IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2018] SGCA 71

Civil Appeal No 197 of 2017

ZERO GERALDO MARIO NALPON

… *Appellant*

In the matter of HC/OS 675 of 2017

In the matter of
the Supreme Court of Judicature Act (Cap 332)

And

In the matter of
Order 53, rule 1 of the Rules of Court (Cap 322, rule 5)

And

In the matter of
Section 85(6) of the Legal Profession Act (Cap 161)

ZERO GERALDO MARIO NALPON

… *Applicant*

JUDGMENT

[Administrative Law] — [Judicial review] — [Application for leave]

Re Nalpon, Zero Geraldo Mario

[2018] SGCA 71

Court of Appeal — Civil Appeal No 197 of 2017
Judith Prakash JA, Belinda Ang Saw Ean J and Quentin Loh J
10 September 2018

24 October 2018 Judgment reserved.

Judith Prakash JA (delivering the judgment of the court):

Introduction

1 The appellant is a practising lawyer. In May 2017, he lodged a complaint with the Law Society of Singapore against three other lawyers. In accordance with the Law Society's usual procedure, the appellant's complaint was referred to a Review Committee for examination. Shortly thereafter, the Review Committee dismissed the complaint. The appellant was dissatisfied with this decision and, accordingly, in June 2017, he applied to the High Court by way of originating summons for leave to commence judicial review proceedings in respect of the Review Committee's decision. That application was dismissed in November 2017 and the appellant has appealed to this court to overturn the dismissal and allow the application.

Background facts – the Suit

2 The underlying facts leading to the complaint and, subsequently, to the court proceedings, centre on a lawsuit in which the appellant was briefed to represent the defending party.

3 In 2012, a construction and renovation company called Innovez ID Pte Ltd ("Innovez"), commenced an action ("the Suit") in the High Court against a Mr Wong Yoke Shin ("Mr Wong"), who had previously acted as its project manager. Innovez was represented by three lawyers from the same firm ("the Lawyers") and the appellant acted for Mr Wong in his defence. The claim against Mr Wong involved an alleged breach of warranty regarding the costs of a construction project at Jalan Pemimpin ("the Project"). According to Innovez, Mr Wong had given it a warranty that the costs of the Project would be about $900,000. Acting on that warranty, Innovez had agreed with the developer to undertake the Project at a price of $1,507,000. Innovez contended that it had subsequently suffered a loss because Mr Wong allowed the actual costs of the Project to escalate to over $1.9m. Mr Wong denied that he had given any warranty as alleged and maintained that, in any case, the Project was profit-generating.

4 At an interlocutory hearing in the course of the Suit, the appellant in his capacity as Mr Wong's counsel, argued that certain documents that had been disclosed by Innovez supported Mr Wong's position that the Project had not caused Innovez to suffer any loss. Innovez then applied for an account to be taken in respect of the Project so as to ascertain the costs incurred in the Project. When the account was taken before an assistant registrar ("the AR"), Innovez took the position that the Project was its only on-going project at the material

time (*viz*, December 2010 to December 2012) and therefore that all expenses paid during that time had to be allocated to the Project. Mr Wong, however, maintained vigorously that at the material time Innovez had other on-going projects to which expenses had to be allocated. After considering the evidence adduced before her, the AR decided that she was not in a position to make a finding in relation to whether Innovez had had more than one on-going project at the material time. She noted that this was an issue that could be canvassed and determined at the trial of the Suit. Mr Wong appealed asserting that the evidence supported a finding that there had been more than one project but his appeal was dismissed by a judge.

5 Thereafter, the Suit was transferred to the State Courts.

The Complaints

6 On 2 May 2017, the appellant lodged a formal complaint against the Lawyers with the Law Society (the "Complaint Letter"). The basis for this action was the appellant's belief that during the account taking process the director of Innovez, who gave evidence on its behalf, had lied to the court that Innovez had only one on-going project during the period from December 2010 to December 2012 when the evidence clearly showed otherwise. The appellant asserted that the Lawyers had misled the court by advancing the falsehood of the director in cross-examination and in their submissions. The Compliant Letter itemised six specific complaints which were that the Lawyers had:

> (a) Attempted to mislead the court and a legal practitioner that Innovez had only one project during the period December 2010 to December 2012 when the evidence clearly showed otherwise;

(b) Contrived the fact that Innovez had only one project during the same period when the same evidence showed otherwise;

(c) Suppressed evidence, namely, payment vouchers, invoices and bank account deposits;

(d) Assisted Innovez in giving false information to the court;

(e) Continued to act for Innovez who had given false information to the court; and

(f) Perpetuated the falsehood of Innovez that it had only one project during the material period when this falsehood had been exposed numerous times by Mr Wong.

