Law Society of Singapore v Chiong Chin May Selena
[2005] SGHC 148

Case Number : NM 38/2005, OS 428/2005

Decision Date : 18 August 2005

Tribunal/Court : High Court

Coram : Chao Hick Tin JA; V K Rajah J; Yong Pung How CJ

Counsel Name(s) : Mimi Oh (Mimi Oh and Associates) for the applicant; Chung Ting Fai (Chung Tan and Partners) for the respondent

Parties : Law Society of Singapore — Chiong Chin May Selena

Legal Profession – Show cause action – Solicitor practising as sole proprietor – Solicitor failing to prepare or maintain financial records or documents – Solicitor allowing non-lawyer to be co-signatory of firm's office and client accounts – Relevant sentencing considerations where solicitor's conduct not dishonest and where such conduct resulting from solicitor being medically unwell – Appropriate penalty to impose for solicitor's grossly improper conduct – Sections 83(2)(b), 83(2)(j) Legal Profession Act (Cap 161, 2001 Rev Ed)

18 August 2005

V K Rajah J (delivering the judgment of the court):

Factual background

1 On 28 July 2005, we suspended the respondent from practice for a period of one year. In addition, an undertaking was secured from the respondent confirming that she would not resume practice as a sole proprietor thereafter without leave of court ("the undertaking"). We now give the reasons for our decision.

2 The respondent graduated from the National University of Singapore's Faculty of Law in 1994. Performing consistently well in all her school and undergraduate examinations, her academic history is nothing less than impressive. The respondent was admitted as an advocate and solicitor on 29 April 1995 and immediately thereafter started practice as a legal associate in an established law firm. Soon after, she gave birth to her first child in 1996. Most unfortunately, she began to experience post-natal depression, lapses of concentration and severe memory loss. She had no alternative but to stop working and was subsequently warded in Adam Road Hospital, a mental health institute, for a period of two months. While warded, she underwent intensive electro-convulsive therapy. Although she never fully recovered from her depression, this did not deter her from proceeding to have two more children. She experienced manic-depressive psychosis throughout this period and the condition continues to persist. As a result, the respondent continues to be on medication such as Prozac, Lithium, Valium and Taridenzin.

3 Upon her discharge from the Adam Road Hospital, the respondent was employed for short periods of time in no less than eight law firms. As a consequence of her medical condition and her failure to take the prescribed medication, she was unable to hold onto a job for any substantial length of time.

4 She then decided to start her own law practice, urged by what she felt as a compelling need to contribute to her family's financial well-being. She saw this as the only viable option open to her. She set up a sole practice under the name and style of M/s C M Chiong & Co ("the firm") in April 2003.

5 The respondent's husband, who was not a solicitor, acted as the guarantor for the firm's bank accounts. He was required by the bank to be co-signatory to the firm's office and client accounts and the respondent permitted this. This was of course in patent breach of the express wording of s 77(2) of the Legal Profession Act (Cap 161, 2001 Rev Ed) ("LPA").

6 The respondent was clearly not equipped professionally and/or mentally to cope with the rigours and demands of a sole proprietorship. After six months, she ceased practice. She did so precipitately without notifying any of her clients, the Law Society of Singapore ("the Law Society") or the Registrar of the Supreme Court.

7 The Law Society subsequently received inquiries from various law firms and the firm's clients, about the status of the respondent's practice. The chief executive officer of the Law Society, Ms Yasho Dhara Dhoraisingam, managed to contact the respondent on 10 September 2003. This led to a startling revelation. In setting up the firm, the respondent had been completely oblivious to the accounting requirements mandated by the LPA, *inter alia*, through the Legal Profession (Solicitors' Accounts) Rules (Cap 161, R 8, 1999 Rev Ed) ("Solicitors' Accounts Rules"). None of the requisite financial records and accounts had been duly prepared or maintained.

