. ABUBAKAR, FNSE | - | MEMBER |
| 6) ENGR. MRS. MARGARET OGUNTALA, FNSE | - | MEMBER |
| 7) ENGR. DR. FELICIA AGUBATA, FNSE | - | MEMBER |
| 8) ENGR. CYRIL O. ONYENEKE, MNSE | - | MEMBER |
| 9) ENGR. NASIRU A. DANTATA, MNSE | - | MEMBER |
| 10) ENGR. ADEKUNLE MOKUOLU, FNSE | - | MEMBER |
| 11) ENGR. FELIX O. EBUZOEME, MNSE | - | MEMBER |
| LATEEF O. FAGBEMI, SAN, | - | ASSESSOR |

CHARGE NO.: EDT/ABJ/COREN/2/2021

BETWEEN

**THE COUNCIL FOR THE REGULATION OF
ENGINEERING IN NIGERIA (COREN)**

- COMPLAINANT

AND

1. ENGR. ADEOLA MARY OLAOSEBIKAN
2. ENGR. M.A. OWOLABI

RESPONDENTS

JUDGMENT

**(DELIVERED BY ENGR. ALI. A. RABIU, FNSE. F. ASCE, PRESIDENT OF
COUNCIL FOR THE REGULATION OF ENGINEERING IN NIGERIA,
CHAIRMAN COREN ENGINEERING DISCIPLINARY TRIBUNAL)**

The Respondents in this charge - Engr. Mary Adeola Olaosebikan and Engr. M.A. Owolabi (both Civil Engineers) were arraigned before this tribunal by the Council for the Regulation of Engineering in Nigeria - COREN (hereinafter referred to as **the Complainant**) on a three (3) count charge which are set out below thus:

“COUNT ONE (1)

That you Engr. Mary Adeola Olaosebikan (R. 28129) on or about the 18th day of August, 2017 in Sulu Gambari Road, Ilorin, Kwara State within the jurisdiction of the Engineering disciplinary Tribunal, did knowingly embark on the Construction of an additional floor without approval from the Kwara State Facilities and Physical Planning Authority, when you reasonably and professionally ought to have known that the said act is unprofessional to wit; Professional Misconduct, and thereby committed Professional Misconduct contrary to Rules 2.1.2(a), 2.1.2(b), 2.1.2(c), 2.1.2(d), 2.1.2(e), 2.1.2(f), 2.5(e) of the Engineers' Code of Conduct (Revised Edition 2017) and Section 18 of Engineers' (Registration etc.) (Amendment) Act 2018 and punishable under the Section 16 of the same Act and Rule 3.0 of the Engineers' Code of Conduct (Revised Edition 2017).

COUNT TWO (2)

That you Engr. Mary Adeola Olaosebikan (R. 28129) and Engr. M.A. Owolabi on or about the 18th day of August, 2017 in Sulu Gambari Road, Ilorin, Kwara State within the jurisdiction of the Engineering disciplinary Tribunal, did knowingly continue to be part of the Construction of the proposed Crystal Hotels Development, Ilorin, Kwara State despite the letter of caution on design alterations by the Kwara State Facilities and Physical Planning Authority, when you reasonably and professionally ought to have known that the said act is unprofessional to wit; Professional Misconduct, and thereby committed Professional Misconduct contrary to Rules 2.3(c), (d), and (e), 2.5(e), 2.6(a), 2.1.2(a), (c), (d), (e) and (f) of the Engineers' Code of Conduct (Revised Edition 2017) and Section 18 of Engineers' (Registration etc.) (Amendment) Act 2018 and punishable under the

Section 16 of the same Act and Rule 3.0 of the Engineers' Code of Conduct (Revised Edition 2017).

COUNT THREE (3)

That you Engr. M.A. Owolabi on or about the 18th day of August, 2017 in Sulu Gambari Road, Ilorin, Kwara State within the jurisdiction of the Engineering disciplinary Tribunal, did knowingly advised (sic) the site engineer, Engr. Mary Adeola Olaosebikan to introduce other structural elements to salvage the structure from ultimate collapse following reported case of cracks on the rear side of the building without sound engineering judgment, when you reasonably and professionally ought to have known that the said act is unprofessional to wit; Professional Misconduct, and thereby committed Professional Misconduct contrary to Rules 2.3(d) and (e), 2.6(a), 2.1.2(a), (c), (d), (e) and (f), 2.1.2(d) and (f) of the Engineers' Code of Conduct (Revised Edition 2017) and Section 18 of Engineers' (Registration etc.) (Amendment) Act 2018 and punishable under the Section 16 of the same Act and Rule 3.0 of the Engineers' Code of Conduct (Revised Edition 2017)."

