IN THE COURT OF THREE JUDGES OF THE REPUBLIC OF SINGAPORE

[2016] SGHC 242

Originating Summons No 265 of 2015
(Summons No 504 of 2016)

In the matter of Section 82A(5) of the Legal Profession Act (Cap 161, 2009 Rev Ed)

Between

THE LAW SOCIETY OF SINGAPORE

… *Applicant*

And

RAVI S/O MADASAMY

… *Respondent*

JUDGMENT

[Legal Profession] — [Disciplinary Proceedings]

Law Society of Singapore
v
Ravi s/o Madasamy

[2016] SGHC 242

Court of Three Judges — Originating Summons No 265 of 2015 (Summons No 504 of 2016)
Sundaresh Menon CJ, Andrew Phang Boon Leong JA and Tay Yong Kwang JA
6 September 2016

27 October 2016 Judgment reserved.

Sundaresh Menon CJ (delivering the judgment of the court):

Introduction

1 This is an application made by the Law Society of Singapore ("the Law Society") under s 82A(10) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("the LPA") against Mr Ravi s/o Madasamy ("the Respondent"), who is, and was at the material time, a non-practising solicitor.

2 As the Respondent is a non-practising solicitor, the Law Society was required under s 82A(4) of the LPA to first apply for leave for a Disciplinary Tribunal to be appointed to conduct an investigation into the complaints of misconduct that had been made against him. It did so by way of Originating Summons No 265 of 2015, and leave was granted pursuant to s 82A(6) of the

LPA on 29 April 2015 (see *Law Society of Singapore v Ravi s/o Madasamy* [2015] 3 SLR 1187 ("*Ravi (Leave Application)*")). A Disciplinary Tribunal was thereafter appointed and it heard the matter over two days in August 2015.

3 After hearing the parties, the Disciplinary Tribunal concluded that there was cause of sufficient gravity for disciplinary action to be taken against the Respondent (see *The Law Society of Singapore v Ravi s/o Madasamy* [2015] SGDT 5). Thereafter, Mr Sean Francois La'Brooy ("Mr La'Brooy") was appointed to make an application under s 82A(10) of the LPA for the matter to be dealt with by this court. Mr La'Brooy filed the present summons on behalf of the Law Society, and the matter came before us for hearing on 6 September 2016.

4 There are potentially two issues before us: (a) whether due cause for disciplinary action against the Respondent has been shown; and (b) if so, what the appropriate sanction should be. The first issue can be disposed of readily. Throughout the course of the proceedings, the Respondent has not contested the charges against him. He also does not dispute that due cause is made out. Hence, the nub of the matter that we have to deal with concerns the sanction that should be imposed. On this, the Respondent contends that his mental state and condition at the material time is a significant mitigating factor, which the court must consider in deciding the appropriate sanction.

5 Having considered the parties' submissions, and for the reasons we provide after setting out the background, we consider that despite the mitigating circumstances that are present in this case, it is necessary and appropriate to prohibit the Respondent from applying for a practising certificate for a period of two years, in order to safeguard the interests of the public and to uphold public confidence in the integrity of the legal profession.

The background facts and the charges

6 The events that led to the four charges that have been preferred against the Respondent occurred between 10 and 26 February 2015, which was the period immediately after he had been suspended from practice.

The Law Society's direction to suspend the Respondent

7 On 10 February 2015, at about 12.15pm, the Council of the Law Society ("the Council") issued a direction pursuant to s 25C(7) of the LPA that the Respondent was to stop practising until he had undergone a medical examination. This was on the basis that the Council had reason to believe that the Respondent's fitness to practise was impaired by reason of his mental condition.

The subject of the first charge

8 Just over five hours after the Council issued that direction, at around 5.45pm, the Respondent appeared at the Law Society's premises with three companions. His conduct thereafter constitutes the subject of the first charge. He made numerous inappropriate statements and acted in an unruly manner, which were all recorded on a video clip ("the Video") that was later published on social media for public viewing. The Video carried the title "Persecution of Human Rights lawyer M Ravi by the Law Society of Singapore". In the Video, he made the following (among other) statements:

(a) that the Law Society has "lost its independence" and should be called the "Lost Society of Singapore";

(b) that the Prime Minister of Singapore had said that "he will fix the opposition" and was using the Law Society to "fix" the Respondent;

(c) that the Law Society had not spoken up for the Hindus "whose rights have been trampled"; and

(d) that the appointment of Mr Lee Hsien Loong as the Prime Minister was "unconstitutional" as he had been elected because he was Chinese, and the Respondent would be filing an application for relief in the High Court.

The Respondent was also charged to have caused, encouraged, permitted and/or failed to prevent one of his companions from using abusive language against a member of the staff of the Law Society and from wrongfully restraining the said staff member from leaving the premises.

9 The first charge is that by such conduct, the Respondent had failed to act appropriately or with the measure of self-restraint and moderation expected of an advocate and solicitor and is therefore guilty of misconduct unbefitting an advocate and solicitor within the meaning of s 82A(3)(*a*) of the LPA. The Law Society places particular emphasis on the racially sensitive nature of the two statements that are summarised at [8(c)] and [8(d)] above.

10 Shortly after this, the Respondent voluntarily admitted himself to Mount Elizabeth Hospital, where he remained until 14 February 2015. In response to a question we posed at the hearing, counsel for the Respondent, Mr Eugene Thuraisingam ("Mr Thuraisingam"), informed us that the Respondent had voluntarily gone to the hospital after his psychiatrist, Dr Munidasa Winslow ("Dr Winslow"), called him and advised him to do so.

The subject of the second charge

11 On the next day (11 February 2015) at 6.33pm, while the Respondent was still in the hospital, he sent an email to the news desk of The Straits Times and to a senior reporter, Mr K C Vijayan. The purpose of the email was to "… decr[y] the harsh and oppressive suspension of his Practi[s]ing Certificate" by the Law Society. The email also included an allegation that another advocate and solicitor, Mr Colin Craig Lowell Phan Siang Loong ("Mr Phan"), had been practising without a practising certificate. The Respondent also included in the email a copy of a facsimile from M/s Drew & Napier LLC ("Drew & Napier"), which was marked "without prejudice", without first obtaining the consent of Drew & Napier, and a photograph which showed, in the words of the Respondent, "… the police being called to arrest [Mr Phan]".

12 The email and the two attachments are the subject matter of the second charge, which states that in these premises, the Respondent had acted inappropriately and is therefore guilty of misconduct unbefitting an advocate and solicitor under s 82A(3)(*a*) of the LPA.

