

**IN THE COURT OF 3 SUPREME COURT JUDGES OF
THE REPUBLIC OF SINGAPORE**

[2024] SGHC 55

Originating Application No 6 of 2022

Between

The Law Society of Singapore

... Applicant

And

Kasturibai d/o Manickam

... Respondent

FOUNDATIONS OF DECISION

[Legal Profession — Disciplinary proceedings]
[Legal Profession — Show cause action]

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Law Society of Singapore

v

Kasturibai d/o Manickam

[2024] SGHC 55

Court of 3 Supreme Court Judges — Originating Application No 6 of 2022
Sundaresh Menon CJ, Steven Chong JCA and Belinda Ang Saw Ean JCA
16 January 2024

28 February 2024

Belinda Ang Saw Ean JCA (delivering the grounds of decision of the court):

Introduction

1 C3J/OA 6/2022 (“OA 6”) was an application brought by the Law Society of Singapore (the “Law Society”) for Ms Kasturibai d/o Manickam (“Ms Kasturibai”), an advocate and solicitor of about 25 years’ standing, to be sanctioned under s 83(1) of the Legal Profession Act 1966 (2020 Rev Ed) (the “LPA”). The application arose out of Ms Kasturibai’s conduct as solicitor in a conveyancing transaction where she purported to sign as witness on six related documents that she did not witness the execution of. The complainant, Ms Santha Devi d/o V Puthenveetil Kesava Pillay (the “Complainant”), was a co-owner of a property. The six documents in question related to the sale of the property.

2 We heard the parties on 16 January 2024. Ms Kasturibai did not dispute that due cause for disciplinary sanction had been shown, leaving only the issue of the appropriate sanction to be determined. At the conclusion of the hearing, we ordered that Ms Kasturibai be suspended for a period of 12 months. We now provide the full grounds of our decision.

Facts

The sale transaction

3 Ms Kasturibai was at all material times a director of East Asia Law Corporation (“EALC”). EALC was appointed to act for the Complainant and her brother, Mr Raman s/o Puthenveetil Kesava Pillay (“Mr Raman”), in the sale of a property which they held as tenants-in-common (the “Property”). Ms Kasturibai was the solicitor who had conduct of the sale. The Complainant and Mr Raman were no strangers to EALC or Ms Kasturibai – EALC had acted for them in prior matters, and Mr Raman’s wife was a legal secretary and office manager at EALC.

4 The Property was sold on 7 September 2020 to two purchasers represented by Advent Law Corporation (“Advent”). The complaint involved six related documents prepared in the course of the transaction (collectively referred to as the “transactional documents”):

- (a) a transfer instrument dated 7 September 2020 (the “Transfer Instrument”);
- (b) a letter of confirmation dated 16 September 2020;
- (c) a seller’s stamp duty declaration form dated 16 September 2020;

- (d) a letter of authority dated 27 October 2020, authorising the payment of the net sale proceeds to EALC (“the October letter of authority”);
- (e) a further letter of authority dated 4 November 2020, authorising the distribution of sale proceeds between the Complainant and Mr Raman, as well as payment to EALC and the property agent for their fees (“the November letter of authority”); and
- (f) a statement of account dated 4 November 2020.

5 Except for the Transfer Instrument listed in [4(a)] above, which was prepared by Advent, the five other documents listed above were prepared by Ms Kasturibai. Each document was signed by the Complainant and Mr Raman, either jointly on the same copy or individually on separate copies. Ms Kasturibai signed on each document, attesting that she had witnessed the signatures of the Complainant and Mr Raman when she had not done so. These were false attestations. Ms Kasturibai accepted in the agreed statement of facts for the disciplinary proceedings that all the documents (with the exception of the statement of account) were sent to Advent, with the intention that they would be relied on by the purchasers. In her submissions to this court, Ms Kasturibai accepted that Advent relied on the five documents. As a matter of course, Advent would have lodged the duly executed Transfer Instrument with the Land Titles Registry after completion of the sale of the Property.

The complaint and the proceedings before the Disciplinary Tribunal

6 Following the completion of the sale, the Complainant was dissatisfied with the distribution of the sale proceeds. The distribution of the sale proceeds followed the November letter of authority (see [4(e)] above). Mr Raman had

received an additional \$171,700 from the Complainant's share of the sale proceeds to account for a prior debt she had owed to him. She lodged a complaint with the Law Society against Ms Kasturibai alleging that she had acted in conflict of interest, failed to advise the Complainant adequately and wrongfully deducted the sum of \$171,700 from her share of the proceeds without her instructions. Materially, she also complained that Ms Kasturibai had witnessed *in absentia* her signature on the statement of account and the November letter of authority.