In the course of the trial, and at the request of the prosecution, the case of the 1st Respondent was separated from that of the 2nd Respondent. This judgment is, therefore, solely on the case of the 1st Respondent.

Consequently, upon the invitation of this tribunal, the Complainant presented a summary of the relevant facts of the charge against the 1st Respondent only, which is reproduced below as follows:

The 1st Respondent, a registered Engineering Professional in her professional capacity, was contracted by one Hon. Moshood Mustapha as a Structural Engineer to carry out the construction of a hotel development in Ilorin, Kwara State; the project is described as "Crystal Hotel Development". The Client – Hon. Moshood Mustapha obtained an approval from the Kwara State Ministry of Physical Planning Authority for a three (3) storey-building and a pent house. The 1st Respondent herein embarked on the approved construction but went above the three (3) storey-building and a pent house that was approved without seeking and/or obtaining approval from the Kwara State Facilities and Physical Planning Authority and proceeded to construct four (4) storey-building and a pent house.

The Complainant further stated that the Engineering Regulation and Monitoring Team of President of Council for the Regulation of Engineering in Nigeria, otherwise known as "**COREN**" visited the site of project in the course of the construction and noticed, amongst other things, that the 1st Respondent had exceeded the approval given to the client, as well as the fact that the structure manifested s many patent defects. Upon the visit, the Engineering Monitoring Team made recommendations to the Kwara State Town Planning and Development Authority to place a "Stop-Work Order" and a caution on the project which prompted the Kwara State Facilities Physical Planning Authority team to also visit the site. In consequence of their visit, the authority issued a letter dated 1st day of June, 2017 and titled "**CONSTRUCTION ERRORS AND ALTERATION ON YOUR ON-GOING BUILDING PROJECT**". The letter was addressed to the developer of Crystal House International Hotels Limited asking the said Developer to come to its office to explain the departure from the approved building plan. The letter also underscored the fact that the approval covered three (3) storey-building and a pent house and not four (4) storey-building and a pent house as is being carried out by the developer. By its letter aforesaid, the Kwara State Town Planning and Development Authority also offered the developer, an opportunity to write to it explaining why it was carrying out the construction in flagrant disregard for the approved building plan. Interestingly, the said letter by the Kwara State Town Planning and Development Authority was received and acknowledged by the 1st Respondent.

The Kwara State Town Planning and Development Authority, upon the service of the letter on the Developer, through the 1st Respondent, having waited for response without getting any, sealed the site to forestall a sudden collapse and placed a Stop-Work order on the site. Curiously, the 1st Respondent ignored the Stop-Work order, and continued with the construction without any approval.

investigation by the COREN INVESTIGATING PANEL revealed that that the 1st Respondent, sought and obtained the advice of one Engineer M.A. Owolabi, the 2nd respondent, as to remedial actions to be taken over the project in a bid to salvage same. The 2nd Respondent was alleged to have advised her orally without following the requisite Engineering laid down guidelines and principles and further encouraged and guided her to continue work in clear

disregard of the stop-work order and the sealing of the site. A combination of the unsanctioned construction as well as the disregard for the stop-work order led to the failure of the project and the consequent collapse of the building.

It is also the case of the complainant that upon the disregard for the stop-work order and the eventual collapse of the building, an investigation was conducted by the **COREN INVESTIGATING PANEL**, during which the 1st Respondent was given the opportunity to state her case. she was availed the opportunity of a fair hearing. The 1st Respondent appeared before the said panel, admitted to the fact that she ignored the Stop-Work order issued by the Engineering Regulation and Monitoring Team and unsealed the construction site without the requisite approval. It was upon the hearing by the **COREN Investigating Panel** that the Investigating Panel found that the Respondents had a case to answer, which could only be made under the law by the **COREN Disciplinary Tribunal** and consequently referred the 1st Respondent, alongside the 2nd Respondent, to this tribunal for a trial. It is pertinent to state here that the case or charge against the 2nd Respondent has been severed from that of the 1st Respondent. Accordingly, what is being considered here is the case against the 1st Respondent only. The 2nd Respondent will have the opportunity of defending himself when the case against him comes up.

Thereafter, the 1st Respondent was asked whether the facts presented by the Complainant (as narrated above) as they concern her only or alone, represents what actually transpired. The 1st Responded in the affirmative by saying "yes sir". At the conclusion of the trial, counsel to the complainant, A.A. Osara, Esq addressed the tribunal by drawing our attention to the provisions of **Rule 3.0 Engineers Code of Conduct (Revised Edition 2017)** and submitted that upon the admission of the 1st Respondent the said allegation of professional misconduct has been established and this tribunal has the power under the said Rule 3.0 Engineers Code of Conduct (Revised Edition 2017) to mete out the appropriate punishment, by either expel, admonish or suspend the 1st Respondent.

