

**UNVEILING THE DARK SIDE OF LEGAL PRACTICE:
IMPLICATIONS OF MISAPPROPRIATING CLIENTS'
MONEY BY LEGAL PRACTITIONERS IN NIGERIA**

BEING A PAPER DELIVERED BY:

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*“...the appellant has desecrated the noble legal profession by her actions in the circumstances of this case. She had shown excessive greed where she should have been compassionate. As a professional, she was entitled to her professional fees and no more after negotiating the compensation of \$100,000 given to the complainant by the Kenyan Airlines for the loss of his wife. The appellant took the \$5,000 meant to assuage the immediate financial suffering of the family and refused to disclose it. After collecting the balance of \$95,000.00 she took another \$30,000.00 and insisted that only \$65,000.00 was paid. She refused to disclose all the monies paid to her and deceived the complainant by criminally converting the money to her own use. That was stealing.” - per **OGUNWUMIJU, J.C.A. (Now JSC) in Olamolu v The State.***

1.0 INTRODUCTION

I am deeply honoured to stand before the aspirants to the Bar at the Nigerian Law School Kano campus today, having received a gracious invitation from the esteemed Body of Benchers. This august body comprises legal practitioners of the highest reputation in Nigeria. As Attorney-General of Jigawa State and a member of this distinguished assembly, I must thank the Almighty God for the favour.

I was a Law School Student at the Nigerian Law School's Abuja Campus two decades ago. There, I had the privilege of being taught the intricacies of Evidence and Criminal Procedure by Mr. James Agaba, who now holds the esteemed position of Deputy Director-General and serves as the Head of the Kano Campus at the Nigerian Law School. I must express my deepest gratitude to him as his mentee, for his guidance and mentorship have played a memorable role in shaping my legal journey.

When the Secretary of the Body of Benchers approached me to deliver this lecture, I thoughtfully selected a topic that I believe is not only timely but also essential for aspiring lawyers. This topic concerns an issue of utmost

importance to the aspirant to the Bar because, Law school students must learn about the ethical and legal consequences of misusing clients' funds. This is an essential topic for aspiring lawyers to understand, as it pertains to trust accounting, fiduciary responsibilities, and upholding client trust. In my experience, many legal practitioners often find themselves involved in cases related to the mishandling of clients' funds.

The cases of legal practitioners misappropriating clients' funds, which we have scrutinized within this paper, highlight the paramount significance of upholding the most stringent ethical standards within the legal field. These instances serve as vivid reminders of the legal profession's profound duty, extending not only to its clients but also to the broader society and the global stakeholders who depend on the legal system's integrity and its reputation for dispensing justice. Given the systemic challenges exposed by these incidents and the heightened vulnerability of clients' funds, it becomes an urgent necessity for legal authorities, encompassing entities such as the Body of Benchers, Nigerian Bar Association, the Nigerian Law School, and law firms, to collaborate in fortifying oversight, advancing educational initiatives, and cultivating an ethical ethos within our country's legal community. Through the reinforcement of ethical norms, the provision of continuous training, and the implementation of robust financial controls, we can collectively tackle these issues and, most importantly, ensure the protection of our esteemed clients' interests.

1.1 DUTY OF LEGAL PRACTITIONER TO HIS CLIENT

Legal Practitioners have duty towards their clients to protect their interest within the confines of the law. Lawyers owe duty to be transparent and accountable to clients in connection with funds entrusted to them for various legal purposes such as legal fees, settlements or escrow. There are rules and standards that govern the legal practitioners' conduct which include handling of their clients' money. In Nigeria there are Rules of Professional Conduct for Legal Practitioners, 2007. (The Amended one - Rules of Professional Conduct for Legal Practitioners, 2003 will come into effect on 1st January, 2024). These Rules of Professional Conduct are crucial for regulating the legal profession, safeguarding clients' interests, maintaining public trust, upholding ethical standards, and promoting fairness and justice within the legal system. The rules

are instrumental in ensuring that lawyers in Nigeria conduct themselves professionally and ethically.