8 On 15 September 2003, the Council of the Law Society resolved to intervene into the firm's clients' account pursuant to s 74 and para 1(1)(*c*) of the First Schedule of the LPA. The respondent was most contrite in response to this. In two letters both dated 24 September 2003, the respondent unequivocally admitted and acknowledged that she had failed to keep any financial records, stating that she was prepared to face the consequences for her transgressions. An Inquiry Committee ("IC") was appointed. In a letter to the chairman of the IC dated 18 January 2004, the respondent pleaded:

> I started my career with a bang when I landed the much-coveted position of a legal assistant in M/s Lee & Lee being the top 20 of the graduating batch of 1994.
>
> I then gave birth to a child and suffered severe post-natal depression. I was warded in Adam's [*sic*] Road Hospital for 2 months and underwent intensive electro-convulsive therapy. Ever since then, my life has gone downhill. Till to-date, I am still on medication. I suffer from severe memory loss and loss of focus and concentration. As such, I was unable to keep any job for more than a few months.
>
> I always wanted the best for my children and therefore insisted on earning to contribute to the family's income. So I kept trying until I became unemployable as I was job-hopping too much.
>
> I then hit upon the idea of opening my own firm. I thought if I could do things at my own pace, maybe I can sustain my firm. However, things was [*sic*] not meant to be. *I knew next to nothing about starting my own firm. I did not realise that I had to keep all the books and accounts. In fact, I didn't even contribute CPF to my staff for which I almost got into trouble*.
>
> *I may be incompetent, careless and naïve but one thing you can be assure* [*sic*] *of, I am totally honest. I have made* [a] *mess of my life by opening the firm*. I borrowed money from banks and am now a bankrupt. I hope you will give me another chance. *Right now, I realise that I can contribute to my family even if I am not earning. I can look after my children and bring them up properly. I am much at peace and apologise very deeply for what I have not done. Please forgive me*.
>
> [emphasis added]

9 In its report, the IC recognised that the respondent had not been dishonest. Nonetheless, this was not sufficient to exonerate her from the serious professional lapses in question. The IC recommended that the respondent be referred to a Disciplinary Committee ("DC"). The IC also noted that the respondent had since been declared a bankrupt and was therefore disqualified from practising. We ought, however, to point out for the record that her bankruptcy was in no way related to her professional dealings in connection with the firm.

The Disciplinary Committee proceeding

10 The Law Society proffered the following charges against the respondent before the DC:

First Charge

That you, **Selena Chiong Chin May**, between 23rd April 2003 to [*sic*] 5th September 2003, has [*sic*] contravened or failed to comply with Rule 11(1), (2), (4) of the Legal Profession (Solicitors' Accounts) Rules in that you did not record in any client's cash book or ledger or journal your dealings with client's monies, which contravention or failure to comply with the said Rule warrants disciplinary action against you within the meaning of section 83(2)(b) of the Legal Profession Act (Cap. 161, 2001 Revised Edition).

Second Charge

That you, **Selena Chiong Chin May**, between 23rd April 2003 to [*sic*] 5th September 2003, has [*sic*] contravened or failed to comply with Rule 11(2)(a)(i) of the Legal Profession (Solicitors' Accounts) Rules, to keep or maintain properly written up cash books, ledgers and journals and such other books and accounts as may be necessary to show your dealings with clients' monies and you have thereby contravened section 83(2)(b) of the Legal Profession Act (Cap. 161, 2001 Revised Edition).

Third Charge

That you, **Selena Chiong Chin May**, authorized your husband, one Seet Swan Po, Andrew, who is/was not a lawyer at the material time between 23rd April 2003 to [*sic*] 5th September 2003, to be the co-signatory of both the office and client's accounts of the firm and maintained by the firm with your practice as solicitor, and is therefore an unauthorised person under the Legal Profession Act to operate the bank accounts of both the office and clients' account of the firm and you have thereby contravened section 77(2) of the Legal Profession Act (Cap. 161, 2001 Revised Edition), which contravention warrants disciplinary action against you within the meaning of section 83(2)(j) of the Legal Profession Act (Cap. 161, 2001 Revised Edition).

11 The salient facts narrated in the Statement of Case are as follows:

2. At all material times, between 23rd April 2003 to [*sic*] 5th September 2003, the Respondent practising under the name of **M/s C. M. Chiong & Co.**, did not maintain the following records:-

(i) Complete client's account payment vouchers;

(ii) Ledger accounts of clients' account;

(iii) Ledger listing of clients' accounts;

(iv) Complete cheque butts for office and clients' accounts.