7 A Review Committee was constituted by the Council of the Law Society ("the Council") on 18 May 2017 to examine the appellant's complaints. It should be noted that together with the Complaint Letter, the appellant furnished the Law Society with a bundle of documents containing more than 400 pages which he stated contained the evidence in support of the complaints. On 25 May 2017, the Review Committee submitted its Report to the Council. On 30 May 2017 the Council informed the appellant that the Review Committee had determined that his complaints against the Lawyers should be dismissed as they were lacking in substance. In its Report the Review Committee stated that "the information and documents provided by the [appellant] [did] not provide any support for any of the complaints". The Review Committee therefore directed the Council to dismiss the complaints.

The judicial review proceedings

8 On 16 June 2017, the appellant filed Originating Summons 675 of 2017 ("OS 675") in the High Court, on an *ex parte* basis, seeking leave to commence judicial review. He sought, first, a quashing order in respect of the decision of the Review Committee on the basis that it was irrational and, second, an order that his complaint be re-heard by a fresh review committee. The appellant alleged that the Review Committee's decision was "so outrageous in its defiance of logic or of the accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it". The supporting affidavit repeated the complaints the appellant had made to the Law Society and highlighted the following:

> (a) The Review Committee rendered its decision only seven days from the date of its inception although he had submitted around 500 pages of supporting evidence, and thereafter only made a "simplistic pronouncement" that his complaint was unsupported by the information and documents provided; and
>
> (b) The Review Committee did not exercise its powers under s 85(7) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("the LPA") to call him or the Lawyers to answer any inquiry or furnish any record.

9 There was a slight complication in that five days after OS 675 was filed the Law Society filed a Notice of Appointment of Solicitor listing itself as the respondent to the originating summons. The appellant objected to this as his application had been made on an *ex parte* basis. The appellant asked the AR to direct that the Law Society's notice be removed and when the AR declined to do so he filed a Registrar's Appeal. Both this appeal and the leave application

came on for hearing before the judge in chambers ("the Judge") at the same time. The Judge made no order on the Registrar's Appeal and allowed the Law Society to attend the hearing on a watching brief. As nothing further arises from this decision, we need say no more about it except that the Law Society also attended the appeal before us on a watching brief.

10 OS 675 was heard on 18 September 2017. After hearing the parties, the Judge dismissed OS 675. He denied the appellant leave to commence judicial review proceedings because he did not consider that the appellant had made out a *prima facie* case of reasonable suspicion in favour of granting the remedies sought. The full grounds of the Judge's decision can be found at *Re Nalpon, Zero Geraldo Mario* [2017] SGHC 301 ("the GD").

11 In the GD, the Judge identified the only issue before him as being whether the appellant had established an arguable or *prima facie* case for the granting of leave for judicial review: GD at [20] and [21]. Given that the appellant had based his challenge on the ground of irrationality only, the issue became whether there was a *prima facie* case of reasonable suspicion that the decision of the Review Committee directing a dismissal of the complaint was *Wednesbury* unreasonable: GD at [23]. The Judge answered this question in the negative for the reasons which are summarised below.

12 The Judge held that the high threshold of *Wednesbury* unreasonableness had not been crossed because the sensible inference to be drawn from the Review Committee's letter was that it had properly considered the complaint and found no basis for the appellant's grievance: GD at [23]. The Judge rejected the appellant's contention that the Review Committee could not have assessed all 500 pages of evidence in seven days. The Judge found, in the first place, that

"it was not the role of the [Review Committee] to carry out a *detailed* examination of the underlying facts". The Judge also found that there were reasonable grounds to support the Review Committee's decision; the Judge noted that no finding had, as at the date of the complaint, been made on the key factual contention that Innovez had only one project at the material time. This contention was the foundation for three out of six of the appellant's complaints. Without a conclusive finding by the court on this, there was simply no basis to conclude that the Lawyers had attempted to mislead the court during the taking of accounts hearing: GD at [25]. The Judge declined to conduct an in-depth examination of the primary documents relating to the Suit and noted that this was something the appellant could pursue for his client at the trial of the Suit: GD at [26].