The events leading to and constituting the third charge

13 The conduct that constitutes the third charge occurred a week later on 18 February 2015. But prior to that, the Council had written to the Respondent on 13 February 2015 in relation to the incident that had occurred on 10 February 2015 (see [8] above). The Council demanded in the letter that the Respondent apologise for his conduct (and that of his companions), undertake not to repeat the same, and take down the Video without disseminating it further. The Respondent did not respond to this letter until a little over a month later on 16 March 2015 (see [18] below).

14 On 17 February 2015, the Council applied to the High Court by way of Originating Summons No 161 of 2015 ("OS 161") for an order requiring the Respondent to submit to a medical examination. This was to comply with the requirement under s 25C(8), read with s 25C(1), of the LPA, which requires the Council to apply to a judge for such an order within seven days of having issued a direction to suspend a solicitor's practising certificate pursuant to s 25C(7) of the LPA.

15 The Law Society's application in OS 161 was perhaps the catalyst for the Respondent's conduct on the following day (18 February 2015) when he made certain remarks concerning Mr Thio Shen Yi, *SC* ("Mr Thio"), the President of the Law Society, and Mr Thio's family members on what appeared to be the Respondent's "Facebook" page. The relevant parts of the post read as follows:

> Mr Ravi is bemused if not surprised that the President of the Law Society, Thio Shen Yi, head of the Council of the Law Society) had arrogated himself the knowledge of psychiatric medicine in suspending Mr Ravi from practice. Mr Ravi earnestly feels Mr Thio Shen Yi needs to go for psychiatric treatment and also it will be helpful if he could ask his sister, the infamous Ms Thio Li-Ann (supposedly leading authority on Constitutional Law and who is doggedly opposed to the decriminalization of homosexuality and internationally disgraced for her bigotry on human rights versus Charismatic Christianity). Mr M Ravi seriously hopes Mr Thio Shen Yi does not end up being disgraced by the members of the Bar by way of an [extraordinary general meeting], a similar situation which his mother Prof Thio Su Mein faced during the AWARE saga and it would seem that the Thio family has not carefully examined its own antecedents.
>
> Thio Shen Yi needs a serious examination of his own head before he goes head to head with Mr Ravi. Mr Ravi will commence his slew of legal action against the Council members in the coming days and will be suing them jointly and severally.

The contents of that post is the subject-matter of the third charge against the Respondent, which asserts that by such inappropriate conduct, the Respondent is guilty of misconduct unbefitting an advocate and solicitor.

The subject of the fourth charge

16 The Council's application made by way of OS 161 (see [14] above) was heard the following week on 24 and 26 February 2015. On 26 February 2015, the court ordered that the Respondent be suspended from practice until further order.

17 On the same day, the Respondent made allegations against Mr Pradeep Pillai ("Mr Pillai"), who had represented the Law Society in OS 161, on what appeared to be his "Facebook" page. The relevant parts of the post read:

> At the hearing this afternoon on the Law Society's application to suspend Mr Ravi from practice, which was made after he had announced his intention to contest the next general elections against the prime minister at Ang Mo Kio GRC, the proceedings turned into a mess towards the end of the morning hearing.
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> The law society's lawyer Mr Pradeep of M/s Shook Lin & Bok shouted at Mr Ravi in front of the Judge that Ravi should not attend court anymore and he shouted at Mr Ravi directly instead of addressing the court. The judge, His Honourable Justice Quentin Loh visibly looked disconcerted at the Law Society counsel's misbehaviour.
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> Mr Ravi appealed to the court to control the emotions of Mr Pradeep which ran high through his veins. At the close of the hearing as the Judge returned to his chambers, Mr Pradeep assaulted Mr Ravi. This was captured in the court's camera footage. Mr Ravi immediately responded to Mr Pradeep who was trying to agitate Mr Ravi before and throughout the hearing but to no avail, putting Mr Pradeep on immediate notice that he will be commencing a Magistrate Complaint against Mr Pradeep and also commencing legal action against Mr Pradeep, lawyer for the Law Society, for assaulting Mr Ravi in committing the tort of battery and for his shouting at Mr Ravi directly.

The fourth charge asserts that the Respondent had alleged – despite knowing that it was untrue – that Mr Pillai had assaulted him after the hearing ended, and that by making such a false and untrue statement, the Respondent is guilty of misconduct unbefitting an advocate and solicitor.

Regaining of mental stability and show of remorse

18 According to his principal treating psychiatrist, Dr Winslow, the Respondent's mental condition stabilised by mid-March 2015. This was manifested in a series of more rational acts on his part. On 16 March 2015, the Respondent responded by way of a letter to the Law Society's demand for an apology that had been sent on 13 February 2015 (see [13] above). In the letter, he apologised for his behaviour and that of his companions, undertook not to repeat such conduct and to take down the Video.

19 Nearly a month later, on 14 April 2015, the Respondent sent letters of apology to Mr Phan, Mr Thio, Professor Thio Su Mien, Professor Thio Li-ann, and Mr Pillai for his earlier behaviour and allegations against them. He also expressed willingness to publish a written apology if the recipients wanted him to do so. Only Mr Pillai took up this offer. The Respondent said in his letters to these parties that he was "extremely mortified" by his own behaviour, which had been the result of him being in a "… hyper manic relapsed state of [his] bipolar disorder" and added that he was taking all necessary measures in consultation with his doctors and colleagues to prevent the recurrence of such episodes. Mr Phan, who was the victim in the second charge (see [11] above), wrote a letter in reply, accepting the Respondent's apology and stating as follows:

> … I fully understand that you were not yourself at the time you uttered the said allegations as you were suffering from

> bipolar disorder … In the circumstances, I wholeheartedly accept your apology.

DT 12/2015: a separate set of disciplinary proceedings

20 Apart from the present set of proceedings, there was a separate set of disciplinary proceedings that was concurrently brought against the Respondent and which concluded on 11 July 2016. Those proceedings (DT 12/2015 – see *The Law Society of Singapore v Ravi s/o Madasamy* [2016] SGDT 7) pertain to acts committed by the Respondent on 22 January and 7 February 2015. Although those acts were committed very close in time, in fact just prior, to the acts that constitute the subject matter of the four charges that are presently before us, they were brought by way of a separate set of proceedings because the Respondent was still a practising solicitor at the time of the earlier acts but had become a non-practising solicitor by the time the acts giving rise to the present charges were committed. Separate sets of proceedings were necessitated given the different provisions governing disciplinary proceedings for the two categories of solicitors under the LPA.

