

THE HIGH COURT

[2013 No.105 SA]

IN THE MATTER OF THE SOLICITORS ACTS 1954 - 2002

BETWEEN

DONAL DENNEHY

APPELLANT

AND

T.A. SHANAHAN

SOLICITORS/RESPONDENTS

**JUDGMENT OF Kearns P. delivered on the 24th day of March, 2014**

This is an appeal by Donal Dennehy, Number 1 Shandon Way, Shandon Street, Cork, ("the appellant") against a decision of the Solicitors Disciplinary Tribunal ("the Tribunal") dated the 20th November, 2013, that there is no *prima facie* case of misconduct on the part of Thomas A. Shanahan of T.A. Shanahan Solicitors, Left Bank House, North Gate Bridge, Cork ("the respondent solicitor").

In the application to the Tribunal for an inquiry into the conduct of the respondent solicitors, the appellant made a complaint about the respondent solicitors' conduct in connection with the manner in which the respondent represented the appellant in a personal injuries action dating from 1996/97. He alleged that the respondent solicitor failed to correspond with him and failed to interact with him in relation to engagement of Counsel and writing of letters.

The allegations made by the appellant against the respondent solicitor were rejected by the Tribunal as having been adequately rebutted by the respondent solicitor. It was held that he had not failed to disclose conduct which could be construed as misconduct and the Tribunal found that there was no evidence to support the allegations made.

**Background**

The appellant in these proceedings had prior dealings with the respondent. The Tribunal decision dated the 20th November, 2013, held that there is no *prima facie* case of misconduct on the part of the respondent solicitor. By notice of motion returned on the 20th January, 2014, the appellant appealed the Tribunal decision.

**Affidavit of Donal Dennehy**

By affidavit of the appellant sworn on the 6th December, 2013, the appellant exhibits numerous documents relating to the appellant's complaint before the Tribunal. No further substantial matters are averred. The appellants claim before the Tribunal, as set out in the exhibits to the affidavit relate to the respondent's dealing with the appellant in relation to a personal injuries action taken by the appellant in 1996/7. The appellant claimed that the respondent failed to engage properly or at all with him in relation to this action.

**Replying Affidavit of Thomas A. Shanahan**

A replying affidavit was sworn by the respondent solicitor on the 28th February, 2014, where he avers that he is not of the opinion that the appeal is properly before the courts as he has not been properly served with the documents in the appeal before this court. He avers that he received instructions from the appellant in relation to a personal injuries action but handed over the case to another solicitor on the 15th November, 2002, who subsequently passed the file on to another solicitor in November, 2005. The action was settled in February, 2009. It is averred that the appellant has initiated complaints against all solicitors that were involved in this claim.

He avers that having handed over the file and his retainer being discharged over ten years ago he requires some finality be brought to this matter. He alleges that there are no grounds for the appellants' complaints herein.

**Ruling**

Regarding the appellant's contention that the respondent solicitor failed to properly engage with him in relation to his personal injuries action in 1996/7 or failed to correspond with him or issue a bill of costs, the court agrees with the findings of the Tribunal and finds that there is no evidence to substantiate the allegation that the respondent solicitor behaved in any way inappropriately. There can be no viable claim against the respondent. The Court agrees with the findings of the Tribunal that there is no misconduct on the part of the respondent solicitor. I therefore dismiss the appeal.

However, I would be of the view that in future Tribunal rulings, the Tribunal should set out clearly and concisely the precise reasons for its decision. I would regard the uninformative rulings in this and other cases as inadequate. Such rulings can only encourage appeals which otherwise might not be brought.