

IN THE COURT OF THREE JUDGES OF THE REPUBLIC OF SINGAPORE

[2018] SGHC 47

Originating Summons No 6 of 2017

In the matter of Sections 94(1) and 98(1) of the
Legal Profession Act (Cap 161, 2009 Rev Ed)

And

In the matter of GURDAIB SINGH S/O PALA
SINGH, an Advocate and Solicitor of the
Supreme Court of the Republic of Singapore

Between

THE LAW SOCIETY OF SINGAPORE

... Applicant

And

GURDAIB SINGH S/O PALA SINGH

... Respondent

EX TEMPORE JUDGMENT

[Legal Profession] — [Disciplinary Proceedings]

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Law Society of Singapore
v
Gurdaib Singh s/o Pala Singh

[2018] SGHC 47

Court of Three Judges — Originating Summons No 6 of 2017
Andrew Phang Boon Leong JA, Judith Prakash JA and Steven Chong JA
27 February 2018

Andrew Phang Boon Leong JA (delivering the judgment of the court *ex tempore*):

1 Two charges and alternative charges were proffered against the Respondent, as follows:

FIRST CHARGE

“That you, GURDAIB SINGH S/O PALA SINGH, an Advocate and Solicitor of the Supreme Court of Singapore, have, without just cause, failed, refused and/or neglected to pay or refund the full sum of US\$250,000 to the Complainant pursuant to the Escrow Agreement dated 5 November 2014, which sum was to be held in escrow by you and/or your firm, Gurdaib, Cheong & Partners, and you have thereby committed an act amounting to grossly improper conduct in the discharge of your professional duty under Section 83 (2)(b) of the Legal Profession Act (Cap 161).”

ALTERNATIVE FIRST CHARGE

“That you, GURDAIB SINGH S/O PALA SINGH, an Advocate and Solicitor of the Supreme Court of Singapore, have, without just cause, failed, refused and/or neglected to pay or refund the full sum of US\$250,000 to the Complainant pursuant to the Escrow Agreement dated 5 November 2014, which sum was to be held in escrow by you and/or your firm, Gurdaib, Cheong & Partners,

and you have thereby committed an act amounting to misconduct unbefitting of an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap 161)."

SECOND CHARGE

"That you, GURDAIB SINGH S/O PALA SINGH, an Advocate and Solicitor of the Supreme Court of Singapore, have breached Rule 8(4) of the Legal Profession (Solicitors' Accounts) Rules by drawing, or causing to be drawn, the sum of S\$5,000 from the client account of your firm, Gurdaib, Cheong & Partners, by way of a cash cheque dated 9 September 2015 without the leave of a Judge of the High Court and you have thereby committed an act amounting to grossly improper conduct in the discharge of your professional duty under Section 83(2)(b) of the Legal Profession Act (Cap 161)."

ALTERNATIVE SECOND CHARGE

"That you, GURDAIB SINGH S/O PALA SINGH, an Advocate and Solicitor of the Supreme Court of Singapore, have breached Rule 8(4) of the Legal Profession (Solicitors' Accounts) Rules by drawing, or causing to be drawn, the sum of S\$5,000 from the client account of your firm, Gurdaib, Cheong & Partners, by way of a cash cheque dated 9 September 2015 without the leave of a Judge of the High Court and you have thereby committed an act amounting to misconduct unbefitting of an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap 161)."

2 The Respondent pleaded guilty to both charges. We agree with the Disciplinary Tribunal that the Respondent's conduct with regard to both charges constituted "grossly improper conduct" within the meaning of s 83(2)(b) of the Legal Profession Act (Cap 161, 2009 Rev Ed).

3 We also note that, in so far as the First Charge is concerned, the Respondent has in fact failed to make full restitution of the sum of \$250,000 to the Complainant. Further, the mitigating circumstances he relies on cannot excuse him because they do not impact his decision not to pay or refund the sum that was deposited pursuant to the Escrow Agreement dated 5 November 2014.