21 In DT 12/2015, the Respondent pleaded guilty to (a) a charge of failing to deposit a sum of $29,000 that had been paid to him by his client, Mr Roy Ngerng ("Mr Ngerng"), into a client account as required under the rules pertaining to Solicitors' Accounts; and (b) a charge of causing a video clip to be taken in which he made inappropriate statements in public against Mr Ngerng and then uploading it.

22 The Disciplinary Tribunal found that while there was no cause of sufficient gravity to warrant a reference to this court for disciplinary action to be taken, the Respondent should be ordered to pay a penalty of $2,000 for the first offence and $5,000 for the second pursuant to s 93(1)(*b*) of the LPA. The

Disciplinary Tribunal took cognisance of the Respondent's mental condition and other mitigating factors, which it held reduced the gravity of his transgressions but did not completely exonerate him from his conduct which it termed "unacceptable". The Disciplinary Tribunal considered that since the Respondent knew that he had a history of bipolar disorder, it was incumbent on him to exercise care to ensure that this disorder did not harm his clients or those around him or cause him to engage in improper conduct falling short of the standards of the profession.

The decision of the Disciplinary Tribunal in these proceedings

23 The Disciplinary Tribunal which heard the present set of proceedings reached a different result in respect of the four charges but seemingly only on technical grounds. It concluded after hearing the parties that there was cause of sufficient gravity for disciplinary action and for the present case to be referred to this court. The Disciplinary Tribunal, however, observed that it would have come to a different conclusion and found that the misconduct was not serious enough to warrant a reference to this court had the Respondent been a *practising* solicitor as it would then have exercised the discretion available to it under s 93(1)(*b*) of the LPA to determine that the Respondent should be reprimanded or be ordered to pay an appropriate penalty. This in fact was what the Disciplinary Tribunal in DT 12/2015 had done (see [21] above). However, as this option was not available to it because the Respondent was a *non-practising* solicitor when he committed the acts that form the subject of the four charges, the Disciplinary Tribunal found it necessary to refer the case to this court. It also bears mentioning that the Respondent had offered to pay a "voluntary fine" of $10,000 in the proceedings below. The Disciplinary Tribunal held that it had no power to accept the Respondent's

offer as its role was merely to report its finding as to whether there was cause of sufficient gravity for disciplinary action.

24 The Disciplinary Tribunal's finding was to the effect that where a non-practising solicitor or a Legal Service Officer is involved in disciplinary proceedings, a different threshold applies when determining whether there is cause of sufficient gravity to warrant the matter being referred to the Court of Three Judges. This issue is not pursued before us and it is therefore not necessary for us to come to a conclusion. Nonetheless, we think that it would be helpful for us to give our views on this issue, which is likely to arise from time to time in disciplinary proceedings against non-practising solicitors or Legal Service Officers. We do so at [75]–[80] below, after dealing with the question of due cause and the central issue of what the appropriate sanction should be.

Whether due cause has been shown

25 We have observed at [4] above that there is no difficulty with the question of whether due cause for disciplinary action has been made out.

26 In *Ravi (Leave Application)*, I set out my reasons for finding that the Law Society had made out a *prima facie* case against the Respondent on each of the four charges. We are satisfied that the analysis set out at [26]–[46] of that judgment remains correct. Consistent with this, the Respondent did not contest the charges before the Disciplinary Tribunal.

27 By an extension of this court's reasoning in respect of proceedings involving practising solicitors in *Law Society of Singapore v Jasmine Gowrimani d/o Daniel* [2010] 3 SLR 390 ("*Jasmine Gowrimani*") at [35], a finding that a non-practising solicitor's conduct falls within s 82A(3)(*a*) of the

LPA would merely be a necessary but not sufficient condition for a finding of "due cause". We must thus still be satisfied that the Respondent's conduct is serious enough to warrant sanction pursuant to s 82A(12) of the LPA. The Respondent does not contend otherwise, and looking at the Respondent's conduct in respect of the four charges, we are satisfied that due cause is made out.

28 We therefore turn to the central issue before us, namely the appropriate sanction that should be imposed on the Respondent in the circumstances.

The appropriate sanction

Overview

29 Pursuant to s 82A(12) of the LPA, these are the sentencing options available to this court:

(a) censure the non-practising solicitor;

(b) prohibit him from applying for a practising certificate for such period not exceeding five years as this court may specify;

(c) order that his name be struck off the roll;

(d) order him to pay a penalty of not more than $20,000; or

(e) make such other order as this court thinks fit.

30 Before we examine what the appropriate sanction should be in this case, we think it would be helpful to summarise some of the principal sentencing considerations that should guide the court in the exercise of its

sentencing discretion in cases like the present, where the conduct of the solicitor is influenced in large part by a psychiatric condition.

Sentencing considerations in disciplinary proceedings

31 It is well-established that in the context of disciplinary proceedings, the imposition of sanctions is guided by the following considerations:

(a) the protection of members of the public who are dependent on solicitors in the administration of justice;

(b) the upholding of public confidence in the integrity of the legal profession;

(c) deterrence against similar defaults by the same solicitor and other solicitors in the future; and

(d) the punishment of the solicitor who is guilty of misconduct.

(See *Law Society of Singapore v Ravindra Samuel* [1999] 1 SLR 266 ("*Ravindra Samuel*") at [11]–[13], *Law Society of Singapore v Chiong Chin May Selena* [2005] 4 SLR(R) 320 ("*Selena Chiong*") at [41], and the observations of Professor Jeffrey Pinsler in *Ethics and Professional Responsibility: A Code for the Advocate and Solicitor* (Academy Publishing, 2007) ("*Ethics and Professional Responsibility*") at para 01-078.)

32 Therefore in determining the appropriate sanction to be imposed against an errant solicitor, all these factors must be taken into account. But as we observed in *Selena Chiong* (at [26]), where the particular interests pull the court in different directions in any given case, it is the interest of the public that will be paramount and that must therefore prevail.

