Law Society of Singapore *v* Yong Wei Kuen Paul
[2020] SGHC 66

Case Number	: Originating Summons No 12 of 2019
Decision Date	: 01 April 2020
Tribunal/Court	: Court of Three Judges
Coram	: Sundaresh Menon CJ; Andrew Phang Boon Leong JA; Woo Bih Li J
Counsel Name(s)	: Harish Kumar s/o Champaklal (Rajah & Tann Singapore LLP) for the applicant; The respondent in person.
Parties	: The Law Society of Singapore — Yong Wei Kuen Paul

Legal Profession – Disciplinary proceedings

Legal Profession – Professional conduct – Breach

1 April 2020

Andrew Phang Boon Leong JA (delivering the judgment of the court *ex tempore*):

Preamble

1 The present proceedings arise out of two separate complaints dealt with by same Disciplinary Tribunal in two sets of disciplinary hearings (DT/3/2019 and DT/10/2018). The respondent did not appear before either Disciplinary Tribunal; he did not lead evidence or make submissions; and unsurprisingly was convicted of all the charges. He appears before us today claiming that he was ignorant of all that had transpired before the Disciplinary Tribunal and seeks an adjournment purportedly to seek legal advice and representation. He claims that he had purely fortuitously heard of these proceedings last night when another lawyer asked him about it.

2 We have no hesitation in dismissing this request which we regard as having been made in bad faith. Ms Angela Chopard of the Disciplinary Tribunal Secretariat ("the Secretariat") has sworn two Affidavits giving details of all the efforts made to serve the papers on the respondent and to contact him. The respondent claims all these documents never reached him. It is impossible to accept that when some of these documents were delivered by courier and/or sent by email.

3 But beyond that, as noted in the two Disciplinary Tribunal reports, the respondent was plainly aware of these proceedings:

(a) He filed a long written reply by way of a letter dated 9 June 2018 in respect of the complaint in DT/3/2019;

(b) After the conclusion of that hearing, he contacted the Secretariat and sent an email on 13 June 2019 to say that he had only learnt of these proceedings on the day before when his mother handed him a package;

(c) He confirmed in that conversation that the package in question had been sent to his registered address but he claimed that was his parents' residence and that he had never volunteered an alternative address;

(d) He also claimed in that conversation that emails sent by the Secretariat and by counsel for the Law Society had gone to his spam folder. If true, this means that he knew they were there, and perhaps did not want to or bother to look at them.

(e) He also claimed that he wanted to make submissions. The Secretariat informed him by letter dated 26 June 2019 that he should furnish any submission by 12 July 2019, but nothing further was heard from him.

(f) In relation to DT/10/2018, he called the Secretariat on 12 November 2018 to ask for an extension of time to file his defence. His number was recorded by the Secretariat and he was asked to make his request by email. He did that and the request was duly granted though he did not subsequently file his defence or respond to emails sent to the address from which he had emailed the Secretariat asking for the extension or respond to calls made to the number from which he had called the Secretariat.

4 These matters are all recorded in the two reports of the Disciplinary Tribunal and the only inference to be drawn from this is that he was doing all he could to evade service in order to mount a claim of ignorance. We will not stand for such reprehensible conduct by one who claims the privilege of being an officer of the court. We therefore deny the request for an adjournment.

Background to the present application

5 The respondent is an advocate and solicitor of the Supreme Court of some 20 years' standing. He last practised as the Managing Partner of Thames Law LLP ("the Firm"). His conduct arising out of *each* of the two independent sets of disciplinary proceedings against him constitutes an egregious departure from the standards and values which are an integral part of the legal profession in general and the practice of law in particular. Foremost amongst those values are honour, integrity and honesty, which are the lifeblood of any respectable justice system. As the court observed in *Law Society of Singapore v Rasif David* [2008] 2 SLR(R) 955 (at [52]):

> Such values are an integral part not only of life in general, but also of the legal profession in particular. No profession – not least the legal profession – can exist (let alone thrive) without them. Indeed, no life worth living can be lived without adhering to these values. … Devoid of the integral values outlined above, the legal profession would be no more than an empty shell, shorn of moral fibre. Its legitimacy and standing in the eyes of the public would be diminished and, beyond a certain point, would even be forfeit. This would be a tragedy in the light of the ideals which the legal profession embodies – the chief of which are to ensure that justice is achieved in each individual case by the objective application of general rules and principles (which are themselves, by definition, also objective), and (wherever possible) to lay down general principles that would aid in the resolution of future cases as well.