13 The Judge noted that at common law there is no requirement for a body like the Review Committee to give reasons for its decisions. He considered, however, that it was arguable that s 85(8)(*a*) of the LPA required the Review Committee to "give the reasons for the dismissal" of complaints. The Judge concluded that the Review Committee's statement that "the information and documents provided by the [appellant] [did] not provide any support for any of the complaints" was itself a reason for the dismissal of the complaint. While the reason was brief, the Judge noted that judicial review cannot be obtained on the back of an assertion that more extensive reasons should have been given for the impugned decision: GD at [29]. The Judge further noted that the Review Committee was not obliged to call for answers to inquiries or the furnishing of the records: GD at [30].

The appeal

14 In his Appellant's Case, the appellant made a number of points but only two dealt with why and how the Judge's decision was erroneous. The appellant seemed to be more concerned with why the AR had refused to make a finding that Innovez had only one project on during the period between December 2010 and December 2012. He criticised that refusal on various grounds but those criticisms had already been dismissed in the appeal against the AR's decision (see [4] above) and were not relevant in the context of this appeal. He made various complaints against the Law Society and these too were not relevant to this appeal.

15 The most relevant submissions in the Appellant's Case were that:

(a) The Judge had erred in refusing to review the primary documents that the appellant had provided to the Review Committee in order to determine whether the Review Committee's decision to dismiss the complaints was unreasonable. Since the complaints were dismissed on the basis that they were not supported by the documents, it was necessary for the court to study the same in order to assess if the dismissal had been unreasonable in the *Wednesbury* sense;

(b) The Review Committee was biased because its decision was, according to the appellant, "completely irrational and devoid of logic" leading to the inference that it could only have been arrived at "by a tribunal that was biased".

16 When the appellant appeared before us for oral arguments his case became clearer. He informed us that the Suit had been settled out of court and

there was therefore no prospect of a court finding on whether at the material time Innovez had been working on only one project. He repeated the allegation he had made in his affidavit that the Review Committee's decision was irrational in that no sensible person who had applied his mind to the question to be decided could have arrived at it. He emphasised that he had furnished the Review Committee with a bundle of over 400 pages comprising the evidence that had been adduced before the AR in the Suit. To Mr Nalpon this bundle which contained payment vouchers and bank documents established very clearly that Innovez had been involved in more than one project during the material period. He re-emphasised that the Review Committee had rendered its decision only seven days from the date of its inception. In his submission these seven days could not have been enough time for the Review Committee to go through his bundle and consider the evidence carefully. He repeated his criticism of the "simplistic pronouncement" of the Review Committee that his complaints were not supported by the information and documents provided. In his view the Review Committee's comment about the lack of evidence was completely irrational.

17 He explained that his reading of r 9(2)(*a*) of the Legal Profession (Professional Conduct) Rules ("the Rules") is that when conducting court proceedings on behalf of a client, a solicitor is not to mislead or attempt to mislead the court in any way. If the solicitor so misleads the court but the trial judge not realising this gives a decision in the solicitor's client's favour, then the attempt to mislead would have succeeded and a clear breach of r 9(2)(*a*) would have occurred. But even if the trial judge is not persuaded by the misleading statements or evidence, the solicitor would still have been guilty of a breach of the rule. In this case, the fact that the AR had considered she did not

have enough material to come to a finding did not mean that the Lawyers had not breached r 9(2)(*a*) when they appeared before her.

18 Mr Nalpon was still aggrieved that the Review Committee had not called on him or the Lawyers to give evidence under s 85(7) of the LPA. He did not, however, repeat the allegation of bias.

Our Decision

Leave to commence judicial review

19 The law governing applications for leave to commence judicial review proceedings is not in dispute in this case. Therefore, it will suffice to state the principles briefly without the need to go into discussion of the authorities. The application is meant to be a means of filtering out groundless or hopeless cases at an early stage and the judge hearing an application for leave for judicial review does not need to, and should not, embark on a detailed analysis of the materials put forward by the applicant. The judge need only read the material quickly and appraise whether it discloses an arguable and *prima facie* case of reasonable suspicion. The foregoing principles are enunciated in *Public Service Commission v Lai Swee Lin Linda* [2001] 1 SLR(R) 133.