7 In the course of the investigations into the complaint by the Law Society, Ms Kasturibai revealed that she had signed as witness to the signatures of the Complainant in relation to other documents in the Complainant's absence. The documents in question were the Transfer Instrument, letter of confirmation, seller's stamp duty declaration form and the October letter of authority.

8 The Law Society ultimately preferred two charges of grossly improper conduct under s 83(2)(b) of the LPA against Ms Kasturibai: one for falsely attesting that she had witnessed the Complainant's signature on the statement of account; and the other for falsely attesting to the same on the other documents and providing them to Advent with the intention that they be relied upon. Alternative charges in the same terms were framed under s 83(2)(h) of the LPA. Before the disciplinary tribunal (the "DT"), Ms Kasturibai contested only the principal charges and agreed not to contest the alternative charges.

9 In the proceedings before the DT, Ms Kasturibai raised the following averments:

- (a) First, she had taken precautions to ensure that the Complainant properly signed the transaction documents. Specifically, she had

personally explained the October letter of authority, November letter of authority and statement of account to the Complainant and Mr Raman over the phone prior to the Complainant's signing of the documents. She had also instructed her conveyancing secretary, Mr Magit bin Madik ("Mr Magit") to explain the Transfer Instrument, the letter of confirmation and the seller's stamp duty declaration form to the Complainant.

(b) Second, it was the Complainant and Mr Raman who had made a request to Mr Magit to dispense with their physical attendance at EALC's office for the signing of the documents to minimise their risk of being infected by COVID-19.

10 As these allegations were disputed by the Law Society, the DT held a Newton hearing to determine the facts. The DT accepted that Ms Kasturibai had explained the October letter of authority, the November letter of authority and statement of account to the Complainant prior to the Complainant's signing. This was evidenced by Ms Kasturibai's contemporaneous attendance notes recording her calls with the Complainant and Mr Raman on 9 September 2020 and 4 November 2020. The attendance notes recorded discussions on how the Complainant's share of the sale proceeds would be used to pay off her debt to Mr Raman. However, the DT did not accept Ms Kasturibai's allegation that Mr Magit had explained the Transfer Instrument, the letter of confirmation, and the seller's stamp duty declaration form to the Complainant, because Mr Magit did not testify at the hearing. The DT further rejected Ms Kasturibai's allegation that it was the Complainant and Mr Raman who had requested to dispense with their physical attendance at EALC's office for the signing of the documents on the ground that neither Mr Magit nor Mr Raman had testified at the hearing.

11 The DT ultimately found that the principal charges were made out and that cause of sufficient gravity existed for disciplinary action to be taken against Ms Kasturibai.

12 Pursuant to the DT's findings, the Law Society filed OA 6 for an order that Ms Kasturibai be sanctioned under s 83(1) of the LPA in respect of the principal charges.

The parties' submissions before the Court

13 Ms Kasturibai did not dispute that due cause had been shown against her, leaving only the question of sanction to be determined.

14 Counsel for the Law Society, Mr Darrell Low ("Mr Low"), submitted that a suspension for a period of at least 30 months would be appropriate in this case. On the other hand, counsel for Ms Kasturibai, Mr N Sreenivasan SC ("Mr Sreenivasan"), submitted that this court should impose only a short period of suspension.

Our decision

15 The principles to be applied in imposing sanctions under s 83(1) of the LPA are summarised in our decision in *Law Society of Singapore v Chia Choon Yang* [2018] 5 SLR 1068 ("*Chia Choon Yang*") and we do not propose to repeat them here. It suffices for present purposes to observe that an order for striking off will be the presumptive sanction for dishonest conduct which reveals a character defect rendering the errant solicitor unsuitable for the profession, or which undermines the administration of justice. The typical examples of such cases are (see *Chia Choon Yang* at [39]):

- (a) where the dishonesty is integral to the commission of a criminal offence of which the solicitor has been convicted;
- (b) where the dishonesty violates the relationship of trust and confidence inherent in a solicitor-client relationship; and
- (c) where the dishonesty leads to a breach of the solicitor's duty to the court or otherwise impedes the administration of justice.