3. The Respondent has also admitted to the Director of Professional Standards of the Law Society that her husband, one Mr. Seet Swan Po, Andrew, a non-lawyer, was made co-signatory to both the office and clients' accounts of the firm.

…

10. By way of a letter dated 24th September 2003 to the Law Society, the Respondent admitted that she had acted in breach of Rule 11 of the Legal Profession (Solicitors' Accounts) Rules.

…

12. At the hearing before the Inquiry Committee on the 5th March 2004, she confirmed and admitted to all the breaches of the Legal Profession (Solicitors' Accounts) Rules as well.

12 On 18 January 2005, the respondent appeared before the DC. She confirmed the accuracy of the Statement of Case and admitted to all three charges. She however insisted that she had never "intentionally" contravened the provisions of the LPA or the Solicitors' Accounts Rules; nor, she claimed, had she been "deceptive". The respondent pleaded with the DC not to strike her off the roll. She expressed her fervent belief that she would, with medication and rest, eventually recover from her existing medical problems. The respondent also informed the DC that she would shortly be applying to discharge herself from her bankruptcy.

13 In a letter dated 19 January 2005 addressed to the DC, Assoc Prof Leslie Lim, a senior consultant psychiatrist and the head of the Department of Behavioural Medicine, Singapore General Hospital, outlined the respondent's medical history and explained her behavioural swings and mood patterns:

I was asked by Selena Chiong to submit this medical report to you providing details of her psychiatric condition. *Selena had been receiving treatment for a Manic Depressive Psychosis for several years*. She had been under my care while I was then working as a Psychiatrist at the Institute of Mental Health (IMH). After I left IMH to work at the Singapore General Hospital, she stopped seeing me. *According to her, she had defaulted her treatment since December 2002*.

Sometime in early 2003, she became unwell. Her mood started becoming elated, she became impulsive and developed spendthrift habits. In addition, she described becoming more talkative than usual, started treating friends and colleagues to meals at restaurants and hotels and buying clothes and jewellery for herself. She even bought a second hand Mercedes Benz car. According to her mother, she would spend hours shopping, going from one shopping mall to another.

She started her own law firm, M/S CM Chiong & Co., between 23 April 2003 and 5 September 2003. When she failed to keep proper cashbooks, ledgers and journals and accounts of her legal practice, at the intervention of the Law Society, she was forced to close down her firm. Owing to excessive spending, failure in her law practice, and losses from speculation in the stock market, she owed $225,000 to banks and credit card companies. When she was unable to pay her creditors, she successfully filed for bankruptcy and was declared a bankrupt on 16 January 2004.

In my view, Selena's talkativeness, excessive spending, poor judgement, impulsivity and elated mood are features of a hypomanic phase of a Manic Depressive illness. *This relapse was most*

likely due to medication non-compliance. She is advised to continue with regular outpatient treatment and medication intake for the foreseeable future. *There is an extremely high risk of future relapses if she stops taking her medications*. I am also of the view that at the time of her starting and operating her law firm and when she was spending large sums of money in 2003 she was in relapse of a Manic Depressive illness. *This illness had caused clouding of judgement and hence the making of decisions without proper regard to their consequences*.

[emphasis added]

14 In her evidence to the DC the respondent explained:

… I continued to have two other children, despite my doctor's advice not to, because my husband wanted more children. I never recovered fully. But I didn't want to waste my degree and I wanted to support my parents. So I jumped from job to job and job to job, until my husband said if I can't take the stress, why not I got to my office and start my own firm. So he helped me start it. The reason why he was a co-signatory was because I had to open a bank account in the name of the firm but I didn't have enough in the income tax – in the CPF, I can't remember the financial statements, so my husband had to be the guarantor, so he had to be a co-signatory. I never knew that I was breaking any rule. Then after that, my husband had his own job and I just couldn't cope. I didn't want to do my own – never a litigation lawyer, I was a conveyancer, but all the cases that came to me were litigation lawyer. Until one day, I just gave up, I just walked out of the firm and refused to answer any calls. During this time, I also became very spendthrift. I incurred debts of two hundred over thousand and last year I petitioned for bankruptcy. But I still believe in God and I know that God will not only just give me one chance, He will give me many chances. I don't want to be struck off the roll. I studied hard for my degree. I studied hard. I worked, I studied. During my [pupillage] days, I worked extremely hard. That was my pre-marriage days. I was retained in my third month when all the others were retained only in their sixth month. *I don't want to be struck off the roll, because I want to be given another chance*. [emphasis added]