6 In the first set of proceedings brought before us, *ie*, DT/3/2019, six charges were brought against the respondent for orchestrating an illegal moneylending transaction which led one of his former clients to advance a substantial sum of money meant for a third party, none of which has been recovered. In the second set of proceedings, *ie*, DT/10/2018, the respondent faced four charges for not only failing to deliver the work he promised to a client, but also engaging in improper conduct in breach of the Legal Profession (Solicitors' Accounts) Rules (Cap 161, 1999 Rev Ed) ("SAR") and the Legal Profession (Professional Conduct) Rules (Cap 161, 2015 Rev Ed) ("PCR").

7 As already explained, while the respondent was absent and unrepresented in the disciplinary proceedings below, we are satisfied that he was furnished with the requisite details of the two

complaints and proceedings against him. In the circumstances, the respondent's conduct was far beyond the pale and falls squarely within ss 83(2)(*b*) and 83(2)(*h*) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("LPA"). We also find that his conduct established due cause for striking off under s 83(1)(*a*) of the LPA (see *Law Society of Singapore v Udeh Kumar s/o Sethuraju* [2017] 4 SLR 1369 ("*Udeh Kumar*") at [30]).

DT/3/2019

8 In DT/3/2019, the respondent approached his former client, Ms Oh, with what was, in substance, an illegal moneylending scheme disguised as a purported investment opportunity. Initially, false representations were made that if she were to advance $20,000 to the respondent's friend for about two weeks, she would receive $40,000 in return. As it turned out, the friend is one Cyndi, who was an undischarged bankrupt.

9 In total, $49,500 was transferred as a result of the respondent's representations. In return for these advances, Ms Oh expected to receive $160,000 back, being the sum of the principal amount and the promised returns. These monies were advanced by Ms Oh herself on several occasions (save for one); the respondent, in turn, was supposed to transfer it into the bank account of Cyndi's domestic helper, Ms Ismujiati. The details of the advances are as follows (see Disciplinary Tribunal's Report in DT/3/2019 at paras 9 and 61 to 63):

(a) On 16 May 2016, Ms Oh advanced **$28,000** in cash to respondent. According to the respondent, he deposited the sum into the POSB account of Ms Ismujiati, on Cyndi's instructions. However, the bank statements of Ms Ismujiati show that only $10,000 was deposited into her account on that day.

(b) On 17 May 2016, **$1,000** was transferred by Ms Oh to the POSB account of one Ho Mew Lin ("Ms Ho"), the respondent's mother. Ms Ismujiati's bank statements show that two sums of $70 and $930 were deposited into her account on the same day.

(c) On 24 May 2016, Ms Oh transferred **$8,000 and $3,000** to Ms Ho's account. According to the respondent, he transferred the same amounts to Ms Ismujiati. However, the bank statements show that only $9,060 was deposited into Ms Ismujiati's account that day.

(d) On 30 May 2016, as Ms Oh was unable to advance the amount requested, she requested her colleague, one Ms Clara Leong to do so. Ms Leong thus transferred **$9,500** to Ms Ho's account. According to the respondent, he withdrew another $500 in cash from his own account (which the respondent later sought reimbursement from Ms Oh) and transferred the total of $10,000 to Ms Ismujiati's account. However, the bank statements show that only $9,500 was deposited into her account that day.

10 This scheme was recorded in a series of agreements prepared by the respondent. Notably, the agreements record that Ms Oh was "not in the business of money-lending". The six successive agreements were signed by Cyndi, who acknowledged receipt of Ms Oh's monies and promised therein to return the ballooning principal, returns and interest thereon, which of course never materialised.

