

THE HIGH COURT

2009 14 SA

SOLICITORS DISCIPLINARY TRIBUNAL 5306 DT464/04

IN THE MATTER OF JOHN COLM MURPHY FORMERLY PRACTISING AS COLM MURPHY & COMPANY SOLICITORS, AT MARKET STREET KENMARE, CO KERRY AND AS MURPHY'S AT 1 CHAPEL STREET, KILLARNEY, CO. KERRY

AND IN THE MATTER OF THE SOLICITORS ACTS 1954 – 2002

BETWEEN:

THE LAW SOCIETY OF IRELAND

APPLICANT

-AND-

JOHN COLM MURPHY

RESPONDENT SOLICITOR

THE HIGH COURT

2009 12 SA

IN THE MATTER OF COLM MURPHY A SOLICITOR PRACTISING AS COLM MURPHY & COMPANY SOLICITORS AT MARKET STREET KENMARE CO. KERRY AND AS MURPHYS AT 1 CHAPEL STREET KILLARNEY CO. KERRY

AND IN THE MATTER OF AN APPLICATION OF THE LAW SOCIETY OF IRELAND TO THE SOLICITORS DISCIPLINARY TRIBUNAL

AND IN THE MATTER OF THE SOLICITORS ACTS 1954 – 2002

THE DISCIPLINARY TRIBUNAL RECORD NO. 5306 DT/464/04

BETWEEN:

COLM MURPHY

APPELLANT

-AND-

THE LAW SOCIETY OF IRELAND

RESPONDENT

Judgment of Johnson P. delivered on the 18th day of May 2009.

1. It having been agreed that both these applications could conveniently be taken together this joint ruling applies in respect of both. In the contents of the affidavit sworn by Mr. Murphy in the case in which he is the plaintiff and sworn on the 23rd February, 2009 at para. 2 thereof he points out that he accepts fully the findings of the Disciplinary Tribunal but then goes on to say a number of exculpatory matters which would appear at times conflicting.
2. This being so the elements to be decided by the two applications is as to whether or not the penalty imposed by the Law Society or the Disciplinary Tribunal of the Law Society in this instance was appropriate or whether or not it was too severe.
3. The reality is that Mr. Murphy's application is by way of a plea in mitigation to limit the severity of the penalty imposed.
4. On his behalf Mr. Nicks said that he had apologised for what he had done and basically indicated that the situation arose because he felt aggrieved as a result of the treatment of the Law Society. He stated that he never misappropriated any funds and that would appear to be correct insofar as no funds are missing.
5. However, Mr. Murphy in his Affidavit appeared to try and shift the blame for many of the misfortunes which he has had onto the Law Society and others. He has also indicated he received treatment from Dr. Lucey and there is a medical report to that effect available to the Court which has been accepted.
6. In addition his wife gave evidence to the effect that he has been attending Dr. Lucey on eighteen occasions and that since this he has improved in his attitudes very much. She also gave evidence to the effect that his moods had changed dramatically over the period prior to that and this obviously contributed to the situation he finds himself in.
7. However, as Mr. McDermott pointed out, throughout his Affidavit Mr. Murphy continues to blame the Incorporated Law

Society and others for his troubles and whereas he admits the findings of the Law Society he appears to continue to try and justify his decisions. It is impossible to avoid the fact that Mr. Murphy had on seven previous occasions been found guilty of misconduct by the Law Society. He has appeared before me on a number of occasions in recent years and I came to the conclusion that he never appeared to understand the fact that the laws applied to him, rules applied to him and directions of the Court and the Law Society apply to him.

8. The regulations imposed by the Law Society are extremely rigorous, I appreciate, but those are the terms and conditions under which people practice as solicitors and if a person is not willing or capable of accepting these rules and regulations then there is no place for them in the profession.

9. As Mr. McDermott clearly pointed out the tribunal have recommended to the Court that Mr. Murphy is not a fit person to be a solicitor. He has been before my predecessor Mr. Justice Finnegan, President of the High Court and his attitude to him does not in any way assist him. Mr. Murphy appears through Mr. Nix to indicate that he has been suffering from a mental condition for some time but I am not satisfied on the evidence before me that his attitude to the Incorporated Law Society is changed despite the evidence given by his wife.

10. Under those circumstances I make the following orders:-

1. An order striking the name of the respondent solicitor John Colm Murphy otherwise Colm Murphy from the Roll of Solicitors and
2. An order for the costs of the Solicitors Disciplinary Tribunal and the costs of this Court.