Above is the summary of the case of the Complainant against the 1st Respondent before this tribunal. It is to be noted that no issues were formulated by the counsel to the Complainant in the course of his

addressing this tribunal. Thus, this tribunal hereby opines that the issue for the just determination of this case is;

Whether the allegation of professional misconduct has been established against the 1st Respondent to warrant the exercise of the tribunal's discretion under rule 3.0 Engineering Code of Conduct (Revised Edition) 2017 considering the facts and circumstances of this case?

No doubt the Respondent was charged for professional misconduct contrary to Rules 2.3(c) (d) (e), 2.5(e), 2.6(a), 2.1.2(a) (c) (d) (e) (f) of the **Engineers Code of Conduct (Revised Edition 2017)**. By the said **Engineers Code of Conduct (Revised Edition 2017)** which was made pursuant to **Section 21 of the Engineers (Registration etc.) Act 2004 (as amended)**, Engineers are under certain obligations and where said obligations are not fulfilled, professional misconduct would have been committed. In that case, this tribunal is at liberty to take disciplinary actions against such engineer(s). For the purpose of clarity, I will reproduce the said provision thus:

2.2(b) *An Engineer shall not attempt to obtain employment, advancement or professional engagements, including reviewing or taking over the work of another Engineer by untruthfully criticizing other engineers, or by other improper or questionable methods.*

2.3(c) *Engineers shall ensure that the health, safety and total welfare of the general public or the immediate environment is held paramount.*

2.3(d) *Engineers shall at all times, ensure that all engineering works under their adjudication conform to all acceptable laws and regulations on public health and safety. In discharging their duties, they shall strive towards applying all engineering practice codes and standards.*

2.5(e) *An engineer shall discharge his duties to his client or employers with utmost truthfulness. Where need be, he shall present clearly, and in the most professional manner, the possible societal or environmental*

consequences of any engineering decision and judgments, and shall as well, provide a professional recommendation as required.

3.0 *The Registered Engineers' Disciplinary Tribunal may take disciplinary action, including expulsion or a letter of admonition or a suspension of registration or any other sanction deemed necessary.*

The question that ensues is, has the 1st Respondent breached any of the said obligations reproduced above? To which my answer is in the affirmative.

We have carefully considered the facts of this case as it pertains to the 1st Respondent whose plea has been taken, which in my humble view is clear-cut. It seems to us that the intention of the 1st Respondent was to save the precious time of this tribunal by owning up to the offence of which she is being charged with. By pleading guilty to the charge, it is safe to say that the 1st Respondent has willfully made light the task on the Complainant to lead evidence to prove the offence beyond reasonable doubt as required by the law. **Section 135 of the Evidence Act 2011**. We take the position that when an accused person pleads guilty to an offence for which the person stands charged, such plea is tantamount to a confession. **Section 28 of the Evidence Act** defines a confession as "an admission made at any time by a person charged with a crime, suggesting the inference that he committed the crime".

The position is that where an Accused/Respondent person accepts liability, the Complainant may seek the leave of the court to tender exhibits after summarizing the facts of the case and then urge the court to convict the accused who pleaded guilty to such charge. In the instant case, it is observed that upon the plea of the 1st Respondent – Engr. Adeola Mary Oloosebikan, the Complainant counsel A.A. Osaro, Esq. sought and obtained the leave of the tribunal after which he gave a summary of the Complainant's case and urged the Honourable Tribunal to convict the 1st Respondent.

If an accused pleads guilty to any offence with which he is charged, the tribunal should record his plea as nearly as possible in the words used by him and if satisfied that he intended to admit the thrust of all

the essentials of the offence of which he has pleaded guilty, the court shall convict him of that offence and pass sentence upon, or make an order against him unless there shall appear sufficient cause to the contrary. By this clear and unambiguous position of the law, where an accused person pleads guilty to an offence before a court of law and the court is satisfied that he intended to admit the thrust of all the essentials of the offence with which he is charged, the court shall convict and sentence him accordingly. The only exception is in a capital offence which the instant case is not. In any event, there is nothing before this tribunal that gives the Tribunal cause to believe the contrary. Thus, a plea of guilty is valid if made in a very unambiguous and unequivocal way and the same is received by a trial court or tribunal. In the instant case, the appellant admitted his guilt unequivocally and a consequence of such unequivocal admission of guilt is conviction and sentencing.

