

IN THE COURT OF THREE JUDGES OF THE REPUBLIC OF SINGAPORE

[2019] SGHC 187

Court of Three Judges – Originating Summons No 1 of 2019

Between

The Law Society of Singapore

... Applicant

And

G B Vasudeven

... Respondent

EX TEMPORE JUDGMENT

[Legal Profession] — [Disciplinary Proceedings]

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Law Society of Singapore

v

G B Vasudeven

[2019] SGHC 187

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Andrew Phang Boon Leong JA, Judith Prakash JA and Belinda Ang Saw Ean J
14 August 2019

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

1 This is an application made by the Law Society of Singapore (“the Law Society”) for an order pursuant to s 94(1) read with s 98(1) of the Legal Profession Act (Cap 161, 2009 Rev Ed) (“LPA”) that the respondent, an advocate and solicitor, be sanctioned under s 83(1) of the LPA.

Background

2 The respondent admits to the following facts.

3 The respondent was instructed by his client sometime in August 2016 to commence bankruptcy proceedings against one Mr Suresh Kumar R (“Mr Suresh”). Contrary to his client’s instructions and without his client’s

knowledge, the respondent contacted Mr Suresh with a view to resolving the matter amicably. After meeting with Mr Suresh, the respondent spent the time between the months of August and November 2016 deceiving his client into believing that bankruptcy proceedings against Mr Suresh were in progress, when in reality, there were no bankruptcy proceedings afoot. In the course of deceiving his client, the respondent prepared one fictitious court document and two fictitious affidavits, forged the electronic seal of the Supreme Court and forged the signature and stamp of a Commissioner for Oaths.

4 On 10 November 2016, a complaint was made by Mr Suresh against the respondent. This complaint eventually led to disciplinary proceedings against the respondent. At these disciplinary proceedings, the respondent faced five charges of grossly improper conduct in the discharge of his professional duty under s 83(2)(b) of the LPA. The respondent pleaded guilty to the third and fifth charges, but contested the first, second and fourth charges. On 31 December 2018, the Disciplinary Tribunal (“the DT”) comprising of Mr Francis Xavier SC and Mr Tan Kay Kheng found that the third, fourth and fifth charges (collectively “the three charges”) were made out beyond a reasonable doubt. The DT further determined that there was cause of sufficient gravity for disciplinary action under s 83 of the LPA in respect of those three charges.

5 The three charges are as follows:

3. Third Charge

You, G B Vasudeven, are guilty of grossly improper conduct in the discharge of your professional duty as an advocate and solicitor of the Supreme Court within the meaning of Section 83(2)(b) of the Legal Profession Act (Cap 161, 2009 Rev Ed) in that you, on or about September/October 2016, prepared a fictitious court document entitled “Requisition to Registrar for Payment into Court pursuant to Directions of Court” and in doing so, you forged the electronic seal of the Supreme Court

by electronically extracting the said seal from another court document and affixing the same to the document in question.

4. Fourth Charge

You, G B Vasudeven, are guilty of grossly improper conduct in the discharge of your professional duty as an advocate and solicitor of the Supreme Court within the meaning of Section 83(2)(b) of the Legal Profession Act (Cap 161, 2009 Rev Ed) in that you, on or about 14 September 2016, prepared or caused to be prepared, a fictitious document purporting to be an affidavit dated 9 September 2016 and in doing so, you forged the signature of the deponent, one Mr Suresh Kumar R, and the signatures and stamps of the Commissioner for Oaths by extracting the said signatures and stamps from an affidavit dated 14 September 2016 and affixing the same to the document in question.

5. Fifth Charge

You, G B Vasudeven, are guilty of grossly improper conduct in the discharge of your professional duty as an advocate and solicitor of the Supreme Court within the meaning of Section 83(2)(b) of the Legal Profession Act (Cap 161, 2009 Rev Ed) in that you, between the months of August 2016 and November 2016, while acting for your client, one Shanmuganathan Sinniah, did falsely represent to him that bankruptcy proceedings had been commenced against one Suresh Kumar R when no such bankruptcy proceedings had been commenced and you knowing at all material times that the said representation was false.

The parties' positions

6 The Law Society submits that due cause has been shown for the respondent to be subject to sanction pursuant to s 83(1) of the LPA, on the basis of the conduct disclosed in the three charges set out above. The Law Society also submits that the respondent should be struck off. The respondent accepts that his conduct surrounding the three charges gives due cause for disciplinary action to be taken against him. He also accepts that he has been dishonest in his dealings with his client and agrees with the Law Society that he should be struck off.

Our decision

7 There are two issues before us:

- (a) whether there is due cause for the respondent to be subject to sanction pursuant to s 83(1) of the LPA; and
- (b) if so, the appropriate sanction to be imposed.

Whether there is due cause

8 The respondent admits to secretly acting contrary to his client’s instructions, deceiving his client for a prolonged period of time and forging various documents in furtherance of his deception (see [2] above). We thus find that the three charges have been made out beyond a reasonable doubt. In our judgment, the respondent’s shocking conduct easily crosses the threshold of “grossly improper conduct” within meaning of s 83(2)(b) of the LPA and there is due cause for the respondent to be subject to sanction. Indeed, in our view, the respondent’s conduct also falls within the rubric of “fraudulent conduct” within the meaning of that same provision.

The appropriate sanction

9 We note that both the Law Society and the respondent agree that the respondent should be struck off. As a preliminary observation, we highlight that the fact that parties agree that a particular sanction is appropriate or the fact that the respondent accepts that he should be struck off is by no means determinative of the eventual sanction imposed by the court.

10 In the context of criminal proceedings, it is well established that sentencing is ultimately a matter for the court and while parties can assist the

court in the task of sentencing, it is ultimately for the court to assess and determine what sentence would be just in light of all the circumstances before it (see *Janardana Jayasankarr v Public Prosecutor* [2016] 4 SLR 1288 at [12]). This principle extends similarly to disciplinary proceedings. This court is entrusted with the task of deciding on the appropriate sanction, and while the court can take into account the parties' submissions, the court is not bound by these submissions and will decide on what is appropriate after considering all the relevant circumstances.

11 Nevertheless, based on a holistic consideration of all the facts of this case, we agree that the respondent should be struck off. In *Law Society of Singapore v Chia Choon Yang* [2018] 5 SLR 1068 ("*Chia Choon Yang*") at [16] and [18], we reiterated that misconduct involving dishonesty on the part of a solicitor would be viewed with utmost gravity and generally be met with the most severe consequences. We also highlighted three broad categories of cases where dishonesty will almost invariably lead to an order for striking off (see *Chia Choon Yang* at [19]). The respondent clearly falls within the second and third categories identified in *Chia Choon Yang*. The respondent acted in a strikingly dishonest manner in deceiving his client for a prolonged period of time and gravely violated the relationship of trust and confidence between solicitor and client. Further, he also blatantly violated his obligations as an officer of the court by creating fictitious court documents and by forging various means of authentication including the seal of the Supreme Court and the stamp and signature of a Commissioner for Oaths.

12 In the circumstances, the respondent's egregious conduct warrants the most serious sanction available and we order that the respondent be struck off the roll of advocates and solicitors.

13 We award the costs of the present proceedings to the Law Society.

Andrew Phang Boon Leong
Judge of Appeal

Judith Prakash
Judge of Appeal

Belinda Ang Saw Ean
Judge

M K Eusuff Ali and Joseph Tham Chee Ming (Tan Rajah & Cheah)
for the applicant;
Christopher Anand Daniel and Harjean Kaur (Advocatus Law LLP)
for the respondent.