33 The court's concern with the protection of the public and upholding public confidence in the integrity of the profession – which are considerations that extend beyond the specific circumstances of the errant solicitor – also explains why mitigating factors carry less weight in disciplinary proceedings than in criminal proceedings. As we explained in *Law Society of Singapore v Kurubalan s/o Manickam Rengaraju* [2013] 4 SLR 91 at [48]–[49]:

> 48 A court that exercises disciplinary jurisdiction is likely to view mitigating factors in a qualitatively different light than would a court in the exercise of its criminal jurisdiction: see *Law Society of Singapore v Tham Yu Xian Rick* [1999] 3 SLR(R) 68 at [22]:
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> > Because orders made by a disciplinary tribunal are not primarily punitive, considerations which would ordinarily weigh in mitigation of punishment have less effect on the exercise of the disciplinary jurisdiction than on sentences imposed in criminal cases: *Bolton v Law Society* [[1994] 2 All ER 486] at 492. To state the matter another way, whatever might have been the appropriate sentence in the criminal proceedings, the objective there was rather different from that in show cause proceedings, which are civil and not punitive in nature.
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> 49 The point simply is that even if a mitigating circumstance might be found that could weaken the case for *punishment* in a criminal case, **this circumstance may often not avail an Advocate and Solicitor in disciplinary proceedings because an equally, if not more, important consideration is the protection of public confidence in the administration of justice. This interest can legitimately trump the individual offender's interest in having his punishment finely calibrated according to his precise degree of culpability. …**
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> [emphasis in italics in original; emphasis in bold added]

34 Where aggravating factors are concerned, however, the position is somewhat different. This is because a factor that aggravates the errant solicitor's personal culpability would generally tend also to aggravate the adverse impact on the public's confidence in the administration of justice. In other words, in cases where aggravating factors are present, all the

considerations set out at [31] above will generally pull in the same direction and the tension that can arise where personal mitigating factors are involved is less likely to arise.

35 Ultimately, in determining the appropriate sanction in a disciplinary proceedings against solicitors, the following observations made in *Ravindra Samuel* (at [13]) must be borne in mind:

> There is therefore a serious responsibility to 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]

36 But how do these considerations bear on the specific context of a solicitor whose conduct is influenced in large part by a psychiatric condition? In the criminal law, the position may be broadly stated as follows:

> (a) An offender who is of unsound mind as defined in s 84 of the Penal Code (Cap 224, 2008 Rev Ed) ("the Penal Code") such that he is found to be incapable of knowing the nature of the act or of distinguishing between right and wrong at the time of the offence will not, as a general rule, be convicted (see *Tan Chor Jin v Public Prosecutor* [2008] 4 SLR(R) 306) though in such a case, he will likely be confined in a psychiatric institution or other suitable place of safe custody pursuant to s 252 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed).

(b) An offender who does not meet the test of unsoundness of mind as laid down in the preceding sub-paragraph but who is diagnosed with such a mental condition as substantially impairs his mental responsibility may qualify for a limited defence, commonly referred to as the defence of diminished responsibility, in the specific context of murder – see Exception 7 of s 300 of the Penal Code;

(c) Aside from this, the courts have recognised that where an offender's culpability for an offence is shown to be diminished by reason of a diagnosed mental condition, this may be taken into consideration as a mitigating consideration in sentencing – see *Public Prosecutor v Chong Hou En* [2015] 3 SLR 222.

37 We reiterate that sentencing in the criminal context engages considerations that are somewhat different from those in the context of disciplinary proceedings concerning solicitors. We will return to this after considering how the LPA deals with a solicitor that suffers from a mental condition:

(a) Under s 25 of the LPA, a solicitor is to apply and obtain a practising certificate issued by the Registrar of the Supreme Court ("the Registrar") every practice year commencing 1 April. Practising without a practising certificate would result not only in disciplinary proceedings but also in criminal charges pursuant to s 33 of the LPA.

(b) Under s 25C of the LPA, if the Attorney-General ("the AG") or the Council is satisfied that a solicitor's fitness to practise appears to have been impaired by reason of his mental condition, the AG or the Council may apply to the High Court by way of an originating summons for an order that the solicitor submit to a medical

examination. The High Court will order such an examination if it is of the opinion that the solicitor's fitness appears to be impaired. The medical practitioner who examines the solicitor is required to submit a report of his determination and the reasons underlying it within 14 days of the date of the examination to the solicitor, the AG and the Council.

(c) If the solicitor's fitness to practise has been determined under s 25C of the LPA to be impaired by reason of his mental condition or if the solicitor has failed to submit to a medical examination notwithstanding an order made by the High Court under s 25C, the AG or the Council may request the Registrar to refuse the application for a practising certificate or to attach condition(s) to the practising certificate when such an application is made: s 25A of the LPA.

(d) At any time after a practising certificate has been issued, the AG or the Council may also apply to the High Court under s 27A of the LPA to attach condition(s) to the practising certificate if the solicitor's fitness to practise has been determined under s 25C of the LPA to be impaired by reason of his mental condition or if the solicitor has failed to submit to a medical examination notwithstanding an order made by the High Court under s 25C.

(e) The AG or the Council may also apply to the High Court to seek an order that the solicitor's current practising certificate be suspended if (i) his fitness to practise has been determined under s 25C to be impaired by reason of his mental condition; (ii) he failed to submit to a medical examination despite the High Court having so ordered; or (iii) the High Court is satisfied that the solicitor is

incapacitated by his mental condition to such an extent that he is unable to attend to his practice: s 27B(*b*) of the LPA.

(f) The LPA does not specifically state how the psychiatric condition of a solicitor should be regarded in the context of disciplinary proceedings and sanctions.

38 It is evident from the foregoing analysis that:

(a) The mental fitness of a solicitor is a consideration of paramount interest. It stands to reason that this is so because it is necessary to protect members of the public whose need for justice is met through the assistance of their solicitors.

(b) A solicitor who is not mentally fit will therefore not be allowed to practise.

39 The fact that the LPA says nothing specifically about the significance of psychiatric conditions in the context of the sanctions to be imposed for misconduct is neither surprising nor a constraint on the court's power and indeed its duty to have regard to the condition in question if, and to the extent that, it diminishes the personal culpability of the solicitor. It is not surprising because even in the context of criminal proceedings, the fact that an offender suffers from a psychiatric condition, which is causally linked to the commission of the offence, may be considered as a mitigating factor in sentencing even though it is generally not provided for as such in the relevant penal statutes. And the court cannot be constrained from having regard to this as a relevant consideration in disciplinary proceedings because it is within the inherent sentencing discretion of the court to have regard to factors that affect or diminish the personal culpability of the errant solicitor (see, *eg*, the

observation of the court in *Re Knight Glenn Jeyasingam* [1994] 3 SLR(R) 366 ("*Knight Glenn Jeyasingam*") at [18]).