11 Moreover, the documentary evidence, in the form of the bank statements of Ms Ismujiati, show that of the $49,500 advanced by Ms Oh (and Ms Leong), only $29,500 was in fact transferred to Ms Ismujiati's bank account. Thus, a sum of almost $20,000 remains unaccounted for (see Disciplinary Tribunal's Report in DT/3/2019 at paras 64 and 65).

12 A total of six charges were brought against the respondent. They can be summarised as follows:

(a) The first charge is that the respondent facilitated moneylending transactions between Ms Oh and Cyndi prohibited under s 5 of the Moneylenders Act (Cap 188, 2010 Rev Ed).

(b) The second charge is that the respondent falsely or negligently made misrepresentations to Ms Oh concerning the trustworthiness of Cyndi, the genuineness of the purpose for which the advances were required and the legitimacy of the advances.

(c) The third charge concerns the respondent's failure to inform Ms Oh that he was in fact receiving some of the monies she was advancing and that he was thus an interested party.

(d) The fourth charge relates to the personal benefit that the respondent derived from the illegal moneylending transactions.

(e) The fifth charge is that the respondent failed to advise Ms Oh to seek independent legal advice in relation to the contemplated advances to Cyndi before she advanced the monies.

(f) The sixth charge is that the respondent dishonestly demanded the reimbursement of $500 from Ms Oh although he had not in fact advanced this sum to Cyndi.

13 We agree with the Disciplinary Tribunal that all six charges were made out. It is beyond peradventure that the respondent's conduct "represented a grave, persistent and unjustifiable departure from the most basic standards expected of an advocate and solicitor" (see *Udeh Kumar* at [30]). There is no doubt that the respondent's actions, which are accurately described as dishonest and not merely negligent, are most unbefitting an advocate and solicitor under s 83(2)(*h*) of the LPA. In fact, we would have had little difficulty in finding that his conduct was grossly improper within the terms of s 83(2)(*b*) of the LPA, although the Law Society did not rely on that provision in relation to the instant facts before us. Thus, we find that due cause for sanction under s 83(1) of the LPA is met.

14 We turn then to the question of the appropriate sanction. To our minds, the brazen dishonesty in the respondent's conduct *vis-à-vis* Ms Oh warrants a striking off. In short, notwithstanding the absence at present of any criminal charges against the respondent, all the evidence points towards a premeditated plan devised to swindle Ms Oh. The respondent abused the trust which Ms Oh reposed in him, no doubt flowing from their former solicitor-client relationship, and misled her into unlawfully lending a substantial sum of money to Cyndi under the guise of a profitable investment scheme. The circumstances surrounding the entire scheme, including the way the monies were being funnelled through different bank accounts, were most suspect. We do not think any of the representations made by the respondent in respect of Cyndi's trustworthiness or the legitimacy of the entire scheme could have been made in good faith. Rather, they disclose actual knowledge of the deception or, if not, at the very least, a callous disregard for the truth.

15 The respondent was by no means a mere conduit. What is perhaps most egregious is that while the respondent purported to have transferred the entirety of the $49,500 to Cyndi (via her domestic helper's bank account), the inescapable inference, which the Disciplinary Tribunal itself alluded to, is that the respondent had siphoned nearly $20,000 for himself in the process (see Disciplinary Tribunal's Report in DT/3/2019 at paras 64 and 65). Notably, in the face of the complaint brought against him, the respondent maintained in his letter to the Inquiry Committee that he had obtained no personal benefit through the scheme. This perfidious assertion was refuted once Ms Ismujiati's bank

statements subsequently became available.

16 Given the blatant and pervasive dishonesty practised, the unmistakable picture that emerges is that the respondent is unfit to continue as a member of the legal profession. In this case, we find that the presumptive penalty of striking off applied in cases involving dishonesty, as explained in *Law Society of Singapore v Chia Choon Yang* [2018] 5 SLR 1068 at [39]–[41], is a proportionate one.

DT/10/2018

17 We turn then to the second complaint made against the respondent. In DT/10/2018, IOCS Asia Pte Ltd ("IOCS") had approached the respondent for legal advice on whether a consent judgment could be varied so that a sale of certain property belonging to IOCS might be effected.