15 At the close of the DC hearing, the chairman informed the respondent that the DC was satisfied that she had not been dishonest. Nonetheless, it held that that finding alone could not excuse the breaches that the respondent had been charged with. The DC correctly concluded that the matter merited disciplinary action.

16 In its report, the DC made the following findings:

(a) that the respondent's failure to keep and maintain proper accounts and records throughout the six-month duration of her sole practice amounted to a continued course of serious and inexcusable disregard of her clients' interests, and amounted to grossly improper conduct of her professional duties pursuant to s 83(2)(*b*) of the LPA; and

(b) that the respondent's contravention of s 77(2) of the LPA in allowing her husband to be a signatory to her firm's accounts was wholly inappropriate.

17 Accordingly, the DC determined that there was a case of sufficient gravity in respect of all three charges for disciplinary action against the respondent pursuant to s 83 of the LPA. Following that determination, the Law Society applied for and obtained an order under s 98 of the LPA requiring the respondent to show cause before this court why she should not be dealt with under s 83 of the LPA.

The issues

18 The two main issues are:

(a) whether the respondent is able to show cause as to why she should not be punished under s 83 of the LPA ("showing cause"); and

(b) if not, what ought to be the appropriate penalty ("appropriate penalty").

Showing cause

19 Solicitors have been conferred a unique statutory privilege by Parliament for the purpose of facilitating the efficient discharge of their professional duties. They are allowed to hold moneys belonging to clients and third parties. This right in turn entails serious responsibilities. The public must be confident that moneys held or maintained by solicitors will be adequately safeguarded and legitimately disbursed at any cost. To this end, detailed accounting rules, practices and conventions have been put in place through subsidiary legislation and practice directions. All practising solicitors are *ipso facto* subject to the Solicitors' Accounts Rules and other relevant rules made pursuant to the LPA. The *raison d'etre* for these rules is clearly to protect the public against any unauthorised use of money maintained by solicitors and to instil in the public confidence that the legal profession is effectively regulated and policed. It is not enough that a solicitor conducts himself honestly in relation to the discharge of his professional duties. A solicitor also has to discharge his obligations and responsibilities competently and conscientiously. Observance of the relevant accounting rules, practices and conventions is a fundamental obligation that all solicitors must observe as a condition for their privilege to practise. We find an observation of Thomson CJ in *In re A Solicitor* (1962) 3 MC 323 at 323 apposite:

> The legal profession enjoys very great privileges. In return for these privileges they owe the public a duty and that duty involves not only an extremely high standard or probity but a way of conducting business, and particularly business in relation to financial matters, which is beyond suspicion. *In particular it is required, and it is part of the price the profession must pay for its privileges, that separate accounts of solicitors' money and clients' money should be kept*. [emphasis added]

20 Any breach of the Solicitors' Accounts Rules will be deemed to warrant disciplinary attention. Having said that, it is only right to acknowledge that there is a wide spectrum of breaches, ranging from trivial or technical infractions to more substantive or even heinous ones. Each case will have to be resolved on its merits. It seems neither possible nor practical to catalogue the various consequences for breaches of these obligations.

21 It is settled law that failure to maintain the requisite financial and/or accounting records inevitably results in a finding of professional misconduct. It is immaterial that the inadvertence was not inspired by improper motives. In the case of *In re A solicitor* [1972] 1 WLR 869, Lord Denning MR observed, at 873, that negligence "may amount to a professional misconduct if it is inexcusable and is such as to be regarded as deplorable by his fellows in the profession".