40 However, this is not the end of the inquiry. We return here to a point we made at [32]–[33] above, which is that in disciplinary proceedings against solicitors, personal mitigating circumstances that diminish the culpability of the solicitor who has misconducted himself will have less weight than would be the case in criminal proceedings. This is so because in the criminal context, the search for an appropriate punishment is driven by the usual sentencing considerations including deterrence and retribution and in that context, the personal culpability of the offender will often have a direct bearing.

41 Unlike the situation in criminal proceedings however, in disciplinary proceedings against errant lawyers, the paramount considerations are first, the protection of the public and second (and this is closely related to the first), upholding public confidence in the integrity of the legal profession. We say that the second consideration is closely related to the first because confidence in the legal profession is integral to the administration of justice, which impacts on the daily lives of members of the public in many respects. The concerns of punishing the solicitor and of deterring him are lower order concerns in the sense that the sanctions imposed by the court should be driven in the first instance by ensuring that the public, and then the profession, are adequately protected from the risk of harm; and only after that, by the concern of calibrating the punitive aspect of the sanction according to the personal culpability of the solicitor. What this means in practical terms is that a sanction that disables the solicitor from practising for a time may be warranted by the need to protect the public and uphold confidence in the integrity of the profession even if that sanction might seem excessive if one looked at it purely

from the perspective of whether, having regard to the actual culpability of the offender, the sanction was appropriate in the circumstances.

42 The point is best illustrated and perhaps best encapsulated in the judgment of this court in *Knight Glenn Jeyasingam*. There, in sanctioning a solicitor who had made a dishonest statement when applying for a car loan but who had many other personal mitigating circumstances, the court said as follows (at [18]):

> 18 More importantly, in our view, in any case where the court is bound to consider the appropriate order to be made in respect of an advocate and solicitor convicted of a criminal offence – particularly one involving dishonesty – the paramount considerations must be the protection of the public and the preservation of the good name of the profession. *Certainly the court will give its consideration to the mitigating circumstances in each individual case but it can do so only so far as is consistent with the above two related objectives.* As the Law Society of the United Kingdom noted in its *Guide to the Professional Conduct of Solicitors* (1990 Ed) at p 177:
>
> > If the need to protect the good name of the profession ultimately causes hardship to an individual whose misconduct has led to his being struck off, it has to be accepted as the price of maintaining the reputation of the profession and the public confidence in it.
>
> [emphasis added]

43 This is also reflected in our previous jurisprudence where we have dealt specifically with solicitors whose actions were impacted by mental illness. We refer in this connection to some previous decisions of this court.

44 In *Ravindra Samuel*, the solicitor in question acted dishonestly in relation to payments made by clients to the firm at which he was a legal assistant. It was submitted that he was suffering from psychological problems that caused him to act erratically and was in need of psychiatric help. The solicitor accepted in those circumstances that he was not fit to remain on the

roll of advocates and solicitors. In striking him off the roll, the court noted at [11]–[13] that the sentencing considerations included those we have identified at [31] above, and placed particular emphasis on the need to protect the public and to safeguard "confidence in a profession which plays so indispensable a part in the administration of justice" (at [12]).

45 In *Law Society of Singapore v Amdad Hussein Lawrence* [2000] 3 SLR(R) 23, the errant solicitor was disciplined for having shoplifted in a supermarket. He had earlier been convicted of the offence of theft and was sentenced to two months' imprisonment. The solicitor was struck off the roll. In arriving at its decision, the court noted (at [15]) that the solicitor was suffering from stress and was under medication at the time of the offence. Specifically, it noted (at [17]) as follows:

> In the criminal proceedings against the respondent, medical reports were tendered in mitigation, suggesting that the respondent's higher mental functioning, judgment and impulse control could have been affected or impaired by the effects of the medication which were taken prior to the incident. Nonetheless, it was not disputed that the respondent possessed the specific intent and retained the ability to distinguish between right and wrong at the material time. In our view, the weight to be accorded to this mitigating factor was *negligible* when the offence involved proven dishonesty.
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> [emphasis added]

46 As seen from this extract, the court concluded that "negligible" mitigating weight should be accorded to the solicitor's mental condition, placing greater emphasis instead on the fact that the interests of the legal profession and the protection of the public demand that members of the profession observe the highest possible standards of conduct.

47 It is thus clear that the need to protect the public and the dignity of the profession may diminish the mitigating weight that would otherwise have been accorded to an errant solicitor's mental condition.

48 When we put this concern to Mr Thuraisingam at the hearing, he submitted that a distinction should be drawn between a case that involves dishonesty and one that does not. In our judgment, there is some, albeit limited, force in this. In one sense, cases involving dishonesty stand apart because if a solicitor is found to be dishonest, he is presumptively unfit to be accredited as a member of the profession, which has, as its central calling, an important role in the administration of justice. Dishonesty attacks the very core of the trustworthiness and integrity of a solicitor, and in a broader sense, the integrity of the profession and the legitimacy of the administration of justice. The observations of the court in *Law Society of Singapore v Ahmad Khalis bin Abdul Ghani* [2006] 4 SLR 308 at [5] are pertinent:

> The *legitimacy* of the administration of justice in the eyes of the public cannot be gainsaid. Respect for the law as viewed through the lenses of the public is an indispensable element in the fabric of the system of justice. Indeed, the public constitutes the ultimate body of individuals for whose benefit the law and the legal system exist. To this end, anything which undermines public confidence in the competence and/or professionalism of lawyers must not – indeed, cannot – be permitted. … [T]he focus should be the precise opposite – to enhance the standing and (more importantly) accessibility of the legal profession in the eyes of the public.
>
> [emphasis in original]

49 But the underlying concern – which is the need to protect the public and uphold confidence in the profession – impacts the way in which we approach all cases and not just cases involving dishonesty. The concern may be *acutely and particularly* important in cases involving dishonesty but this does not mean that it has no relevance in other cases. Hence, while it may be

an overbroad statement to say that personal mitigating circumstances will have only negligible weight in cases that do *not* involve dishonesty, it is certainly correct to say that such mitigating considerations will yield to the higher order concerns of protecting the public and upholding confidence in the profession even in such cases: see *Knight Glenn Jeyasingam* at [42] above.

50 This can be seen from the approach of the court in *Selena Chiong*. The solicitor in that case faced two sets of disciplinary proceedings, one in 2005 and the other in 2013. Both sets of proceedings were referred to this court. In the former set of proceedings, the solicitor had been charged under the LPA for having failed to prepare or maintain any of the requisite financial records or documents required under the Legal Profession (Solicitors' Accounts) Rules (Cap 161, R 8, 1999 Rev Ed) for the half-year period when she was the sole proprietor of her firm. The court imposed a year-long suspension, and required an undertaking from her that she would not commence another sole proprietorship.