20 There are three requirements that any applicant for leave to start judicial review proceedings must fulfil. The first is that he must have standing. The second is that the decision that the applicant is challenging must be susceptible to judicial review. The third is that there is a *prima facie* case of reasonable suspicion that the applicant will succeed on the main application. Only the third requirement is in contention in the present case. In assessing if there is a reasonable suspicion of success, we must take into account the relevant law

relating to the duties of solicitors when representing clients in court proceedings. We state the applicable principles below in connection with our discussion on whether the appellant has made out a *prima facie* case.

Analysis of the complaints

21 The foundation of the appellant's complaint and a vital document that was presented to the Review Committee was the Complaint Letter. The Complaint Letter was organised under various headings, including "Background", "Complaint" and "The Supporting Evidence". The introductory part of the Complaint Letter contained the six specific complaints against the Lawyers which we have summarised in [6] above.

22 The explanation for the complaints is set out in numbered paragraphs under the heading "Complaint". In paras 4, 5, 7 and 10, the appellant asserts that Mr Tang Wai Chong Eldee ("Mr Tang"), a director of Innovez, and Mr Kevin Thio ("Mr Thio"), its auditor, had lied to the court in relation to the number of on-going projects conducted by Innovez and that Innovez had deliberately withheld or concealed documents like invoices, payment vouchers and bank deposits. In the other paragraphs, he elaborated on the specific complaints by asserting that the Lawyers:

(a) Had perpetuated the lie by suggesting in cross-examination of Mr Wong that the Project was the only project Innovez was involved in at the material time (para 6);

(b) Were aware that Innovez had withheld documents from the outset of the Suit (para 8);

(c) Were fully aware that Innovez was engaged in other projects in 2011 because they had relied on certain documents that mentioned other projects (para 9);

(d) Must have been fully aware that it was impossible to ascertain the net profits/loss of a company when most of the income and expenditure was withheld (para 11); and

(e) In response to "the Defendant's Written Submissions of 11 January 2016" (drafted by the appellant for submission in the Suit), had continued to mislead the court by repeating their claim that Innovez had only the one project and attempting to brush off their client's lies by citing technicalities (para 12).

23 The supporting evidence listed in the Complaint Letter comprised:

(a) The affidavit of evidence-in-chief of Mr Tang;

(b) The report by Mr Thio dated 29 August 2014;

(c) The "Defendant's Written Submissions of 11 January 2016";

(d) Innovez' reply submissions of 1 February 2016;

(e) Correspondence between the appellant and the Lawyers; and

(f) The appellant's submissions for Mr Wong's application for leave to appeal the dismissal of his appeal against the AR's decision.

It should be noted that annexed to the affidavits furnished as part of the supporting evidence were copies of documents which had been produced by Innovez in the Suit and which, according to the appellant, indicated that Innovez had been carrying on more than one project during the material time. All in all,

the Complaint Letter and its attachments ran to more than 400 pages. The appellant did not pinpoint specific parts of the documents attached to the Complaint Letter that would support his complaint.

24 Just looking at the Complaint Letter, it is clear that the fundamental assertion made by the appellant was that the Lawyers knew that their client was putting forward an untrue case that it had no more than one project at the material time and that they knowingly assisted it in so doing. There was also an assertion that the Lawyers helped conceal evidence. The question that the Review Committee needed to confront was whether the documents provided any support for those two assertions. The Review Committee answered this question in the negative. Thus, the question the Judge had to deal with, and which now confronts this court, became whether on a *prima facie* standard the Review Committee was unreasonable to find that the information and documents provided by the appellant did "not provide any support for any of the complaints".

