

IN THE CIRCUIT COURT '10' OF GHANA, ACCRA, HELD THIS THURSDAY 8TH DAY OF JUNE, 2023 BEFORE HER HONOUR EVELYN E. ASAMOAH (MRS).

SUIT

NO.D6/197/2022

REPUBLIC

V.

PROF. NII ODARTEY MILLS

MR. G. N. K. PHIXON-OWOO FOR THE ACCUSED

ASP YAKUBU FOR THE REPUBLIC

RULING

•Professor Mills is accused of defrauding the complainants of various sums of money under the pretext of enrolling the complainant's children in school in the U.S.A. He was charged, on two (2) counts, with the offence of defrauding by false pretence contrary to section 131(1) of Act 30.

•Facts stated by the Prosecution: The complainants Dorothy Adjei Nortey and Samuel Aryee are Prison Officers and retired civil servants respectively. The accused, Prof. Nii Odartey Mills is an Electrical Engineer and the Proprietor of Santa Institute of Technology, Accra. In 2016, the accused person informed the complainants that he could assist their wards, Master Edmond Nortey Adjei and Stephen Nii Aryee to be enrolled at Monroe County Community College in Michigan, USA. In 2017, the accused then demanded and collected a total

amount of USD4,500 and GH¢10,000.00 from the first complainant. He also collected an amount of GH¢42,000.00 which was equivalent to USD4200 from the second complainant. The monies were to be used as processing and school fees for the complainants' wards. He again collected GH¢500.00 from the second complainant as his traveling expenses to facilitate the process. The accused booked an appointment for the applicants at the US Embassy in Accra for their respective visas. The applicants were refused visas on the grounds that their applications were not supported by any documents from the school in the USA. The complainant approached the accused person who promised to refund the money but he failed. A report was made to the Police and the accused was arrested. Further investigation revealed that the accused did not process any admission for the applicants at the Monroe County Community College. Though the accused pleaded to be given some time to refund the money, he failed to honour his promise. After investigation, he was charged with the offences and arraigned before this honorable court.

- Section 132 of Act 29 states:

"A person defraud by false pretences if, by means of any false pretence or by personation that person obtains the consent of another person to part with or transfer the ownership of anything."

- Section 133 (1) of Act 29 states:

A false pretence is a representation of the existence of a state of facts made by a person with the knowledge that the representative is false or without the belief that it is true and made with intent to defraud.

In the case of **Kuma V. The Republic (1970) CC 113**, the court held:

“For the prosecution to succeed on a charge of defrauding by false pretence, it must be proved that

(i) there was a misstatement or personation by the accused which in law amounts to a false pretence

(ii) that the falsity of the false pretence was known to the accused

(iii) that the accused thereby obtained the consent of another person to part with or transfer the ownership of anything

(iv) that the accused acted with intent to defraud.

•The investigation, PW3, contented that the accused represented to the complainants that his school has a partnership deal with Monroe Country Community to enroll students in that school for a study programme. The accused convinced the complainants to part with cash to enable him to facilitate their enrollment and subsequent travel to the USA. That the applicants were denied visas because their applications were not supported by any document from the school in the USA. The investigator tendered in evidence, the caution statements of the accused – Exhibit D series.

In *Exhibit D2*, the accused stated:

“... I am Prof. Nii Odartey Mills and the complainant happens to be a relation and we both had a mutual agreement but things didn't go as planned due to miscommunication. Whatever allegations levelled against me, ... ample time to settle every debt I owe complainant for peace to reign. I humbly plead with both complainant and authorities to give me four (4) weeks to redeem myself ...”

•The accused admitted that there was an agreement with the complainants for which he is indebted to the complainant... In the mutual agreement tendered in Evidence, the accused stated:

“I ... do promise to settle in full the amount of school fees paid by the students supposed to have travelled to America ...”

The evidence, so far presented, reveals that the accused did make a representation to the complainant to have their children enrolled in USA schools. The applicants were unable to travel to USA, according to the prosecution witness, due to lack of supporting documents from the said school.

In the case of **Tsatsu Tsikata V. The Republic (2003-2004) 2 SCGLR 294** - The court held:

“... On a submission of no case, the judge’s function was essentially to determine whether there was a genuine case for trial i.e. whether there was any genuine factual issues that could properly be resolved only by a finder of facts ...”

It is the view of the court that a case is made out against the accused, and he is called to open his defence.

(SGD)
H/H EVELYN E. ASAMOAH (MRS.)
CIRCUIT COURT JUDGE