1.2 THE PROBLEM

As observed by the former Chief Justice of Nigeria, Honourable Justice Ibrahim Tanko Muhammad in a Public Lecture titled: *That this Profession May Not Die: The Need to Flush Out Miscreants from the Nigerian Legal Profession*. “... *it is heart-breaking, astonishing, disgraceful, immoral and embarrassing to hear some of the atrocities and illegalities committed by some legal practitioner in the course of handling cases on behalf of their clients.*”ⁱ His Lordship shared his thoughts on several atrocities, but he emphasized three instances. Out of those examples, two involved legal practitioners misusing clients' funds. In one particular case, Dominic Ntiero Esq. was found guilty of infamous misconduct by the Legal Practitioners Disciplinary Committee of the Body of Benchers. This was due to his mishandling of a client's finances. He had recovered a sum of N10,000,000.00 (Ten Million Naira) on behalf of his client but failed to account for the funds. This act breached his professional responsibilities as a lawyer and the latter's name was removed from the roll.ⁱⁱ

From the lecture, His Lordship has shown there are bad elements in the legal profession and emphasized the significance of eliminating dishonest or disruptive individuals from the legal profession to maintain its integrity and credibility. The main focus was on removing unethical or corrupt elements from the field of law to ensure its solidity and trustworthiness.ⁱⁱⁱ

Misappropriation of Clients funds in Nigeria by legal practitioners is prevalent. There are replete of incidences reported in law reports and media. These cases encompass forgery and theft of clients' money^{iv}, receiving funds on behalf of foreign company client and failing to remit the same.^v Another pattern of misappropriation of client's money by legal practitioners in Nigeria is deliberate refusal to deposit client's money into client's account and claimed the money was stolen in the law office.^{vi} A legal practitioner is entitled to his fee upon discharge of his duty to the client, however, in two of the reported cases legal practitioners did not logically conclude the tasks they were briefed to handled yet they found their way and got their clients' money and retained the funds as their fees for professional services they never rendered.^{vii} In *NBA v Iteogu*^{viii}, a legal practitioner defrauded his client money for compensation

money paid to him on behalf of his client by the government. Misappropriation of clients' fund entrusted to lawyers after they have collected the money on behalf of their clients are glaring in the cases of *NBA v Fabour*^{ix}, *NBA v Alabi*^x, *NBA v Edu*^{xi} and *NBA v Aheme*.^{xii} Similar story can be found in online media where a legal practitioner withheld N50,000.00 belonging to his client claiming to be his professional fees.^{xiii}

It has been acknowledged in a literature that cases of misappropriation of clients' funds by legal practitioners are on the rise in Nigeria, despite the severe sanctions imposed on erring lawyers by the Legal Practitioners' Disciplinary Committee of the Body of Benchers.^{xiv}

1.3 DUTY OF LEGAL PRACTITIONER IN DEALING WITH CLIENT'S MONEY

In the realm of ethical and legal standards, legal practitioners are required to diligently safeguard the money and property entrusted to them by their clients, adhering strictly to the rules of professional conduct. A legal practitioner and client relationship is characterized by unwavering trust. This is a fundamental aspect of their interaction and cannot be compromised.^{xv} Rules 23(1) and (2) of the Rules of Professional Conduct for Legal Practitioners, have imposed a duty on a legal practitioner “...not to do any act whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client. Where a lawyer collects money for his client, ... he shall promptly report, and account for it, and shall not mix such money ... with ... his own.”

Lawyers in Nigeria are obligated to uphold high ethical and professional standards when managing clients' funds. These standards are in place to ensure transparency, trust, and protection of clients' interests. As per the Rules of Professional Conduct for Legal Practitioners in Nigeria, legal practitioners are obliged to prioritize their clients' best interests and handle their money with utmost care, honesty, and integrity. Lawyers must maintain accurate records of all client funds and keep them separate from personal or business finances. It is mandatory for lawyers to ensure timely disbursement of clients' funds for the intended purposes and not earn interest without a specific agreement with the client. Lawyers must comply with anti-money laundering laws and regulations, conduct due diligence on clients and report suspicious transactions when necessary.^{xvi} They should also keep clients updated on the status of their

funds and maintain the confidentiality of clients' financial information and transactions while following all rules and regulations.

1.4 THE IMPLICATIONS OF LEGAL PRACTITIONERS MISAPPROPRIATING CLIENTS' MONEY

Mismanagement of clients' funds by legal practitioners in Nigeria can have severe implications for both parties involved. The consequences of such actions can be far-reaching and lead to a range of negative outcomes, such as financial losses, legal consequences, emotional distress, and damage to reputations.