18 On the respondent's instructions, IOCS transferred two sums totalling $7,000, as deposits towards the firm's initial costs for services, into *the Firm's Office Account* instead of a client account, as is required under the SAR. Despite several meetings between Dr Haines of IOCS and the respondent, followed by repeated promises that a draft affidavit would be prepared, IOCS did not receive anything. Moreover, numerous follow-up emails and messages were sent by Dr Haines enquiring about the status of the draft affidavit. Multiple calls were made in attempts to reach the respondent. Most of the correspondence and calls from Dr Haines to the respondent between August 2016 and December 2016 were simply ignored. As a result, IOCS terminated its engagement with the respondent on 5 January 2017 and requested for a full refund of the deposits. It was only a few weeks thereafter on 23 February 2017 that the respondent finally sent the draft affidavit to Dr Haines.

19 As mentioned earlier, a total of four charges were brought against the respondent. The first and second charges relate to the respondent's breach of Rule 3(1) of the SAR by him directing Dr Haines to make two deposits of $2,000 and $5,000 into the Firm's Office Account instead of a client account. The third charge concerns the respondent's failure to return to IOCS the $7,000 in deposits after the termination of his services despite several requests to do so. This constituted a violation of a solicitor's duty of honesty under Rule 5(2)(*a*) of the PCR. Finally, the fourth charge concerns the respondent's failure to act with reasonable diligence and competence in the provision of his services as well as to promptly respond to client communications, in breach of Rule 5(2)(*c*) and Rule 5(2)(*f*) of the PCR respectively.

20 We agree with the Disciplinary Tribunal that all four charges were made out. The respondent's actions were in breach of the aforementioned rules and amounted to improper conduct as an advocate and solicitor under s 83(2)(*b*) of the LPA. In the circumstances, the conduct was of sufficient gravity to attract disciplinary sanction under s 83(1) of the LPA.

21 In our view, the facts underlying DT/10/2018 are also sufficient to warrant a striking off of the respondent. In all likelihood, the respondent had *deliberately* directed the complainant on two occasions to transfer the deposits into the Firm's Office Account in breach of the SAR. This is clearly distinguishable from cases of inadvertent breaches of the SAR (see, for example, *Law Society of Singapore v Tay Choon Leng John* [2012] 3 SLR 150). Subsequently, when IOCS terminated his engagement and sought a refund of the $7,000 in deposits, the respondent promised to do so but, to date, has not refunded them. While the amount in question is not large, the respondent's actions can only be described as deceitful. The inference in the circumstances seems to be that the deposits furnished by IOCS have been misappropriated by the respondent. When taken together with the respondent's lackadaisical approach towards IOCS' case, what stands revealed is a pattern of indolence and, more disconcertingly, unrepentance.

Conclusion

22 Therefore, on either complaint made against the respondent, we find that the only appropriate sanction is that the respondent be struck off the roll under s 83(1)(*a*) of the LPA, and we so order.

23 The respondent is also to bear the costs of the proceedings before both this court as well as before the Disciplinary Tribunal.

24 Because of the gravity of the allegations which constitute the subject matter of DT/3/2019 and DT/10/2018, we are referring the matter to the Public Prosecutor to investigate whether criminal charges ought to be brought against the respondent.

25 In closing, it is imperative to reiterate the inviolability of the values of honour, integrity and honesty in the legal profession. In this connection, it is noteworthy that the term "profession" has been defined as a group of men and women "pursuing a learned art … in the spirit of *public service*" (see Sundaresh Menon CJ, extra-judicially, in his 23rd Gordon Arthur Ransome Oration in 2017 entitled "Law and Medicine: Professions of Honour, Service and Excellence" (2017) 46 (No 9), Annals, Academy of Medicine 1 at p 1, quoting the noted American legal scholar, Prof Roscoe Pound (reference may also be made to Wee Chong Jin CJ, "The Legal Profession in Singapore – Past, Present and Future" [1980] 2 MLJ lvii at p lvii (1980 Braddell Memorial Lecture))). While some might be tempted to view much of this as idealistic pontification, the reality is that these values are reified in the robust and ethical *practice* of law. Lawyers would do well to hold fast to them, and society will be all the better for it.