25 Rule 9(2)(*a*) of the Rules states in part:

> When conducting any proceedings before a court or tribunal on behalf of client, a legal practitioner must not do any of the following:
>
> (a) knowingly mislead or attempt to mislead in any way …
>
> (i) the court or tribunal …;
>
> (b) fabricate any fact or evidence in any … submission to … the court …;
>
> …
>
> (g) concoct any evidence or contrive any fact …

26 Regrettably, when court proceedings are in progress some litigants try to improve their chances of success by being less than fully forthright. They

may suppress evidence, distort evidence, prevaricate, exaggerate or even tell outright lies in the course of their testimony to the court. As r 9(2) indicates the lawyer representing such a litigant must not himself or herself be a party to any such conduct. On the other hand, the lawyer has a duty to the client to present the client's case in the best possible manner to the court short of deliberately misleading it or tampering with the evidence. These differing duties to the court and to the client may sometimes appear to conflict. Thus, the question of to what extent the lawyer has to investigate or verify his or her client's case before presenting it in court has had to be considered by our courts a number of times.

27 As long ago as 1988, in *Wee Soon Kim Anthony v Law Society of Singapore* [1988] 1 SLR(R) 455 ("*Anthony Wee*") Chan Sek Keong JC (as he then was), had to consider a complaint to the Law Society against a solicitor ("TKQ") that he had failed to take reasonable steps to take statements to verify the source of information before permitting his client ("GSH") to swear an affidavit in which GSH made certain libellous allegations (on the basis of information received) in respect of the complainant. The Inquiry Committee of the Law Society had taken the view that TKQ was under no duty first to take statements from the informants named in the affidavit or, second, to verify the source of information of his client. Confirming this view to be correct, at [21] the learned judge said:

> … TKQ was under no duty: (a) specifically, to take statements from the clients named in GSH's affidavit; and (b) generally, to verify the source of information of GSH. Counsel for the [complainant] was unable to cite any authority to support his contention that an advocate and solicitor has such a duty generally or in the circumstances of this case. Nor was he able to persuade me, in principle, that such a duty existed. In my view, no such duty existed generally or in the circumstances of this case. *It is not for an advocate and solicitor, whether in his capacity as counsel or solicitor, to believe or disbelieve his client's instructions*, unless he himself has personal knowledge of the

> matter or unless his client's statements are inherently incredible or logically impossible. His duty to his client does not go beyond advising him of the folly of making incredible or illogical statements. [emphasis added]

28 The passage cited above was also cited, and specifically approved, by this court in *Tang Liang Hong v Lee Kuan Yew* [1997] 3 SLR(R) 576 at [74]. In the same paragraph, this court observed that it would be placing an unduly onerous burden on counsel to, in every instance, verify the truth or otherwise of what their clients have deposed to in affidavits. We agree. We also consider the following wise words of Lord Halsbury written in 1899 cited by Chan Sek Keong JC in *Wee Soon Kim Anthony* at [22], to be equally apposite today:

> A thesis has been propounded on the other side more extravagant, and certainly more impossible of fulfilment; that is, that an advocate is bound to convince himself, by something like an original investigation, that his client is in the right before he undertakes the duty of acting for him. I think such a contention ridiculous, impossible of performance, and calculated to lead to great injustice. If an advocate were to reject a story because it seemed improbable to him, he would be usurping the office of the judge, by which I mean the judicial function, whether that function is performed by a single man, or by the composite arrangement of judge and jury which finds favour with us. Very little experience of courts of justice would convince anyone that improbable stories are very often true notwithstanding their improbability.

29 Counsel's duty of candour to the court was explored in some detail in *Bachoo Mohan Singh v PP* [2010] 4 SLR 137. While it was reiterated (at [115]–[116]) that the solicitor's duty was to present his client's case in the most favourable light and not prejudge the outcome, the court also warned that a solicitor could not simply take whatever the client stated at face value. The solicitor had a duty to the client to assess the instructions holistically and explain to the client what may support or contradict the claim (at [118]). It was also observed (at [119]) that "the duty to verify arises only in the presence of

compelling reasons or circumstances, and is not triggered simply because the client gave conflicting instructions".

30 Bearing in mind the above legal principles, to substantiate his complaint, the appellant could not simply furnish the Law Society with the documents that he believed showed that Innovez and its witnesses had lied to the court. He had to give the Review Committee some evidence to support the contention that the Lawyers were aware of and complicit in that lie, that they were going beyond their duty to make the best possible case for their client, and instead were knowingly advancing a false rather than a flawed case.

