

IN THE CIRCUIT COURT HELD AT CAPE COAST ON TUESDAY THE 1<sup>ST</sup> DAY OF  
FEBRUARY, 2023 BEFORE HER HONOUR VERONIQUE PRABA TETTEH (MRS.),  
CIRCUIT JUDGE

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SUIT NO: 151/2021

THE REPUBLIC

VRS

1. RICHMOND AHIATAKU
2. KWESI KUNTU ARHIN

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JUDGMENT

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The charge sheet contains 6 counts of offences for stealing, falsification of accounts and money laundering. The first accused is charged with five of the offences except money laundering while the second accused is charged with all six offences. The main focus as is evident from the evidence submitted by prosecution was on the charge of stealing. The particulars of offence of stealing provides that the accused persons conspired between the period of September 2019 and July 2020 at Moree in the Central region and dishonestly appropriated GH¢565, 209, the property of GEN-X and Tolaram Trading Company Limited.

The crux of prosecution's case is that accused persons were discovered after their employer took stock of the products they were in charge of selling to have sold the products and dishonestly appropriated the monies received to the tune mentioned. The second accused also charged with money laundering is said to have used his proceeds of the theft to establish a whole sale store for his mother.

The prosecution called only two witnesses, the general manager of the complainant company and the police investigator. The first witness' evidence was that after an audit of the store in cape coast was conducted, the accused persons who are branch manager and sales person respectively could not account for an amount of GHC565,209. The accused persons in explanation claim the amount represented products given out to customers on credit but they were unable to produce those customers or recover the said amounts from them. The accused persons then wrote to the company asking for time and that they would repay the money. They failed to do that hence their being charged and brought to court.

The second and last witness of the prosecution was the police investigator. He testified that upon the case being reported, he conducted his investigations which led him to conclude that the accused persons had both stolen the amount. Investigations included trying to contact and get in touch with the customers the accused claimed they had given the products out on credit to. He was not successful in contacting a single customer hence his **believe belief** that the said customers did not exist and that the accused persons had truly sold the products and kept the money for themselves.

This witness tendered the statements made by the accused persons upon their arrest. In the case of the first accused, he maintains throughout that the drinks and money were not dishonestly appropriated by him and that they were sold on credit by the salespeople and that the customers were yet to pay. His only admission of impropriety were that he would take some of the drinks home for personal use and also giving some to the customers to boost the relationship between them and the company. He also says that he took GHC12,000 from the second accused which he used to pay his rent.

His statement about the rent was confirmed by the second accused in his statements to the police as well. The second accused stated that he gave the first accused GHC12,150 for use as his rent. The second accused also made further admissions claiming his total

indebtedness to the company was GH¢139,000. He also admitted that he had used GH¢72,000 for his personal use. This included paying his and his mother's rent, his sister's school fees and also setting up the shop for his mother. He later denied these statements in court but I did not find any reason to disbelieve that these were the second accused's own statement given by him voluntarily.

He also relied on their statements given to police which in some aspects amounted to an admission of the crime. In the case of the second accused not only did he admit there were no customers, but he stated that he had given some of the money to his mother to open whole sale shop. He also implicated the first accused when he stated that he had taken some of the money for his house.

Both accused persons denied the offences and offered explanations in defense of themselves and not jointly. The first accused in his evidence explained that he was employed for his expertise and had been in that business for years. He denies vehemently any dishonest activity regarding the finances of the company. He maintains that he sold the products on credit to customers with the permission of the company's CEO and that any debt incurred was a result of the direct sales made by the sales men to their customers. He claims that that when the shortfalls were brought to his attention he called the salesmen and warned them to pay the amounts. However he was arrested before the deadline given to the sales people to pay their debts was reached.

The second accused worked as a salesperson in the company. He also claims to have sold some of the products on credit and that the customers owed the company. He also denies any theft of the company's money and attributes the discrepancies to people owing the company. He also claims to have paid back GH¢500 to the company through the cashier who is deceased. He states that the receipts are attached but there is no such exhibit attached to the witness statement.

It is important to note that neither accused person disputes that the money unaccounted for is as stated by prosecution that is GHC565,209. I find therefore that GHC565,209 of the company's money from the branch managed by the first accused is unaccounted for.

In the case of the first accused I do not find that prosecution has been able to establish with the requisite degree of proof that he stole the amount he is alleged to have stolen. It appears that as the branch manager he was inept in that those below him that is the second accused and the other salespeople who are at large sold the products and did not account for it leading to the losses. In his own statement he states his ignorance of how the products sold on credit were recorded in the books by the cashier. It is clear he did not have control over the affairs of the branch leading to the losses. As to the fact that he dishonestly appropriated the sum of GHC565,209, I do not find the evidence to support that amount. It is true that he signed an **undertaken** together with the second accused promising to pay the money, but by his own admission it was to cause the sale people to refund or produce the monies. I do not find Exhibit A conclusive proof beyond reasonable doubt of this guilt.

**I do find however that that he took GHC12,000 of accused's money** that belonged to the company to pay for his rent. It is however not clear what details of that transaction was except that it was taken from the second accused. He is thus indebted to the company in that amount and must repay same if it has already not been paid.

I find the first accused guilty on count 1 and count 2 in respect of the amount of GHC12000. The first accused is sentenced on both counts to pay a fine of 200 penalty units or in default spend 6 months in prison custody. He is also to spend 6 months in prison custody.

On the part of the second accused, I am satisfied that he dishonestly took monies belonging to the company after the sale of beer and kept them for his personal use thus

depriving the company of its funds. **I find him guilty of stealing as to the exact amount taken.** His admission of the amount of GHC139000 will however stand. I believe the second accused and the other sales personnel who are at large were responsible for the company's losses by misappropriating monies they should have paid to the company.

I find the second accused guilty on count 1 and 2 and he is sentenced on both counts to pay a fine of 500 penalty units in default of which he is to spend 2 years in prison custody. He is also sentenced to spend 3 years in prison custody. I do not find him guilty on counts 3, 4, and 5. In respect of count 6, the charge of money laundering, as at the time of charging the accused, the act under which he was charged that is the Anti-Money Laundering Act 2018, Act 874 by then had been repealed and therefore there was not in law a legal charge against him. The proper law should have been the Anti-Money Laundering Act, 2020 Act 1044. He is thus acquitted on that count.

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**H/H VERONIQUE PRABA TETTEH (MRS)**  
**(CIRCUIT JUDGE)**