16 Where a case does not fall within the categories of cases which attract the presumptive penalty of striking off (in other words, should the dishonest act be attributed to an error of judgment however serious), the court should consider the following non-exhaustive factors to determine if striking off is nonetheless warranted (*Chia Choon Yang* at [40]):

- (a) the real nature of the wrong and the interest that has been implicated;
- (b) the extent and nature of the deception;
- (c) the motivations and reasons behind the dishonesty and whether it indicates a fundamental lack of integrity on the one hand or a case of misjudgement on the other;
- (d) whether the errant solicitor benefited from the dishonesty; and
- (e) whether the dishonesty caused actual harm or had the potential to cause harm that the errant solicitor ought to have or in fact recognised.

17 At the disciplinary hearing, Ms Kasturibai resisted the charge that the false attestation was dishonest as she had gained nothing from doing a favour for an elderly client during the COVID-19 pandemic. We note that she later

came to recognise and, before us, accepted that “dishonesty” was an appropriate characterisation of false attestation of documentation. Indeed, false attestation of itself is a specie of dishonesty even though there was no personal gain or improper motive on her part in accommodating her client’s wishes as alleged. Because of the dishonesty inherent in this specie of disciplinary wrong, the Singapore cases on false attestation have consistently viewed such conduct as amounting to professional misconduct.

18 At the outset, we were satisfied that Ms Kasturibai’s false attestation of documents, even though involving deceptive conduct, would not on the evidence be demonstrative of a character defect. Here the Complainant, EALC and Ms Kasturibai had a long-standing solicitor-client relationship. Typically, such a solicitor-client relationship would bring rewards, but it also carried with it professional responsibilities, risks, and pressures. Indeed, it was the accommodation she accorded to this long-standing relationship that occasioned her dishonest act. The Law Society accepted that Ms Kasturibai’s misconduct was not due to a character defect and had therefore expressly submitted that a striking off order ought *not* to be imposed on Ms Kasturibai. In addition, there was no suggestion at all that her conduct undermined the administration of justice so as to attract that presumptive penalty. The Law Society argued that the appropriate sentence was a period of suspension. The length of such suspension was to be determined by comparing Ms Kasturibai’s conduct with those of the solicitors in other cases of false attestation. The Law Society relied on *Law Society of Singapore v Mohammed Lutfi bin Hussin* [2023] 3 SLR 509 (“*Lutfi*”) to press for a 30-month suspension. In response, Mr Sreenivasan, pointed out, and rightly so, that the appropriate duration of suspension would vary depending on the facts of each case. In arguing for a short period of suspension, Mr Sreenivasan sought to distinguish *Lutfi*, and three other cases,

namely *Law Society of Singapore v Sum Chong Mun and another* [2017] 4 SLR 707 (“*Sum Chong Mun*”), *Law Society of Singapore v Thirumurthy Ayernaar Pambayan* [2022] 4 SLR 462 (“*Thirumurthy*”) and *Chia Choon Yang*. We will discuss all these cases below.

19 Mr Low, for the Law Society, argued that the present case was analogous to *Lutfi*, where this court had imposed a suspension of three years. The respondent-solicitor in that case had set up a “system” of conveyancing, where he delegated large swathes of authority to his non-legally trained secretary and never met his clients unless he thought it necessary. Pursuant to this “system”, the solicitor signed on a mortgage instrument as witness to his client’s signature and further signed its accompanying certificate of correctness, certifying the correctness of the matters set out in the mortgage instrument, when in fact he did not personally witness the signing, had never met the client personally, and did not personally check if the client was of full age or lacked legal capacity, or whether the client accepted proprietorship of the property in that case. The Court of Three Judges had observed in *Lutfi* that this shoddy practice was an accident waiting to happen, and the indolence of the solicitor in setting up this “system” was a significant factor contributing to the length of his suspension.

20 We agreed with Mr Sreenivasan that it would be inappropriate to use the three-year suspension imposed in that case as a starting point and guide to scale down from three years to 30 months. There was no evidence that any similar conveyancing “system” had been put in place by Ms Kasturibai. It is significant that the court in *Lutfi* rejected the characterisation of the solicitor’s act of false attestation on the particular mortgage instrument as a mere lapse in judgment, noting that the dishonest conduct was evidence of a defect that was more than a

lapse in judgment (*Lutfi* at [40]). We therefore did not agree that the present case was comparable to *Lutfi*.