51 The court imposed the suspension even though it was accepted that the solicitor was suffering from manic-depressive psychosis at the material time and that her mental condition had a bearing on her misconduct. She had been receiving intensive electro-convulsive therapy for post-natal depression following the birth of her first child and had been hospitalised. She had also been unable to hold down any of her previous jobs with other law firms for any extended period of time due to her illness and also due to her failure to take the prescribed medication.

52 While there was no suggestion that the solicitor had been dishonest, she had nonetheless contravened the rules. The court noted that this had transpired because she was not mentally well. The court referred to the

psychiatric evidence that her mental condition caused her judgment to be clouded and caused her to make decisions without proper regard to their consequences. The court also found that the fact that there had been no complaints from her previous firms demonstrated that she was an able person who ought to be able to practise once her medical condition stabilised. It was satisfied that as long as she took her medication and was adequately supervised at work, there was no real risk of a professional relapse. In these circumstances, the court held that a year's suspension, coupled with an undertaking from the solicitor that she would not commence another sole proprietorship, would adequately protect the interests of the public.

53 Two points stand out to us in relation to *Selena Chiong*:

(a) First, the solicitor *was* sentenced to a year-long suspension even though the court accepted that the offences in question were strict liability offences, did not involve any losses to clients or other third parties, and had taken place in circumstances where her mental condition had been the main cause of her lapse. Thus, even though the court gave some weight to her mitigating circumstances, a suspension was thought necessary in the interests of the profession and the public.

(b) Second, the court was satisfied from the evidence before it that the solicitor would be able to practise once her condition had stabilised.

54 In our judgment, the foregoing discussion may be summarised in terms of the following principles:

(a) Although the court must take into account a range of sentencing considerations as identified at [31] above, it is evident that in the

context of selecting the appropriate sanction that is to be imposed on an errant solicitor, the paramount considerations are the protection of the public and then, the upholding of public confidence in the integrity of the legal profession.

(b) The interest of general deterrence will also have significant weight in so far as it advances the two considerations we have outlined in the previous sub-paragraph.

(c) In certain cases, the interests of specific deterrence and of punishing the solicitor may well be important considerations in *aggravating* the gravity of the offence and hence in calling for a graver sanction to be imposed. However, these will feature only to a limited degree when advanced in favour of *mitigating* the punishment to be visited on a solicitor and even then, only to the extent that they do not compromise or undermine the paramount considerations of protecting the public and upholding confidence in the profession.

(d) In the specific context of personal mitigating circumstances that are centred on the presence of a mental condition that diminishes the culpability of the solicitor, this will carry no meaningful weight where the misconduct consists of dishonesty.

(e) However, in situations that do not involve dishonesty, such circumstances may carry some weight to the extent that the court is satisfied that any sanction that is imposed on the errant solicitor is nonetheless adequate to protect the public and to uphold confidence in the integrity of the profession.

Application to the present case

55 With these principles in mind, we turn to consider the relevant facts before us.

56 Mr Thuraisingam submits that the following mitigating factors must be taken into account:

(a) the Respondent has been cooperative from the start and has not disputed the charges;

(b) he has shown remorse and had apologised to all the parties involved;

(c) the Respondent has made many significant contributions to the legal profession, especially in the area of administrative and constitutional law; and

(d) the Respondent was not mentally well during the material period between 10 and 26 February 2015.

57 The last is clearly the strongest mitigating factor in the Respondent's favour and it is this that we focus on. We have before us the evidence of two psychiatrists on the Respondent's mental condition at the material time:

(a) The first is Dr Winslow, who has been treating the Respondent since August 2012.

(b) The second is Dr Tommy Tan ("Dr Tan"), who was engaged by the Law Society to provide his opinion on Dr Winslow's report on two issues: (i) whether the Respondent's mental disorder could exculpate or mitigate his misconduct at the material time; and (ii) whether the

> episode involving the Respondent's misconduct could have been prevented had he accepted Dr Winslow's recommendation to be admitted to hospital. Dr Tan gave his opinion without examining the Respondent and without having access to Dr Winslow's psychiatric notes on the Respondent.

Although both counsel spent a substantial portion of their submissions arguing over issues relating to the Respondent's mental state, the evidence of the two experts is in fact largely agreed. The essence of it is summarised below.

58 The Respondent suffers from Bipolar I Disorder (Severe) with anxious distress. He was diagnosed with the disorder about ten years ago in September 2006. Dr Winslow gave evidence that during the period that is material to these proceedings, the Respondent was experiencing a "hypomanic" episode that commenced in mid-January and continued until the end of February 2015. He explained that the severity of the Respondent's condition was highlighted by the number and intensity of the symptoms that he was experiencing. These included (a) abnormally and persistently elevated mood; (b) irritable mood; (c) increased activity and energy; (d) inflated self-esteem and grandiosity; (e) decreased need for sleep; (f) being more talkative than usual; (g) having an increase in "goal-directed" activity; and (h) excessive involvement in activities that had a high potential for painful consequences. Dr Winslow stated that those symptoms markedly interfered with the Respondent's occupational and social functioning, which was why he gave the Respondent medical leave during that period.

59 Dr Winslow stated that he began to notice symptoms suggesting that the Respondent was suffering from a hypomanic episode in mid-January 2015, at which time the Respondent started exhibiting increasingly bizarre

behaviour. This led him to recommend that the Respondent be hospitalised on 2 February 2015. The Respondent declined to take Dr Winslow's advice but promised to have adequate rest and to take his medication. The Respondent also told Dr Winslow that he had been taking his medication regularly. It is apparent from his conduct that constituted the four charges that his condition deteriorated quite rapidly within a short span of a little more than a week thereafter.

60 The opinions of both psychiatrists are that the Respondent's bipolar disorder, and in particular his hypomanic episode, was a substantial cause of his conduct. In their opinion, his psychiatric condition caused his perception of his actions to be altered and his ability to form rational judgments to be compromised. In this regard, Dr Winslow said that it was common for the decision-making ability of individuals suffering from a hypomanic episode to be impaired on account of increased impulsivity, a lack of consequential thinking, a sense of urgency to complete tasks, and a lack of inhibition coupled with diminished insight or even a complete loss of insight into one's mental state. It is not the Respondent's position, however, that his actions could be exculpated by his mental condition. This was also not the view of the psychiatrists, and in fact Dr Tan had stated quite clearly when questioned by the Disciplinary Tribunal that the Respondent's mental condition did not exculpate, but only mitigated, his conduct.