A plea of guilty amounts to a confession, with no further need for corroboration or further proof. In other words, it is tantamount to a confession to the commission of the offence charged for which an accused stand charged and by **Section 27(1) of the Evidence Act**, a confession is an admission made at any time by an accused person charged with a crime, stating or suggesting the inference that he committed the crime. The admission by the alleged accused person is the best and strongest evidence and if the trial court is satisfied that the plea of guilty or admission is direct, positive and voluntary, it is enough for the conviction of the accused. Facts admitted need no further proof. It is not mandatory in such a situation to seek corroborative material.

Of note is the fact that an accused person who pleads guilty to an offence is not entitled to a hearing, and so the issue of fairness or unfairness of a hearing is neither here nor there. In other words, by entering a guilty plea, hearing is foreclosed, as the next and last procedural step of the judge is to convict and pass appropriate sentence.

Interestingly, the record of this Tribunal did not only reveal the plea of the 1st Respondent but also evinces the 1st Respondent's admission to the summary of the fact in aid of the counts for which she was charged. *Ex abundante cautela*, we reproduce the interaction here thus:

"Tribunal Chairman: *Okay, Counsel, Respondent, are the facts presented by the counsel to Prosecution what actually transpired?"*

Engr. A.M. Olaosebikan: *Yes sir.*

Tribunal Chairman: *Yes sir? You admit?*

Engr. A.M. Olaosebikan: *Yes sir."*

From the fact above stated, it shows that the 1st Respondent admitted that she ignored the stop-work order issued to her pursuant to her refusal to follow the approved building plan in the construction of the project known as Crystal Hotel Development in Ilorin, Kwara State.

It is trite law that where fact is not controverted, same is deemed admitted. The 1st Respondent agreed with the case of the Complainant to the effect that the decision to disregard the Stop-Work order as well as reenter the sealed site was on the advice of one Engr. M.A. Owolabi. This piece of fact/evidence remains uncontroverted.

In taking disciplinary action against 1st Respondent, we take into consideration the circumstances of this case in order to arrive at a penalty which is just. This is a case of professional misconduct. By her plea, the 1st Respondent admitted that she ignored the stop-work order issued by the Kwara State Facilities Physical Planning Authority pursuant to her refusal to follow the approved plan in the construction of the project known as Crystal Hotel Development. This act of the 1st Respondent is unbecoming of an engineer as such act contravenes ethical standards of the Engineering profession. We also take cognizance the 1st Respondent's admission of guilt, which has saved this tribunal a lot of cost and time from the rigors of a full-blown trial. We are of the view that her admission in itself is beneficial to both the tribunal and to the 1st Respondent as well. If, a person pleads guilty, as done by the 1st Respondent in the instant case, there is the possibility for the person to enjoy some level of indulgence with regard to leniency from the tribunal and may in fact earn less stringent penalty, since by the early plea of guilty, the accused had relieved the court of a rigorous and lengthy time-consuming trial. It is on record that the 1st Respondent has from the first adjournment in this case attended

trial diligently and is clearly not only sober but absolutely contrite, her contrition has not gone unnoticed by this Tribunal.

Having considered the circumstances of this case, the 1st Respondent is hereby suspended from practicing as a Registered Engineer for a period of six (6) months on Count 1 and for a period of (6) six months on Count 2, both counts are to run concurrently, with effect from the date of this judgment/decision.


.....
ENGR. ALI. A. RABIU, FNSE. F. ASCE,

(PRESIDENT OF COUNCIL FOR THE REGULATION OF ENGINEERING IN NIGERIA - COREN)
CHAIRMAN OF TRIBUNAL

- 1) ENGR. BABAGANA MOHAMMED FNSE (MEMBER)
- 2) ENGR. TECH. AHMAD, MUHAMMED YABAGI, FNATE(MEMBER)
- 3) ENGR. TANKO GYANG, ENGN. CRAFTSMAN, FNAEC (MEMBER)
- 4) ENGR. PROF. SADIQ Z. ABUBAKAR, FNSE(MEMBER)
- 5) ENGR. MRS. MARGARET OGUNTALA, FNSE (MEMBER)
- 6) ENGR. DR. FELICIA AGUBATA, FNSE (MEMBER)
- 7) ENGR. CYRIL O. ONYENEKE, MNSE (MEMBER)
- 8) ENGR. NASIRU A. DANTATA, MNSE (MEMBER)
- 9) ENGR. ADEKUNLE MOKUOLU, FNSE (MEMBER)
- 10) ENGR. FELIX O. EBUZOEME, MNSE (MEMBER)


.....

.....

.....

.....

.....