

IN THE CIRCUIT COURT '10 OF GHANA, ACCRA, HELD THIS
WEDNESDAY THE 31ST DAY OF MAY, 2023 BEFORE HER HONOUR
EVELYN E. ASAMOAH (MRS)

CASE NO. D4/54/2022

THE REPUBLIC

V.

JOSEPH SALU

ASP FUSEINI YAKUBU FOR THE REPUBLIC

MR. BERNARD ASARE FOR THE ACCUSED

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• In this case the accused was charged of stealing contrary to section 124(1) of Act 29. He pleaded not guilty. The brief facts are as follows:

Complainant Theophilus Osei Safo is an account officer and stays at New Achimota whilst accused person Joseph Salu is a businessman and stays at DEVTRACO Tema Community 25. The accused person is the CEO of JOSALUS Venturs, who deals in sugar, rice and flour. On 25th February, 2021, the complainant called the accused person to enquire from him if there was sugar in the market and his response was affirmative and introduced Mansell Ghana Limited now MANSCWA Commodities Limited to him. The complainant requested information on the company from the accused person including their account details for verification. The complainant therefore called at the offices of the company to confirm the authenticity of the account and it was confirmed to him that it was genuine. The complainant went ahead to transfer cash the sum of

three hundred and sixty-six thousand Cedis (GH¢366,000.00) into the said account for one thousand nine hundred and fifty (1,950) bags of sugar. The complainant after transferring the money into the company's account forwarded the slip to the company as proof of payment and also informed the accused person. The accused person requested the complainant to furnish him with copy of pay in slip which he did. The company on receipt of the slip ordered their warehouse in Tema to supply 1,950 bags of sugar to the complainant. Both parties arranged for trucks same day and took delivery of 1000 bags of sugar from the company's warehouse and planned to take delivery of the remaining 950 bags the following day. On 26th February, 2021 the complainant called the accused person to know the arrangement in place to take delivery of the remaining 950 bags of sugar but he lied to him that the company was offloading goods and that the warehouse was busy. However, the accused person on same day took delivery of 500 bags of sugar from the company's warehouse under the pretext of supplying same to the complainant but failed to deliver them to him. The accused person again on 2nd March, 2021 went and took delivery of the remaining 450 bags of sugar without supplying them to the complainant. After some days the complainant went to the offices of MANSCWA Commodities to enquire about why the delay in supplying the remaining 950 bags sugar to him only to realize that in supplying the remaining 950 bags of sugar to him only to realize that the accused person took delivery of the goods on 26th February, 2021 and 2nd March, 2021. On 3rd November, 2021, the complainant petitioned the Director-General/CID for assistance and the accused person was later arrested to assist in investigation. During investigation the accused person alleged that MANSCWA Commodities could not supply the remaining 950 bags of sugar to him. Police investigations were extended to the company's offices where copies of Way Bill and VAT invoices covering the 950 bags of sugar issued in the

accused person company's name were made available to police for evidential purpose. After investigation, the accused person was charged with the offense to appear before this honourable court.

The complainant in his witness statement indicated that he contacted Mansell/MANSWA Commodity limited for the supply of sugar. He made payment and then proceeded to the company's warehouse in Tema where he met the accused with a truck – that they were only able to load 1000 bags of sugar. He was directed to load the remaining bags the following day.

On 26th February, 2021, the accused called that he has arranged for the truck. Week passed and he did not hear anything from the accused. On 16th March, he went to the company's Head Office and found that the goods had been supplied to the accused on 26th February, 2021 and 2nd March, 2021.

The investigator contended that investigations were extended to the company's office where it was revealed that the accused took delivery of the remaining 950 bags of sugar on 26th February, 2021.

In the case of Mantey and Another vs The State (1965) GLR 229 – 234 Archer J (as he then was) stated:

“A person steals if he dishonestly appropriates a thing of which he is not the owner ... Its not necessary in order to constitute a dishonest appropriation of a thing that the accused person should know who is the owner of the thing, but it suffices if he has reason to know or believe that some other person, whether certain or uncertain, is interested therein or entitled thereto whether as owner in his own right, or by operation of law or in any other manner ...”

The accused in his caution statement stated that the complainant paid an amount of 366,000 to MANSELL Company for the supply of sugar.

“... I later managed to get him some good price at Mansell Ghana Limited. The complainant paid GH¢366,000.00 for 1950 bags of sugar and out of which I supplied the complainant 1000 bags of sugar Mansell could not supply me the remaining 950 bags of sugar and the complainant also mounted pressure on me for their supply ...”

There is no denial by the accused that the 1950 bags of sugar belonged to the complainant and that payment was made to the company by the complainant. The evidence so far presented shows that the company supplied the entire goods – complainant alleges that he did not receive all the goods.

Section 174(1) of Act 30 stated: At the close of the evidence in support of the charge if it appears to the court that a case is made out against the accused sufficiently to require the accused to make a defence, the court shall call on the accused to make the defence ...”

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

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