21 We were also of the view that the present case was distinguishable from two further cases of false attestations in *Chia Choon Yang* and *Sum Chong Mun*. The solicitors in those cases had been presented with documents already containing the signatures of persons who were not clients, and whom they had never met. They went ahead to falsely attest to witnessing the signatures by these persons without confirming their identities. That was not the case here – EALC had acted for the Complainant in prior matters and there was no question that she had in fact signed the documents in this case. *Sum Chong Mun* is further distinguishable in that the solicitor’s false attestation was in relation to a Lasting Power of Attorney (“LPOA”) that the solicitor signed as certificate issuer of the LPOA under the Mental Capacity Act (Cap 177A, 2010 Rev Ed) (the “MCA”). The solicitor signed *in absentia* contrary to his obligation under the MCA to ensure that the donor understood the purpose of the LPOA and that no ostensible fraud or undue pressure was being used.

22 In our judgment, the more appropriate precedent was the case of *Thirumurthy*. The respondent solicitor (“Mr Thirumurthy”) had been appointed to prepare a power of attorney (“POA”) for the complainant. However, Mr Thirumurthy was away attending to other matters when the complainant attended at his office to sign the POA. In the circumstances, the complainant signed the POA in the presence of Mr Thirumurthy’s secretary. Mr Thirumurthy subsequently appended his signature on the POA, falsely attesting that the complainant had signed it in his presence. In the circumstances, this court imposed a suspension for a period of nine months. Like the case in *Thirumurthy*, there was no question that the transactional documents bore the Complainant’s signature. She signed the documents as she intended to sell the Property. Her

complaint was a narrow one confined to the amount of the sale proceeds she received after completion of the sale. Like *Thirumurthy*, the mischief was in Ms Kasturibai's attestation that the Complainant had signed them in her presence when she knew that that was not the case. *Thirumurthy* was the appropriate starting point to calibrate the sentence in this case.

23 There were several aspects of Ms Kasturibai's conduct which we considered to be more serious than that in *Thirumurthy*. First, Ms Kasturibai had signed as witness on six documents in total, albeit they related to the same transaction. Nonetheless, the false attestations of a series of related documents were occasioned over the course of nearly two months. Ms Kasturibai accepted that her false attestation misled another firm of lawyers, Advent. Secondly, out of the six related documents, the Transfer Instrument had an accompanying certificate of correctness which contained an untruth. A certificate of correctness issued by or emanating from a solicitor in the context of the Land Titles Act 1993 (2020 Rev Ed) is of paramount importance as it is taken at face value to be accurate and relied upon by the Registrar of Titles and the public (*Lutfi* at [49]–[50]). This potential for harm ought to have been recognised by Ms Kasturibai, a senior practitioner of 25 years' standing. At the same time, by falsely attesting to the certificate of correctness in the Transfer Instrument, Ms Kasturibai fell short of the public's expectation that legal practitioners like her would treat their statutory duties seriously (*Lutfi* at [52]). All said, her false attestations repeated in a series of related documents represented a more serious error of judgment on its own set of facts which warranted an uplift from the nine-month suspension imposed in *Thirumurthy*.

24 Ms Kasturibai contended that the arrangement to witness *in absentia* was one requested by the Complainant and the other co-owner, Mr Raman, and that she had accommodated this request because of the COVID-19 pandemic at

the time. The DT did not accept this contention and we saw no reason to disturb that finding given the state of the evidence. In any case, even if Ms Kasturibai’s argument is accepted, it was irrelevant that this was an accommodation at the Complainant’s request. Any such arrangement would not have changed the fact that Ms Kasturibai knowingly signed as a witness knowing others would act upon her representation that the series of documents in question were signed by the Complainant in the presence of Ms Kasturibai when that was not the true position. As we alluded to earlier, she accepted in written submissions that Advent had relied on five of the transactional documents that were sent to Advent.