31 Although the position taken by Innovez in the Suit was hotly contested by Mr Wong and challenged at the account hearing before the AR by the appellant on Mr Wong's behalf, there was nothing in that position in itself that was "inherently incredible or logically impossible". Nor was there any evidence that Innovez had given the Lawyers conflicting instructions such that they were bound to investigate and verify the truth of the instructions. In the Complaint Letter, the appellant did not point out incontrovertible evidence or documents that flew in the face of the instructions given by Innovez to the Lawyers that there were no projects between December 2010 and December 2012. Whilst the documents presented by Innovez to the court did contain some inconsistencies, there was nothing that was so unequivocal that any explanation for them would have been inherently incredible.

32 The complaint to the Law Society lacked focus and failed to draw attention to the key documents in the bundle that the appellant considered supported his complaint. In the Complaint Letter, the appellant listed the supporting evidence in one page with brief descriptions of what the documents

were and what he was using them to show. These were inadequate to help the Law Society assess the complaint. For example, in his submissions, the appellant relied heavily on a series of payment vouchers issued between January 2011 and December 2012 to contend that Innovez had other projects during the material time.

33 First, there was a set of payment vouchers relating to various works under various projects, most of which bore dates in January 2011, although two were dated 7 March 2011 and 10 June 2011. These payment vouchers showed that payments were made by Innovez to various parties in the first six months of 2011. They did not, however, indicate the time period during which the works for which the payments were made had been undertaken. In this regard, the payments could very well have been for projects undertaken prior to December 2010. Innovez also explained that the projects "could have been done prior to December 2010 but only invoiced between December 2010 to [sic] 2013".

34 The appellant did not provide any evidence to show the Law Society incontrovertibly that the explanation given was not true. Nor was there any document in the bundle which indicated that if the explanation was not true, the Lawyers were aware of its untruth when they appeared before the AR. Instead, the appellant referenced his submissions in court on a wholesale basis and stated that these submissions contained "*inter alia* the arguments to evidence the fact that [Innovez] had other projects in 2011 and had withheld documents/information relevant to their incomes and expenditure" before referring the Law Society to all the submissions that he had filed in the Suit. It was not, however, for the Law Society or the Review Committee to go through the bundle submitted by the appellant and build up his case for him.

35 There was also a set of payment vouchers apparently relating to a project at Kew Green which showed payments had been made for this project in September 2011 and December 2011. Another document, a work schedule, suggested that as of May 2011 works were scheduled to be carried out on Kew Green project between May and July 2011. Thus, the documents taken at face value suggested that work could have been done in Kew Green during the material period contrary to the stand which Innovez had taken before the AR. However, they did not go so far as to indicate that the Lawyers had misconducted themselves in, nevertheless, presenting their client's case to the court that no work on other projects had been done then. Although no explanation for the work schedule was given, it is possible that the work schedule was a draft and that the project was delayed. Further, the December 2011 voucher which the appellant said related to Kew Green was an unclear document. While two of the items on the face of the voucher mentioned "Kew Green", the other two items bore the general description "payment of cash banked in" and "workers' pay". Additionally, the payment voucher was made in favour of Mr Wong himself so that any payments under it would have been received by Mr Wong so he would have been able to give the appellant instructions on the same. Annexed to the payment voucher was another document noting the same items as in the voucher but specifically giving the direction that the voucher was for the Project. It was thus not clear whether or not the payment voucher was for a project at Kew Green or for the Project itself or partly one and partly the other. It is relevant in this connection that Mr Tang had testified during the hearing before the AR that the Kew Green project belonged to him. The appellant could have cross-examined Mr Tang on all the various discrepancies at the taking of accounts hearing but he did not do so. As a result, there was no challenge or any evidence arising from the same. In any

event transcripts of relevant testimony were not furnished to the Law Society.

36 All the Review Committee had before it were the bare documents without explanation or, indeed, a clear submission from the appellant as to how the Lawyers were knowingly misleading the court. We note there was no duty on the Lawyers to investigate the actual progress of the Kew Green project and there was no duty on them to explain the details of this project in their submissions to the AR on the account taking if they deemed it irrelevant to do so. This was especially since Mr Tang had not been asked to explain those documents during the course of the hearing before the AR.