Reputational Damage to the Profession

It's important to understand the key implications of misappropriation, which can have significant consequences. Firstly, clients rely on lawyers to act in their best interests, and misappropriation can erode fundamental trust, damaging the reputation of the legal profession. The legal profession holds a revered and esteemed position in society as it is crucial in upholding justice and the rule of law. The profession demands the utmost ethical conduct from its members, and any behavior that falls short of these high standards can have far-reaching consequences, not only for the individual involved but for the profession as a whole. Unbecoming behavior within the legal profession can have repercussions that extend beyond the immediate consequences faced by the erring individual. Such conduct has the potential to erode the integrity of the profession, which has been built over centuries. When a member of the legal community engages in behavior that is inconsistent with the principles of justice, honesty, and fairness, it sends shockwaves through society. The legal profession's reputation hinges on the ethical conduct of its practitioners. The public's trust in lawyers and judges is the foundation upon which the legal system itself rests. Instances of misconduct damage not only the reputation of the individual involved but also erode the public's confidence in the entire legal system. Therefore, it is imperative that members of the legal profession remain vigilant in upholding the highest ethical standards. They must recognize that their actions reflect not only their personal character but are closely associated with the integrity of the profession as a whole. Upholding these standards not only preserves the nobility of the legal vocation but also ensures that justice

continues to be administered with fairness and impartiality, bolstering the public's trust in the legal system.

Financial Losses to Clients

Secondly, Misappropriation by a lawyer can have devastating consequences for clients, leading to substantial financial losses and long-term economic hardship. Clients trust their lawyers to act as fiduciaries and protect their interests and funds. However, when this trust is shattered through misappropriation, clients may see their hard-earned savings, investments, or settlement funds vanish, leaving them struggling to cover essential expenses, debts, and obligations.

Emotional Distress

Experiencing financial victimization at the hands of a trusted legal professional can have a devastating and lasting impact on one's emotional well-being. The profound emotional toll of such an ordeal is multifaceted, encompassing a range of complex emotions that can be difficult to cope with. First and foremost, the sense of betrayal runs deep. When you place your trust in a legal professional, you expect them to act in your best interests, safeguarding your financial assets and ensuring that justice prevails. Discovering that they have abused this trust can shatter your faith in the legal system and in people you thought you could rely on. This betrayal can trigger feelings of anger, resentment, and disbelief, making it challenging to come to terms with what has occurred.

Furthermore, the financial misappropriation can induce profound anxiety. The loss of financial resources, which may have taken years to accumulate, can lead to a pervasive sense of uncertainty and worry about the future. Anxiety can manifest as sleepless nights, constant worrying, and a sense of helplessness about regaining control over one's financial situation. The thought of having to navigate a complex legal process to recover one's losses only adds to this emotional burden.

Vulnerability becomes a prevalent emotion in the aftermath of financial victimization by a trusted legal professional. Once secure in the belief that your legal advisor would protect your interests, you now find yourself exposed and vulnerable to further harm. This newfound vulnerability can impact your

ability to trust others, making it difficult to seek legal assistance or share your situation with others. Pursuing legal action to recover the losses inflicted by a trusted legal professional can be a prolonged and emotionally draining process. It often involves reliving the trauma and betrayal through legal proceedings, investigations, and negotiations. This arduous journey can be emotionally exhausting, as it demands confronting the painful reality of what has transpired while simultaneously seeking justice and restitution.

Serious Negative Consequences Against Legal Practitioner

Legal professionals who are found guilty of misappropriation can potentially encounter a range of serious consequences, encompassing both professional and legal repercussions. Misappropriation in the legal context typically involves the wrongful or unauthorized use, transfer, or allocation of funds, assets, or property entrusted to them by clients or others. The consequences for such misconduct can be severe and depending on the nature of the infraction. Below are the potential consequences:

1. Professional Disciplinary Actions:

- **Suspension:** Legal practitioners found guilty of misappropriation may face suspension from practicing law. Suspension typically entails a temporary prohibition from engaging in legal practice. The duration of suspension can vary depending on the gravity of the offense as may be determined by the rules and guidelines of the Body of Benchers.
- **Disbarment:** In more severe cases of misappropriation, lawyers may face disbarment, which permanently revokes their license to practice law. Disbarment is a serious consequence and can be imposed if the misconduct is considered a grave violation of legal ethics or if it involves substantial financial harm to clients or others.