25 Turning to what Mr Sreenivasan had termed as “precautions”, it was argued that unlike the legal practitioners in the four cases on false attestations who did not speak to the signatories at all, Ms Kasturibai took precautions by communicating with the Complainant. Ms Manicknam spoke to the Complainant over the telephone on at least two occasions to explain the nature and contents of the transactional documents prior to the Complainant signing the same. Mr Sreenivasan’s attempt to draw distinction on the facts was unhelpful to defend what Ms Kasturibai did. In so far as the false witnessing of the documents was concerned, the falsehood remained despite her diligence in explaining the transactional documents to the Complainant and in her conversation with the Complainant prior to the latter signing the same. The so-called precautions did not and would not negate the false attestation of the relevant documents that were sent to and was relied upon by another practitioner. If anything, the precautions served only to minimise the risk of the attestation *in absentia* coming to light. Unfortunately for Ms Kasturibai, the consequences of being complained about and being subject to disciplinary

action materialised when the Complainant whom she trusted chose to go to the Law Society.

26 With hindsight, we observed that Ms Kasturibai could have thought about and gone to the Complainant in keeping with her usual practice of physical presence if she were to witness someone's signature. Virtual presence would have been an option as Mr Low said, but we took on board Ms Kasturibai's point that setting up a zoom call would have been challenging for the Complainant.

27 This is an appropriate juncture to make a further observation on the role of a legal practitioner in society. The professional responsibility of legal practitioners involves balancing various duties owed by legal practitioners to the administration of justice, to the court as an officer of the court, to the client, to the public and to the profession. Observing that balance becomes tricky when a legal practitioner, acting in accordance with the client's wishes, and therefore on the face of it acting in accordance with the client's interest, as was the case here based on Ms Kasturibai's contention, takes steps that interfere with the professional responsibility owed to the public and to the profession. If, as Ms Kasturibai had alleged, the attestation of the client's signature *in absentia* was at the client's request, following her client's instruction was fraught with risk especially when the steps she took, namely the false attestation of documents, had the potential to mislead another legal practitioner or mislead a third party. As it turned out, the risk Ms Kasturibai took materialised and that led to the consequences of being complained about and being subject to disciplinary action.

28 We now turn to the several factors in Ms Kasturibai's favour. First, she did not contest that due cause had been shown. This saved the court considerable

time at the hearing and was a clear indication that she recognised the wrong in her actions. We were satisfied that she did not lack moral insight and judgment, unlike the solicitor in *Lutfi*. Second, she had not exacerbated her wrongdoing – she was frank about it in the early stages of the investigations by the Law Society. We noted that the Complainant had only raised issues with Ms Kasturibai’s false attestations on the further letter of authority and statement of account; it was Ms Kasturibai who frankly admitted to her attestation of four other related documents in the absence of the Complainant. Her contrition is also an indication of her remorse and sincerity. We were satisfied that Ms Kasturibai was genuinely remorseful.

29 Finally, we were also satisfied that this was her first breach of the professional conduct rules. That resulted in a disciplinary finding that she did not witness her client’s signature even though there was no doubt that her client had indeed signed the transactional documents. We were satisfied that the false attestations were isolated and there was no evidence that they had been repeated in other transactions. Her misconduct as evidenced by the false attestations was an error of judgment, the result of a lapse of caution. Ms Kasturibai recognised her foolishness in not insisting on personal attendance whenever called upon to witness a signature in her professional capacity. We believe that she will for a long time regret what she did. We were therefore persuaded that she was unlikely to offend again.

Conclusion

30 Having regard to all the circumstances, including the sentence imposed in *Thirumurthy*, the factors which rendered Ms Kasturibai’s conduct more egregious, and the circumstances we recognised to her credit as explained

above, we concluded that a period of suspension of 12 months would be appropriate.

31 At Ms Kasturibai's request, we ordered that the suspension would commence on 7 March 2024 so that she could complete her outstanding legal matters. After a further request from Ms Kasturibai after the hearing, we deferred the commencement date of the suspension to 1 April 2024.

32 Finally, we ordered Ms Kasturibai to pay costs of \$10,000 inclusive of disbursements to the Law Society.

Sundaresh Menon
Chief Justice

Steven Chong
Justice of the Court of Appeal

Belinda Ang Saw Ean
Justice of the Court of Appeal

Darrell Low Kim Boon, Chua Siew Ling Aileen, Ng Rui Wen and
Petrina Tan Heng Kiat (Bih Li & Lee LLP) for the applicant;
Narayanan Sreenivasan SC (K&L Gates Straits Law LLC)
(instructed) and A Rajandran (A Rajandran) for the respondent.
