

THE HIGH COURT
IN THE MATTER OF THE SOLICITORS ACTS 1954-2011
AND IN THE MATTER OF
PAUL MADDEN
ON THE APPLICATION OF
JOHN THOMAS CONNOLLY

A Solicitor

Appellant

Judgment of Kearns P. delivered on 3rd day of November, 2014

This is an appeal by Mr. John Thomas Connolly ('the appellant') against the decision of the Solicitors Disciplinary Tribunal ('the Tribunal') dated 23rd July 2014 that there is no *prima facie* case of misconduct on the part of the respondent solicitor in respect of each of the allegations set out in the appellant's application of 25th October 2013.

Background

The appellant is a retired pensioner who was appointed as the administrator of the estate of his late mother who died intestate on 16th January 1997. The appellant states that in 2011 proceedings were pending in the Circuit Court in relation to a property (Folio No. 14369F) which he contends he has an interest in but which at that time was registered to a Mr. Colm Casey. Land Registry documents show that these proceedings were recorded in the 'burdens and notices of burdens' section of the folio on 29th March 2011. The appellant alleges that despite being on notice of the Circuit Court proceedings the respondent solicitor lodged documents with the Land Registry in 2011 in order to cancel Mr. Casey's ownership and register Mr. Ciaran Sheridan and Ms. Eileen Sheridan as full owners. Evidence of this registration having occurred on 23rd June 2011 is exhibited in the form of documents from the Land Registry.

In his initial application to the Tribunal on 25th October 2013 the appellant exhibited a statement of claim in High Court proceedings against another solicitor, Mr. George Wright, which states that at the time the property in question was transferred from his mother's ownership she had suffered a subarachnoid haemorrhage and the transfer was completed without regard to medical evidence. The appellant states that a memorial drawn up by this solicitor in May 1985 was mistakenly relied upon by the respondent in relation to the 2011 transfer as the memorial was incorrect and the transfer was never completed.

The appellant's initial complaint to the Tribunal made a number of allegations against the respondent including that he ignored the notification that Circuit Court proceedings in relation to the property were ongoing and went on to register another interest regardless, that this action of completing a registration after notice of prior title constitutes a fraud, that he failed to carry out adequate investigation or searches in relation to the property, and that he "*did not take the stock of the liabilities of the estate*".

By decision dated 23rd July 2014 the Tribunal was of the opinion that "*there is no prima facie case of misconduct on the part of the respondent solicitor for inquiry*". An identical finding was made in relation to each aspect of the appellant's complaint in the following terms -

"This allegation does not disclose prima facie evidence of misconduct on the part of the respondent solicitor."

Appellant's submissions

In his affidavit in the present proceedings dated 13th August 2014 the appellant states that his family home was sold without consent. He states that the respondent had notice of his pending Circuit Court proceedings in relation to the property and that the respondent's actions in having new owners registered constitute a fraud. The appellant contends that the memorial drawn up in 1985 in relation to the transfer of the property was incorrect, that the transfer was never completed and that the respondent was aware of this.

The appellant states that he was joint owner of his late mother's home and contributed funds towards the purchase price. He states that he is entitled to inherit the property and to reside there. However, he has been removed from the property by members of An Garda Síochána due to the respondent's alleged misconduct. The appellant submits that "*the law and courts cannot overrule my rights to my family home, according to the Constitution of Ireland.*"

Discussion

The Court has carefully considered the appellant's application to the Tribunal dated 25th October 2013 and all of the accompanying exhibits as well as the letter of the Tribunal dated 23rd July 2014 and the appellant's affidavit of 13th August 2014.

Having regard to all of the evidence and submissions of the appellant I am satisfied that there is no reason to depart from the decision of the Tribunal that there is no *prima facie* case for inquiry into the conduct of the respondent solicitor. The appellant's concerns in relation to the transfer of ownership of the property at Folio 14369F from his mother to some other party originate with a memorial document drawn up by another solicitor in 1985 and have resulted in separate High Court proceedings against that solicitor. The Court also notes that at least one more previous transfer of the property took place in 2002 before Mr. Casey's interest, which was the subject of the appellant's Circuit Court proceedings in 2011, was registered. No *prima facie* evidence has been exhibited before the Tribunal or in this appeal which indicates misconduct on the part of the respondent solicitor in registering his client's ownership of the property in 2011. In any event, any dispute as to the ownership of this property is not a matter to be dealt with in these proceedings and does not constitute a *prima facie* case of misconduct on the part of the respondent.

Decision

For the reasons outlined above the appeal is therefore dismissed.

