

**OSHI v Samlo-Koyenco Steel Co. Ltd**

**2025 IND 47**

**THE INDUSTRIAL COURT OF MAURITIUS**

**(Criminal Side)**

**In the matter of:-**

**CN 124/2021**

**OSHI**

**v.**

**Samlo-Koyenco Steel Co. Ltd**

**JUDGMENT**

1. The Accused stands charged for having unlawfully used a building as a lodging accommodation for its employees without holding a lodging accommodation permit. The Accused pleaded not guilty and was represented by counsel for the trial.

2. Mrs. Purusram, Principal Occupational Safety and Health Officer, deposed to the effect that following a joint site visit carried out in collaboration with officers from the Mauritius Fire and Rescue Service and the Ministry of Health on 16 July 2020 at La Pipe, Midlands, it was found that the Accused company was using a building as lodging accommodation for male Malagasy employees without holding a valid permit. The witness affirmed that the employees were in a bedroom with their belongings and that there were cooking facilities. She produced the out-of-court statement of the Accused **(Document A)**, her report on the site visit **(Document B)**, and a set of photographs taken by Mr. Ramburn, Occupational Safety and Health Officer, who was part of the team which carried out the site visit **(Document C, C1 to C6)**.

3. Under cross-examination, the witness conceded that the representative of the Accused company, Mr. Foolessur, was not confronted with **Document B** at the time

the defence statement was being recorded. She further agreed that the Accused's representative stated on the day of the site visit itself that the actual lodging accommodation for those foreign workers was under repairs and was being repainted. Mrs. Purusram affirmed that no statement was recorded from the Malagasy workers and explained that this could not be done because of the language barrier. The witness added that the accommodation was not closed down following the inspection. Mrs. Purusram confirmed that the Accused held a lodging accommodation permit for another site but asserted that the company did not hold one for the building in question.

4. Thereafter, Mr. Beesony, Principal Health Inspector, testified that he participated in the site visit of 16 July 2020 to make an assessment on the health conditions at the impugned building. According to him, the place was not a conducive living environment. He produced the report he drew up following that visit **(Document D)**.

5. Finally, Mr. Seeburrun, Station Fire Officer, gave evidence. He too was part of the team which visited Building No. 4 at La Pipe, Midlands. He stated that the building lacked fire safety. The witness could not say whether the building was being used as a lodging accommodation. He produced a letter issued to the Accused company following the inspection **(Document E)**.

6. No evidence was adduced on behalf of the Accused.

7. Regulation 6 of the Occupational Safety and Health (Employees' Lodging Accommodation) Regulations 2011 ("the Regulations") – Regulations made by the Minister under section 100(5) of the Occupational Safety and Health Act (OSHA) – entitled "*Lodging accommodation permit*" sets out the procedure to be followed by an employer to obtain a lodging accommodation permit for the accommodation of his workers. By virtue of Regulation 6(1), "*no employer shall use a building as a lodging accommodation for his employees unless he holds a lodging accommodation permit.*" Regulation 2 defines "*lodging accommodation*" as "*a dwelling place provided by an employer to an employee.*" Furthermore, pursuant to section 94(1)(i)(vi) of the OSHA, any person who contravenes any provision of the Act shall commit an offence. According to section 5(10) of the Interpretation and General Clauses Act, "*a reference to an Act includes a reference to any subsidiary legislation made under that Act.*" Hence,

any person who contravenes the Regulations shall commit an offence and shall be liable to the penalty provided under section 94(3)(b) of the OSHA.

8. In the present matter, it is not disputed that the Accused held no lodging accommodation permit in respect of the building *in lite*, namely Building No. 4 found at La Pipe, Midlands. It is however the contention of the Accused that no such permit was required as the premises were no being used as accommodation for its employees but were simply a temporary facility provided to them pending works being completed at their actual lodging accommodation. Learned Counsel for the Accused has submitted that the prosecution has failed to establish beyond reasonable doubt that the building in question was being used as a lodging accommodation.

9. After consideration of the evidence on record, I have been satisfied that the prosecution has proved to the required standard that, at the material time, Building No. 4 was being used as a lodging accommodation for employees. Photograph **C3** shows one of the workers sitting in front of a mattress with a fan directed towards the said mattress. I do not believe that such set up was only temporary in nature, and it can be reasonably inferred that such amenities were in place so that the workers could sleep. Furthermore, photograph **C4** showing kitchen utensils in use in the room, and photograph **C5** showing personal belongings of one of the workers lend credence to the case for the prosecution that the accommodation was being used as a dwelling place for workers. Therefore, the version of the Accused as contained in **Document A** to the effect that the employees were allocated a “*temporary shelter*” in Building No. 4 “*for a few hours*” and “*regained their respective dormitories on the same day*” does not hold water. I am, moreover, satisfied that the facts of the case were fully brought to the attention of the Accused at the time the defence statement was recorded and that there was no need for the latter to be confronted to all documents drawn up in the course of the investigation. The Accused can claim no prejudice in that respect.

10. For all the above reasons, I find that the prosecution has proved its case beyond reasonable doubt. I, accordingly, find the Accused guilty as charged.

**26 June 2025**

**M. ARMOOGUM**

**Magistrate**