2. Civil Liability:

- **Repayment and Restitution:** Legal practitioners may be ordered to repay or provide restitution to the individuals or entities harmed

by their misappropriation. This often involves returning misappropriated funds or assets to their rightful owners.

- **Civil Lawsuits:** Clients and affected parties may file civil lawsuits against the lawyer to recover damages resulting from misappropriation. Successful civil litigation can lead to monetary judgments against the lawyer.

3. **Criminal Charges:**

- **Fraud:** In cases where misappropriation involves deceit, intentional deception, or fraudulent actions, legal practitioners may face criminal charges for fraud. If convicted, they could be subject to penalties such as fines and imprisonment.
- **Theft:** Misappropriation of funds or assets can also lead to criminal charges of theft, embezzlement, or larceny, depending on the jurisdiction's legal framework. A conviction can result in imprisonment and a criminal record.

4. **Professional Reputation Damage:** Even if legal practitioners avoid criminal charges, their reputation within the legal community and among potential clients can be severely damaged. This can hinder their ability to rebuild their legal career.

1.5 **RELATING THE IMPLICATIONS OF LEGAL PRACTITIONERS MISAPPROPRIATING CLIENTS' MONEY WITH DECIDED DISCIPLINARY CASES IN NIGERIA**

In this paper, we have cited some legal cases adjudicated by both the Superior Court of Records in Nigeria and the Legal Practitioners Disciplinary Committee of the Body of Benchers. These cases revolve around a concerning issue – legal practitioners' misappropriation of clients' funds. This examination underscores these cases' significance, given their far-reaching implications.

The ramifications of such misappropriations are glaringly evident. They extend beyond the immediate individuals involved to encompass the broader legal profession. A common thread emerges in all these cases: the tarnishing of the legal profession's reputation. This phenomenon is particularly noteworthy and merits thorough consideration.

One illustrative example that vividly encapsulates this issue is the case of *Okike v LPDC*. Here, the victim of the misappropriation happened to be a Japanese company, an entity operating within a global context. Despite the Legal Practitioners Disciplinary Committee's decision to sanction Mr Okike for his misconduct, we cannot overlook the broader implications of such actions. It is reasonable to assert that such incident would have harmed the legal profession's reputation, especially in the eyes of foreign entity and investors. This raises questions about the global perception of Nigeria's legal system and its ability to safeguard clients' interests and maintain the legal profession's integrity in a world characterized by international interactions and business relationships.

A sustainable business relationship cannot be maintained when a client's funds are mishandled by a legal practitioner. Failing to use the client's money as directed or neglecting to remit recovered funds can result in significant financial losses. Furthermore, there is a possibility that the client may not be able to recover the losses incurred due to their lawyer's actions.

It may be argued that financial losses incurred by client as a result of misappropriation of clients' money by a legal practitioner and emotional distress a client may suffer as a result of the misappropriation of clients' money. The case of *Olamolu v State* is an apt example. A client engaged a legal practitioner to facilitate processing the death benefit for his deceased wife from Kenya Airlines, who tragically lost her life in a plane crash. Regrettably, after successfully obtaining the funds, the lawyer displayed a lack of empathy and, even more concerning, misappropriated the money, which was in United States Dollars denomination. I believe the deceased's husband must have endured significant emotional distress due to the unethical and criminal behaviour of the erring legal practitioner.

The conduct of the legal practitioners mentioned in the cases we cited resulted in them losing their licenses to practice law in Nigeria, and their names were struck from the roll of legal practitioners. Notably, Olamolu's behaviour is particularly reprehensible, as she faced charges of forgery, uttering, and theft, and she was ultimately convicted and sentenced to two years in prison without the option of a fine. The sanctions on the lawyers in question have significantly tarnished their professional reputation. In the case of *Olamolu v State*, the

Court of Appeal, as documented on pages 602-603 of the law report, characterized the appellant's actions as fraudulent and deceitful, warranting criminal prosecution. “In the instant case, the appellant had criminal intent when she moved away from her professional duties to convert the amount collected for the PW2 to her personal use. The appellant’s conduct was deceitful and fraudulent.”