61 Although the Law Society accepts that the Respondent was suffering from a hypomanic episode during the material period, it submits that less mitigating weight should be accorded to this because of the following two reasons:

(a) First, it submits that the episode could have been prevented entirely or at least partially, if the Respondent had followed Dr Winslow's advice and had himself hospitalised on 2 February 2015.

(b) Second, it submits that the Respondent should take at least some responsibility for the occurrence of the hypomanic episode, which led to the acts that constituted the charges, because the inference to be drawn from the circumstances is that the Respondent had failed to take his medication as prescribed and instructed.

A common theme underlies both these submissions – that the Respondent ought to bear responsibility for the deterioration of his condition and thus less mitigating weight should be accorded notwithstanding the severity of his condition and the strong causal link that it evidently had with the acts complained of. In our judgment, the essence of these submissions, if they were accepted, is directed at showing that even within the overarching narrative of the Respondent's mental illness which would go towards diminishing his personal culpability, there were factors that in fact point to enhancing that culpability. In other words, these submissions go towards showing that the Respondent, by the decisions he made or by his acts or omissions, actively contributed to the aggravation of his condition.

62 With respect, we do not think there is enough evidence before us to reach such a conclusion. Dr Tan's candid reply when the Law Society posed the first of these points to him is instructive. The Law Society had asked Dr Tan for his opinion on whether the Respondent could have avoided the entire episode if he had agreed to be hospitalised on Dr Winslow's advice on 2 February 2015. Dr Tan's reply through his letter dated 19 August 2015 was that the "simple answer" to this is "yes" *but* that this would be an "incomplete

answer" because it oversimplifies the situation. He went on to explain that by then, the Respondent's insight into his mental state had likely already been impaired *because* of the acute relapse of hypomania. In keeping with this, we note that at least the second charge was committed while Respondent was *in* hospital: see [11] above.

63 To this extent, we agree with Mr Thuraisingam that it would not be fair to attribute blame to the Respondent for failing to take steps to prevent his condition from worsening if he was already in a state of relapse by that stage. Having said that, we did find it curious and possibly even incongruous that the Respondent was subsequently willing to take Dr Winslow's advice to admit himself shortly after the incident at the premises of the Law Society on 10 February 2015. But we do not think that this affords a sufficient basis for us to find against the Respondent on this issue.

64 As for the second submission, we are not satisfied that the Law Society has adduced sufficient evidence for us to find or infer that the Respondent had not been compliant with his medication regime. The evidence does indicate that Ms Violet Netto ("Ms Netto"), who had initially undertaken to supervise the Respondent's compliance with his medical regime, might not have been discharging this task as well as she might have hoped (or wished) to. Dr Winslow indicated in a letter he sent to the Law Society dated 5 February 2015, which was before the acts that constituted the charges took place, that:

> … I am actually not too sure about Ms Violet Netto's ability to supervise or check on Mr M Ravi's medications as I am noting periods when she is not in the house/office or sick; and I do believe that she is fearful of Mr M Ravi's outbursts, so may be open to influence. …

65 It also emerges from Dr Winslow's letter to the Law Society dated 22 July 2015, where he set out his answers to a series of questions posed by the

Attorney-General's Chambers, that Mr George Lai had taken over the task of supervising the Respondent's compliance with his medical regime and in particular of recording this in the "medicine diary" from January 2015 after Ms Netto was no longer able or willing to do so.

66 Further, there is also no evidence from Dr Winslow (or Dr Tan) to suggest that the Respondent had not been taking his medication as required or that the hypomanic episode was *caused* by any such failure on the Respondent's part. In these circumstances, we do not think that we can find that the Respondent's hypomanic episode was brought upon by his failure or refusal to take medication.

67 However, this only negates the submission that the Respondent is personally culpable for the deterioration of his condition, which would have otherwise enhanced his culpability. That is not the end of the matter because, as we have highlighted at [54] above, it remains necessary for us to consider the appropriate sanction by reference to the need to protect the public as well as to uphold confidence in the profession, which are viewed as higher order considerations than the personal mitigating circumstances of an individual solicitor.

68 We begin by considering the particular conclusions that we may draw from the evidence that we have as to the Respondent's mental condition. The psychiatrists, including Dr Winslow who has been treating the Respondent over the past few years, were not able to explain how his condition deteriorated at such a rapid rate even though he had apparently been taking his medication. This seems to suggest that his condition is erratic and may not be susceptible to being controlled effectively by medication.

69 In our judgment, if we are to proceed on the basis that the Respondent was compliant with his prescribed medication regimen, which we do for the reasons outlined above, then we are presented with the reality that the Respondent's condition deteriorated rapidly and precipitously and in circumstances where no plausible medical reason has been (or seemingly can be) advanced. This places our focus sharply on the need to protect the public.

70 In this context, it is useful for us to have regard to the Respondent's antecedents to the extent that these may be linked to his mental condition. We emphasise that this is not to punish the Respondent for those incidents again but for us to gain an insight into the sort of harm his condition can lead to. We begin with the acts committed by the Respondent on 22 January and 7 February 2015. As summarised at [20]-[21] above, these acts are the subject of the other set of disciplinary proceedings in DT 12/2015. The Respondent had breached a provision in the rules pertaining to Solicitors' Accounts by failing to deposit a sum of $29,000 paid by his client into the client account of his firm and had subsequently also made inappropriate statements directed at the same client and then uploaded a video clip of this. In our judgment, these episodes demonstrate that the Respondent's conduct, when he is suffering from a relapse or an episode, may go beyond embarrassing the profession and may directly harm and affect a client.

71 Separately, earlier in 2012 and 2014 respectively, the Respondent faced two sets of disciplinary proceedings (see *The Law Society of Singapore v Ravi s/o Madasamy* [2012] SGDT 12 and *The Law Society of Singapore v Ravi s/o Madasamy* [2014] SGDT 6). The subject of the former set of proceedings was his conduct during a hearing before Steven Chong J on 18 January 2011, in the course of which he accused the judge of being racially prejudiced against, and in contempt of, Hindus during a hearing, and stated

that he would "raise the issue outside the courts" and declined to proceed with the hearing as "it [would] dishonour [his] religion and disgrace [his] culture". This was outrageous conduct on the part of a solicitor directed to a judge of the Supreme Court in the course of a hearing and it was wholly without basis. The later set of proceedings in 2014 was brought when he prematurely released certain court documents and made certain statements to the media in respect of some cases that he was handling. In both cases, the Respondent cited his mental condition as a mitigating factor.

