

**IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

In the matter of a Rule in terms of Section
42(2) of the Judicature Act No. 2 of 1978,
against Wasantha Wijewardane, Attorney-
at-Law.

Major W. W. M. L. S. Palipana,
No. 36, Nuwarathanna Road,
Wathegama.

Complainant

SC Rule No: 12/2023

Vs.

Wasantha Wijewardane,
Attorney-at-Law,
No. 03, Colombo Street,
Kandy.

Respondent

Before: **Justice A. L. Shiran Gooneratne**
 Justice Mahinda Samayawardhena
 Justice K. Priyantha Fernando

Counsel: M. Ganeshwaran for the **Complainant**.

Respondent is absent and unrepresented.

Dr. Sunil Coorey for the **Bar Association of Sri Lanka**.

Hashini Opatha, SSC instructed by Rizni Firdouse, SSA for the
Hon. Attorney General.

Mentioned on: 26/08/2025

Judgment on: 10/10/2025

A. L. Shiran Gooneratne J.

1. This matter arises pursuant to a letter dated 09/01/2008 addressed to the Honourable Chief Justice by Major W. W. M. L. S. Palipana (hereinafter referred to as the Complainant), requesting an inquiry into the conduct of Mr. Wasantha Wijewardane, Attorney-at-Law (hereinafter referred to as the Respondent), in relation to a professional retainer.
2. The Complainant, by letter dated 27/02/2008, along with his Affidavit and other documents, alleged that the Respondent was retained to take necessary legal steps to implement the decisions of the Supreme Court dated 01/03/2006 and 15/02/2007 in SC (FR) 68/2006. An advance payment of Rs. 50,000 was made on 09/11/2007, being half of the agreed fee of Rs. 100,000. However, due to repeated inaction and evasive conduct by the Respondent, the Complainant on 05/12/2007, requested the Respondent that the matter need not be pursued further and sought the return of his documents and fees.
3. Following further correspondence and a meeting in mid-December 2007, the Complainant was handed a draft Petition which he deemed untimely and ineffective. He subsequently returned the draft and reiterated his request for a refund via letter dated 20/12/2007. The Respondent failed to respond or refund the fees, prompting the Complainant to allege professional misconduct and unjust enrichment.
4. In pursuance of the said complaint, and in accordance with the Journal Entry dated 05/03/2008, this Court directed that observations be called from the Respondent. The Respondent, by observations tendered on or about 30/05/2008, admitted having been retained by the Complainant and acknowledged the receipt of professional fees. However, the Respondent sought to justify his conduct by reference to the proposed legal strategy, certain fee adjustments, and the alleged involvement of Mr. Chula Bandara, Attorney-at-Law.

5. The Respondent expressly denied the existence of any professional arrangement with Mr. Bandara and further asserted that the draft petition prepared by him was legally viable, notwithstanding the Complainant's dissatisfaction or concerns expressed thereon.
6. The matter was thereafter referred to Disciplinary Committee No. 5 of the Bar Association of Sri Lanka, in terms of the Journal Entry dated 08/07/2008. Pursuant thereto, by letter dated 26/08/2008, the Registrar requested the said Committee to conduct a preliminary inquiry under Section 43(1) of the Judicature Act, and to submit its proceedings together with a report to this Court within a period of three months.
7. At the said inquiry, the Respondent initially conceded to refund the monies received from the Complainant; however, the actual payment was unduly delayed. Owing to repeated absence and postponements on the part of the Respondent, the refund was ultimately affected only in July, 2009. Notwithstanding such payment, the matter concerning the three case files, which remained unreturned by the Respondent, continued unresolved.
8. Upon conclusion of its proceedings, the Disciplinary Committee, by recommendation dated 01/02/2014, submitted its findings to the Honourable Chief Justice to initiate appropriate disciplinary action against the Respondent. The Disciplinary Committee concluded that the Respondent has *"not performed his professional obligations towards his client in a diligent manner and has been negligent in misplacing his client's documents handed over to him which has resulted in grave inconvenience, prejudice and loss to the Complainant in not being able to obtain the redress that he was seeking to obtain before a court of law."*
9. Careful consideration of the material placed by the Complainant, the Respondent, and the Disciplinary Committee, disclosed that the Respondent's conduct was disgraceful, dishonourable, and wholly

unbecoming of an Attorney-at-Law. The Respondent's actions amounted to deceit, malpractice, crime or offence, and conducted himself in a manner unworthy of an Attorney-at-Law. He conducted himself in a manner which is inexcusable and such as to be regarded as deplorable by his fellows in the profession, and which would reasonably be regarded as disgraceful or dishonourable of Attorneys-at-Law of good repute and competence. Therefore, the Honourable Chief Justice was of the view that proceedings be instituted against the Respondent in terms of Section 42(2) of the *Judicature Act No. 2 of 1978*, read with Part VII of the *Supreme Court Rules of 1978* made under Article 136 of the Constitution.