1.6 WHAT ARE SYSTEMIC ISSUES WITHIN THE LEGAL PROFESSION THAT MAY HAVE CONTRIBUTED TO MISAPPROPRIATION OF CLIENTS' MONEY IN NIGERIA?

The misappropriation of clients' money in the legal profession can be attributed to various factors, with some systemic issues contributing to this problem. While not all legal professionals engage in such misconduct, these issues create an environment where unethical behaviour becomes more likely. Key systemic problems contributing to misappropriation of clients' funds include:

1. **Lack of Regulatory Oversight:** In Nigeria, there is inadequate regulatory oversight of lawyers' financial transactions, making it easier for unethical lawyers to embezzle funds without detection. Additionally, weak enforcement of disciplinary actions further reduces accountability.
2. **Inadequate Training:** Some legal professionals need more financial management and ethics training during their education and professional development. This lack of awareness regarding ethical and legal responsibilities can lead to improper handling of clients' funds.
3. **Financial Pressure:** Lawyers may experience financial stress due to factors like high debt, the pressure to maintain a particular lifestyle, or firm expectations to generate revenue. This financial pressure can push some lawyers to engage in unethical practices, including misappropriation.
4. **Lack of Transparency:** Clients may not always have access to transparent information about their funds in trust accounts. Lawyers should provide clear and regular accounting statements, but some fail to do so, making it challenging for clients to detect misappropriation.

5. **Inadequate Ethical Culture:** Some law firms prioritize financial gain over ethical conduct, creating an environment where unethical behaviour, like misappropriation, is tolerated. It can become more acceptable when colleagues engage in such behaviour without consequences.
6. **Inadequate Disciplinary Processes:** In Nigeria, the disciplinary processes are slow and ineffective, making it difficult to address misconduct promptly. This lack of swift action can embolden lawyers to engage in unethical behaviour.
7. **Client Vulnerability:** Certain clients, particularly those in vulnerable situations or with limited legal knowledge, are more susceptible to misappropriation. Unscrupulous lawyers may take advantage of their client's lack of understanding to divert funds improperly.

1.7 CONCLUSION

This paper discusses how legal professionals have been found to misappropriate their clients' funds, emphasizing the importance of upholding ethical standards within the legal profession. It highlights the profession's responsibility towards clients, the community, and the global stakeholders relying on the legal system's integrity. To prevent such instances of misappropriation, collaboration is essential among legal authorities, the Body of Benchers, the Nigerian Bar Association, the Nigerian Law School, and law firms. They must focus on enhancing oversight, education, and the ethical culture within the legal profession in Nigeria. By strengthening ethical standards, providing continuous training, and implementing robust financial controls, the legal system can mitigate these problems and protect clients' interests.

Thank you for listening and wish successful stay at the Law School.

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The Paper was presented at the 48th Annual Conference of the Nigerian Association of Law Teachers (NALT) held at Afe Babalola University, Ado-Ekiti, Ekiti State from 31st May – 5th June, 2015.

ii Ibid

iii Ibid

iv *Olamolu v State* (2013) 2 NWLR (Pt. 1339) CA

v *Okike v LPDC* (2005) LPELR – 2450 SC

vi *NBA v Kalu* (2015) 17 NWLR (Pt. 1487) LPDC

vii *NBA v Iseyin* (2015) 13 NWLR (Pt. 1475) LPDC

viii

ix (2006) 13 NWLR (Pt. 996) LPDC

x 2006) 13 NWLR (Pt. 996) LPDC; NBA v Gbenoba (2015) 15 NWLR (Pt. 1483) LPDC.

xi (2006) 14 NWLR (Pt. 1000) LPDC

xii 2006) 14 NWLR (Pt. 1000) LPDC

xiii <https://punch.com/lawyer-should-not-withhold-clients-judgment-credit> accessed September, 4, 2023 at 14:55pm.

xiv <https://www.thenigerianlawyer.com/extra-why-lpdc-derobed-kano-based-lawyer> accessed September, 4, 2023 at 15:03pm.

xv Aladekomo, A. (2020) "Growing Cases of Misconduct in Nigeria and Corrective Measure", <https://papers.ssrn.com/sol3/papers.cfm?>

xvi Supra note 1, at p. 608, paras B-C per Okoro, JCA (as he then was now JSC)
See Chapter 2 of Rules of Professional Conduct for Legal Practitioners, 2023.