37 As all counsel are aware, facts are routinely disputed in court. Counsel equally regularly put disputed portions of their client's case to witnesses for the opposing party during cross-examination so as not to attract submissions that they have accepted the opposition's version of events. The role of the court is to consider the documents and evidence put forward by each party to support his/her version of events and decide what the truth is on the balance of probabilities. Just because a set of facts is affirmed as true and adduced in court and, subsequently, the court has made a finding that those facts were untrue, it does not follow that the counsel who presented the case for the "untruthful" party had themselves lied or misled the court. By profession, counsel have to advocate a certain version of events in the face of contradictory evidence adduced by the other party. The documents which were included in the Complaint Letter did not show anything extraordinary about the evidence adduced by Innovez that should have stopped the Lawyers from producing that same evidence before the court to help establish their client's case that there was only one project at the material time or from making submissions to that effect.

38 The appellant also alleged that the Lawyers had suppressed evidence. In our view, this was a bare assertion and was not substantiated by the documents submitted by the appellant. This allegation was first made in the taking of accounts hearing and was repeated at the registrar's appeal arising from the same. Both times, the Lawyers responded by inviting the appellant to take out the necessary discovery applications if he was truly of the view that certain relevant documents were missing. The appellant did not provide any satisfactory response to this. Further, the appellant did not provide the Law Society with any evidence that the Lawyers had intentionally suppressed documents. Innovez had clearly made disclosure of various documents to support the taking of accounts both voluntarily and pursuant to a discovery application made by the appellant. There was no direct evidence that any other relevant documents existed to the knowledge of the Lawyers. The appellant's complaint in this regard was based on a few paragraphs in his submissions which related to the fact that Innovez had not produced documents to back up some of its figures. That was an odd speculation as the usual inference when supporting documents are not produced is that no such documents exist. Further in a contract case, the lack of supporting documents is always a hurdle for the proponent of the figures to surmount rather an obstacle for the defender.

Summary and Conclusion

39 It is not the role of this court to review the complaint on a fresh basis. The only question before the Judge, and now us, is whether there is a *prima facie* case that the Review Committee was *Wednesbury* unreasonable in its decision to dismiss the complaint by the appellant. In our view, it was not. As we have said the complaint was vague and the evidence was presented to the Review Committee in an unhelpful manner.

40 While some payment vouchers showed payments having been made during the material period they were far from conclusive as to when the work paid for had actually been done. In relation to the Kew Green project allegation in particular, the payment vouchers were not pointed out to the Review Committee but were buried in the bundle. Indeed, they were not expressly mentioned to this court and were only highlighted after we directed the appellant to show us where the evidence was. No evidence on when the Kew Green project actually commenced was given to the Review Committee.

41 Further, at the time when the Review Committee rendered its decision, the trial of the Suit was pending. It would not have been unreasonable for the Review Committee to have dismissed the complaints on the basis that the issue of whether Innovez had more than one project was one that ought to be decided by the court. The Judge below had also suggested in his decision that "[t]he natural inference from [the Review Committee's] statement was that it had reviewed the documents submitted by the [appellant] and reasoned that they provided no support for his complaints, *possibly on the basis that no findings of fact had been made on a critical issue*. [emphasis added]" (GD at [29]). We entirely agree.

42 It should also be noted that in *Anthony Wee*, Chan Sek Keong JC rejected the submission of counsel for the plaintiff there that the solicitor should have withdrawn his client's allegations after being appraised of their falsity. In doing so, Chan JC observed that "the falsity or otherwise of [those allegations] had yet to be decided by the court" (at [23]).

43 As for the suppression of documents allegation there was nothing at all in the Complaint Letter to substantiate it.

44 While the appellant may have felt aggrieved that the Lawyers were promoting a false case, he had to show a basis for his suspicions that they did so knowingly. It was not enough to show that there was evidence that appeared to cast doubt on Innovez' position. The appellant had to also produce evidence to indicate that position was inherently incredible or completely illogical such that the Lawyers would have realised it was false. This he did not do.

45 The other criticism of the Review Committee made by the appellant, that is, that it had not called on him or the Lawyers to give evidence need not detain us. We agree with the Judge that the Review Committee was not obliged to call for oral or documentary evidence. It was entitled to assess the substance of the complaint on the basis of the materials before it.

46 For the reasons above, we respectfully agree with the Judge that the appellant had failed to show even a *prima facie* case that the Review Committee's decision was *Wednesbury* unreasonable. The appeal is therefore dismissed.

Judith Prakash Judge of Appeal	Belinda Ang Saw Ean Judge	Quentin Loh Judge

Appellant in person.