10. Thereupon, as directed by the Honourable Chief Justice, a Rule was caused to be drafted by the Honourable Attorney General. The said Rule disclosed, *inter alia*, that the Respondent had conducted himself negligently and without due diligence, thereby acting in breach of Rules 10, 15, 16, 18, 18(a), 60, and 61 of the *Supreme Court (Conduct and Etiquette for Attorneys-at-Law) Rules of 1988*, promulgated under Article 136 of the Constitution.
11. Accordingly, in the matter of a Rule in terms of Section 42(2) of the Judicature Act No. 2 of 1978 instituted against the Respondent, this Court, having taken cognizance of the procedural and the factual circumstances surrounding the conduct of the Respondent, proceeds to make the following observations.
12. Section 42(2) of the Judicature Act reads thus;

42. (2) Every person admitted and enrolled as an attorney-at-law who shall be guilty of any deceit, malpractice, crime or offence may be suspended from practice or removed from office by any three Judges of the Supreme Court sitting together.

13. Rule 79(1) and 79(2) of the Supreme Court Rules states thus;

79. (1) Where the Supreme Court decides that proceedings for the suspension or removal of an Attorney-at-Law should be taken, the Court shall issue a Rule containing the charge or charges against the said Attorney-at-Law and call upon him to show cause, within a period of three weeks or such further time as the Court may deem fit, why he should not be suspended or removed from office.

(2) Such Rule shall be served personally on the Attorney-at-Law concerned, and in the event personal service cannot be effected, the Court may direct substituted service as it may deem fit.

14. Section 42(3) of the Judicature Act similarly provides that prior to any suspension or removal of an Attorney-at-Law, a notice containing a copy of the charge or charges against him, and calling upon him to show cause within a reasonable time shall be personally served on him, and where such service cannot be effected, the Supreme Court shall order substituted service.

15. Rule 80(1) provides as follows;

80. (1) If, on the day appointed for showing cause, the respondent does not appear or appears and states that he has no cause to show, the Supreme Court shall make such order in the Rule as it thinks fit.

16. On the direction of this Court, Notices were issued through the Fiscal of the District Court of Kandy at three given addresses of the Respondent, as reflected in the Journal Entry dated 22/05/2024;

- a. No. 33/4, Riverdale Road, Aniwatta, Kandy.
- b. No. 03, Colombo Street, Kandy.
- c. No. 44/13/C, Dammadassi Mawatha, Kandy.

17. It is evident from the Fiscal Report dated 07/06/2024 that the Notices were duly served on the Respondent at No. 44/13/C, Dammadassi Mawatha, Kandy, as reported to this Court. Despite the personal service of the Rule, the Respondent has continued to remain absent and unrepresented, and has failed to show cause against the charges. In the circumstances, this Court deems fit to proceed with this matter and make an appropriate determination.
18. The evidence adduced against the Respondent, as contained in the documents of record, the findings of the Disciplinary Committee, and the affidavit filed by the Complainant in these proceedings, remains uncontroverted.
19. This Court further observes that the Respondent had previously been suspended from practice for a period of seven years in proceedings instituted under SC/Rule/08/2014, decided on 25/09/2020, which arose from matters of similar misconduct. In that instance, the Respondent was found to be in breach of Rules 10, 15, 16, 60, 61, and 62 of the *Supreme Court (Conduct and Etiquette for Attorneys-at-Law) Rules of 1988*.
20. The Supreme Court (Conduct and Etiquette for Attorneys-at-Law) Rules of 1988 serve not as mere guidelines but as binding ethical obligations. Rules 10, 15, 16, 18, and 18(a) impose a duty of care, competence, and fidelity to clients, while Rules 60 and 61 enshrine the moral compass by which the profession must be guided. A breach of these Rules, particularly where it involves deceit, malpractice, or a failure to uphold fiduciary duties, strikes at the very heart of public confidence in the fair and proper dispensation of justice.
21. The Respondent's conduct, as established by the findings of the Disciplinary Committee and the affidavit evidence of the Complainant, demonstrates negligence and dishonour wholly incompatible with the

dignity and responsibilities of the legal profession. This recurrence of misconduct discloses a continuing pattern of professional delinquency, underscoring the Respondent's inability or unwillingness to conform to the standards expected of an Attorney-at-Law. Such conduct cannot be condoned or overlooked.