72 To summarise the position, we are presented with a situation where the Respondent:

(a) has a mental condition which has in the past caused and can again in the future cause him to act in a way that is plainly incompatible with his position as an advocate and solicitor; and more specifically,

(b) has in the past, because of his mental condition, conducted himself deplorably in relation to the judiciary, his clients and the profession as a whole and this has extended to making baseless racially charged allegations.

73 In these circumstances, we consider that anything short of prohibiting the Respondent for a substantial period of time from applying for a practising certificate would be inadequate. We accept that this is not a case of dishonesty, and that the Respondent was suffering from a hypomanic episode at the material time. We also agree that as and when the Respondent is mentally fit and capable, he ought to be allowed to practise. However, we must weigh this against the seriousness of his misconduct and more importantly, the unpredictability of his mental condition with its potential for

rapid deterioration. This poses a real danger to the public and to confidence in the integrity of the profession. This drives us to conclude that a period of prohibition of two years should be imposed, during which the Respondent should work towards as full a recovery as possible. As we have sought to emphasise, the interests of protecting the public and upholding confidence in the profession may outweigh the personal mitigating circumstances of an individual solicitor and we are satisfied that they do in this case.

74 After the period of prohibition, the Respondent may apply for a practising certificate to resume practice under s 25 of the LPA. That application may involve a separate and broader set of considerations from the present case. If and when that application is made, the Respondent will be required to demonstrate that he is medically and mentally fit and that he can *safely* be allowed to practise without jeopardising the interests of the public or the profession before the application can be granted. That, however, is for another day.

An ancillary question: whether the threshold for "cause of sufficient gravity" differs for s 82A

75 Finally, we turn to address an ancillary question in this case – whether there is a different threshold for what constitutes "cause of sufficient gravity" in proceedings involving non-practising solicitors and Legal Service Officers as opposed to proceedings involving practising solicitors.

76 The same phrase "cause of sufficient gravity" is found in:

(a) Sub-sections 82A(9) and 82A(10) of the LPA, which govern disciplinary proceedings pertaining to non-practising solicitors and Legal Service Officers; and

(b) Sub-sections 93 and 94 of the LPA, which govern disciplinary proceedings pertaining to practising solicitors.

In both types of proceedings, the Disciplinary Tribunal's task is to determine if there is cause of sufficient gravity for disciplinary action. If so, the matter is then to be referred to this court.

77 In proceedings involving non-practising solicitors and Legal Service Officers under s 82A of the LPA, the Disciplinary Tribunal only has two options: either to find that no cause of sufficient gravity exists after which the Chief Justice will dismiss the complaint; or to find that such cause exists in which case the matter will be referred to this court for the appropriate penalties prescribed in s 82A(12) to be imposed if it is satisfied that due cause has been shown.

78 But in proceedings involving practising solicitors, the Disciplinary Tribunal has an additional intermediate option available to it. In such proceedings, pursuant to s 93(1)(*b*), the Disciplinary Tribunal can determine that the solicitor should be reprimanded or be ordered to pay a penalty sufficient and appropriate to the misconduct committed even if it finds that *no* cause of sufficient gravity exists. For completeness, it may be noted that the Council can only order a penalty of up to $20,000. As explained by this court in *Jasmine Gowrimani*, this intermediate option enables the Disciplinary Tribunal to act as a "filter" such that only "the most serious cases" will be heard by this court (at [24]).

79 The question that we are concerned with here is whether the same threshold in respect of what constitutes "cause of sufficient gravity" applies in both types of proceedings. On one argument (which was the position taken by

Mr Thuraisingam in the proceedings below), the fact that the two provisions use an identical phrase would suggest that they contemplate the same standard. Yet, it may be argued (as the Law Society had in the proceedings below) that it cannot be that only the "most serious" cases should be referred to this court in relation to proceedings involving non-practising solicitors and Legal Service Officers given the lack of an intermediate step in such proceedings. This was the situation that the Disciplinary Tribunal faced in the present case (see [85] of its decision). Faced with the gulf between the two options that were open to it, the Disciplinary Tribunal (implicitly) concluded that a different standard should apply in the case of a matter falling within s 82A so that unlike the position under s 93(1), a case need not be "the most serious" or most egregious to be referred to this court. The Disciplinary Tribunal accepted the Law Society's argument that to hold otherwise would be absurd since it would mean that despite having pleaded guilty and being found so, the Respondent would not be subject to *any* sanction, given the tribunal's lack of power to determine that he should be so punished.

80 We agree with the Disciplinary Tribunal's view on this. While there is a presumption that the same word or words used within the same piece of legislation would ordinarily be used in the same sense, this must yield to the requirements of the context (see *Madras Electric Supply Corporation Ld v Boarland (Inspector of Taxes)* [1955] AC 667 at 685). Here, we agree that there is reason to depart from the presumption. For one thing, it may be noted that in relation to proceedings under s 82A, there is less need for the Disciplinary Tribunal to act as a filter given that there are, on the whole, fewer cases involving non-practising solicitors or Legal Service Officers. Further, it is implausible that such a non-practising solicitor or Legal Service Officer, who is guilty of misconduct, can evade a penalty or reprimand altogether

where the conduct is severe though not of the same gravity as the most serious cases under s 93. We should state, however, that we disagree with the Disciplinary Tribunal that there would have been no cause of sufficient gravity if this had been a case involving a *practising* solicitor. In our view, and for the same reasons that have led us to our decision to impose a two-year prohibition on the Respondent, even the higher threshold would have been made out in this case and the matter should in any event have been referred to us.

Conclusion

81 For these reasons, we order that the Respondent is prohibited from applying for a practising certificate for a period of two years from the date of this judgment. We urge the Respondent to continue to seek medical help and to keep to his medication regimen during this period to work towards as full a recovery as possible. As we have already observed, it will be open to the Respondent to apply for a practising certificate to resume practice after the period of prohibition.

82 The costs of the entire proceedings, starting from the leave stage, are granted to the Law Society, to be taxed if not agreed.

Sundaresh Menon Chief Justice	Andrew Phang Boon Leong Judge of Appeal	Tay Yong Kwang Judge of Appeal

Sean Francois La'Brooy and Tan Wei Ser Venetia
(Colin Ng & Partners LLP) for the applicant;
Eugene Thuraisingam and Suang Wijaya (Eugene Thuraisingam
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