4 Further, the Respondent’s conduct with regard to the Second Charge is, as the Disciplinary Tribunal pointed out, no mere technical breach and in fact constitutes a serious breach of the Legal Profession (Solicitors’ Accounts) Rules (Cap 161, R 8, 1999 Ed) which are in place in order to protect clients’ monies.

5 In so far as the sentence to be meted out to the Respondent is concerned, we note the following observations by this court in *Law Society of Singapore v Ismail bin Atan* [2017] 5 SLR 746 at [20]–[22]:

20 In *Law Society of Singapore v Ravindra Samuel* [1999] 1 SLR(R) 266 (“*Ravindra Samuel*”), Yong Pung How CJ held (at [15]) that:

The following principles on disciplinary sentencing may be extracted from the above authorities:

(a) where a solicitor has acted dishonestly, the court will order that he be struck off the roll of solicitors;

(b) if a solicitor is *not shown to have acted dishonestly*, but is shown to have *fallen below the required standards of integrity, probity and trustworthiness*, he will nonetheless be struck off the roll of solicitors, as opposed to merely being suspended, if his lapse is such as to indicate that he ***lacks the qualities of character and trustworthiness which are the necessary attributes of a person entrusted with the responsibilities of a legal practitioner.***

[emphasis added in italics and bold italics]

21 It is obvious from this extract that dishonesty is not some sort of a threshold or prerequisite that must be satisfied before a solicitor is liable to be struck off. Thus, the fact that the present case perhaps did not involve dishonesty is, in and of itself, not determinative. In our judgment, the applicable principle is this: even in cases that do not involve dishonesty, where a solicitor conducts himself in a way that falls below the required standards of integrity, probity and trustworthiness, and *brings grave dishonour to the profession*, he will be liable to be struck off. Indeed, if a solicitor’s conduct is so egregious as to bring such dishonour to the profession, it must invariably follow that such conduct indicates that the solicitor “lacks the

qualities of character and trustworthiness which are the necessary attributes of a person entrusted with the responsibilities of a legal practitioner". Based on what we have earlier noted (see [18] above), this test is amply satisfied in the present case. The respondent had acted disgracefully and reprehensibly, and we have no qualms in concluding that his conduct has brought grave dishonour to the profession.

22 In the final analysis, the question to be asked is whether the solicitor in question is a fit and proper person to be an advocate and solicitor of the court. In *Ravindra Samuel*, Yong CJ put it this way (at [13]):

There is therefore a serious responsibility on the court, a duty to itself, to the rest of the profession and to the whole of the community, to be careful not to accredit any person as worthy of public confidence and therefore fit to practise as an advocate and solicitor who cannot satisfactorily establish his right to those credentials. *In the end therefore, the question to be determined is **whether the solicitor in question is a fit and proper person to be an advocate and solicitor of the court, and the orders to be made are to be directed to ensuring that, to the extent that he is not, his practice is restricted.*** [emphasis added in italics and bold italics]

[emphasis in original]

6 In the circumstances, we order that the Respondent be struck off the roll of advocates and solicitors. In particular, in relation to the First Charge, we echo this court's sentiments in *Re Lim Kiap Khee* [2001] 2 SLR(R) 398 that it is of the utmost importance that a solicitor should abide by his formal undertaking. To deliberately breach such an undertaking, given in a professional capacity, would seriously undermine the integrity of the profession. While there is no evidence that the Respondent gained personally from the breach of the undertaking, he has nevertheless fallen below the required standards of integrity, probity and trustworthiness, and, by his actions, has brought grave dishonour to the profession.

7 The costs of the present proceedings, fixed at \$6,000, are awarded to the Law Society.

Andrew Phang Boon Leong
Judge of Appeal

Judith Prakash
Judge of Appeal

Steven Chong
Judge of Appeal

Tan Tee Jim SC and Amanda Lim (Lee & Lee) for the applicant;
The respondent in person.