22. This Court is compelled to reaffirm that the practice of law is not a privilege to be exploited for personal gain, but a solemn calling which demands accountability, transparency, and ethical fortitude. Where an Attorney-at-Law fails to adhere to these standards, disciplinary sanction is not only justified but essential to preserve the integrity of the profession and to maintain public confidence in the administration of justice.
23. It is imperative to note that, pursuant to Section 40 of the *Judicature Act No. 2 of 1978*, this Court admits and enrolls as Attorneys-at-Law only those persons who are of impeccable character and who possess demonstrable competence in legal knowledge and professional aptitude. Upon enrolment, such Attorneys-at-Law are vested with the statutory authority to advise and represent clients, and to appear, plead, and act before any Court or other legally constituted forum entrusted with the administration of justice.
24. Accordingly, members of the public are entitled to entertain the reasonable expectation that Attorneys-at-Law whom they retain will discharge their professional duties with integrity, diligence, and fidelity. It can never be within the contemplation of such clients that their legal representatives would engage in conduct amounting to deception, breach of trust, or any act undermining the confidence reposed in them.
25. In terms of Section 42 of the Judicature Act, this Court is vested with the solemn responsibility of upholding and enforcing the professional standards attendant to the legal profession. In determining the

appropriate course of action in matters of this nature, the Court is duty-bound to consider the legitimate interests and expectations of the public, the imperative of preserving the integrity and efficacy of the administration of justice, and the necessity of maintaining the ethical and professional standards incumbent upon members of the legal fraternity.

26. The legal profession is not merely a vocation; it is a solemn public trust. As Justice A. R. B. Amerasinghe in “Professional Ethics and Responsibilities of Lawyers”, aptly states, “*The lawyer is expected to be a person of integrity and probity, and to conduct himself in a manner that inspires confidence in the legal system*”¹, that “*A lawyer must not only avoid impropriety but must also avoid the appearance of impropriety*”². This expectation is not aspirational; it is foundational. The conduct of an Attorney-at-Law must reflect the dignity of the office and the gravity of the responsibilities entrusted to it.
27. In cases where an Attorney-at-Law has acted in a manner that is disgraceful or dishonourable, Justice Amerasinghe affirms that “*The removal of a lawyer from the Roll is not a punishment; it is a necessary act to preserve the sanctity of the profession*”³. The Supreme Court, in exercising its disciplinary jurisdiction under Section 42(2) of the Judicature Act No. 2 of 1978, must therefore act not only to censure the individual but also to safeguard the collective integrity of the Bar.
28. The Respondent’s conduct, as found by the Disciplinary Committee, constitutes a breach not only of specific rules, but of the very ethos of the profession. The failure to act with diligence and honesty, particularly in fiduciary matters, is not a mere lapse, it is a betrayal of the professional oath.

¹ A. R. B. Amerasinghe, *Professional Ethics and Responsibilities of Lawyers* (1993 Stamford Lake), p3

² *ibid*, p 12

³ *ibid*, p 601

29. The Respondent's conduct, which amounted to deceit and malpractice, has eroded the confidence that clients and the public are entitled to place in Attorneys-at-Law. Such conduct is "inexcusable and deplorable"⁴ and must be met with the full force of disciplinary sanction.
30. In SC Rule No. 05/2022⁵, this Court observed that the Respondent's failure to file proper pleadings and maintain accurate records of client funds deemed "gross ineptitude and negligence", underscoring the imperative that Attorneys must act with scrupulous care and due diligence.
31. In ***Dhammika Chandratilleke v. Susantha Mahes Moonesinghe***, cited in SC Rule No. 04/2024⁶, and in SC Rule No. 05/2022⁷, this Court held that "*An attorney whose misconduct is criminal in character... may be struck off the roll... even though he had not been brought... before a court of competent criminal jurisdiction and convicted.*"
32. Having considered the entirety of the circumstances outlined above, including the Respondent's previous suspension from practice for a period of seven years in proceedings instituted under SC/Rule/08/2014, his repeated absence from Court proceedings, his lack of remorse, and his failure to take meaningful steps to mitigate the harm caused, thereby demonstrating a blatant disregard for the standards expected of an Attorney-at-Law, this Court is satisfied that the Respondent has engaged in acts of deceit and professional misconduct. The Respondent has thus conducted himself in a manner that is reprehensible and wholly incompatible with the dignity of the legal profession.
33. In light of the seriousness of the misconduct established against the Respondent, together with the aggravating factors previously discussed, this Court is satisfied that the Rule must be affirmed. Accordingly, the

⁴ *ibid*, p 598

⁵ SC Rule No. 05/2022, SC minutes of 03/09/2024

⁶ SC Rule No. 04/2024, SC minutes of 24/07/2024

⁷ n5

Respondent is forthwith removed from the Roll of Attorneys-at-Law in terms of Section 42(2) of the *Judicature Act No. 2 of 1978*.

34. The Registrar of the Supreme Court is directed to take necessary steps to ensure that this ruling is duly enforced and communicated to all relevant authorities.
35. Rule affirmed. The Respondent is disenrolled from the Roll of Attorneys-at-Law.

Judge of the Supreme Court

Mahinda Samayawardhena, J.

I agree

Judge of the Supreme Court

K. Priyantha Fernando, J.

I agree

Judge of the Supreme Court