22 More recently, in the landmark decision of *Bolton v Law Society* [1994] 1 WLR 512, Sir Thomas Bingham MR (as he then was) asserted both pointedly and correctly on behalf of the Court of Appeal that even if the acts of a solicitor were honest, it would still be professional misconduct to depart from the rules that bound solicitors. It is plain to us that breaches of accounting rules made pursuant to the statutes governing the legal profession impose strict, if not absolute, liability on

solicitors. As such, no proof of wilful conduct is necessary to establish a breach of the Solicitors' Accounts Rules (compare with *Cordery on Solicitors* (LexisNexis Butterworths, 9th Ed, 2005) at para 1402).

23 This court has also held in *Law Society of Singapore v Lim Yee Kai* [2001] 1 SLR 721, that any failure to maintain proper accounts would be viewed seriously. L P Thean JA stated at [17] that:

> Where the rules relating to accounts are breached, disciplinary action is warranted under s 71(3) or s 83(2)(j) of the Act. … [S]uch contravention of the rules by the respondent amounted to grossly improper conduct in the discharge of his professional duty.

24 We further note that s 77(3) of the LPA clearly warrants disciplinary action against a solicitor who permits an unauthorised person to operate a solicitor's account in contravention of s 77(2) of the LPA.

25 In this case, there can be no doubt that the respondent was in patent breach of the relevant rules even if she was unaware of the applicability of the Solicitors' Accounts Rules. To say that she was unaware that the rules applied is hardly an excuse. All solicitors ought to be familiar with the rules made under the LPA and will at any rate be deemed to be aware of their existence and applicability. The breaches by the respondent can neither be dismissed nor trivialised. They were extremely serious and took place over a sustained period. In the circumstances, it is wholly unacceptable for the respondent to merely assert that she was ignorant. She was grossly negligent, to say the least, and this in turn amounts to grossly improper conduct. We find that all three charges by the Law Society have been made out.

Appropriate penalty

26 In *Law Society of Singapore v Ravindra Samuel* [1999] 1 SLR 696, this court held that the three primary factors that ought to be taken into account in determining the appropriate penalty are:

(a) protection of the public;

(b) safeguarding of the collective interests and standing of the legal profession; and

(c) the punishment of the offender.

These very factors were also adverted to by Thomson CJ in the case of *In re A Solicitor* ([19] *supra*). He said:

> [T]here are three interests to be considered … the interest of the practitioner, the interest of the profession and the interest of the public. *Of all these interests, if there be any conflict, the interest of the public must be paramount.* [emphasis added]

27 The general approach that this court will adopt in disciplinary cases involving solicitors is encapsulated in the following passage in *Law Society of Singapore v Ravindra Samuel* ([26] *supra*) at [15] (*per* Yong Pung How CJ):

(1) where a solicitor has acted dishonestly, the court will order that he be struck off the roll of solicitors;

(2) if a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, *he will nonetheless be struck off*

the roll of solicitors, as opposed to merely being suspended if his lapse is such as to indicate that he lacks the qualities of character and trustworthiness which are the necessary attributes of a person entrusted with the responsibilities of a legal practitioner.

[emphasis added]

28 We are persuaded and satisfied that the respondent was not dishonest in her conduct. She was medically unwell. She was unable to exercise her better judgment when she decided to commence a sole proprietorship. As Assoc Prof Leslie Lim succinctly stated in his report (see [13] above):

This illness has caused clouding of judgment and hence the making of decisions without proper regard to their consequences.

29 We also note, although this is by no means crucial, that no client or third party has suffered any financial loss as a consequence of her conduct. Nor is there any evidence before us that she professionally mishandled any files during her brief sojourn as a sole practitioner.

30 To sum it up, while there can be no doubt that the respondent has conducted herself and the affairs of the firm in a wholly inappropriate manner, one must acknowledge in the final analysis the absence of any client or third-party loss and, just as importantly, the absence of any element of dishonesty on the respondent's part. In *Law Society of Singapore v Prem Singh* [1999] 4 SLR 157, the respondent was charged with:

(a) failing to deposit his client's money into a client account as required by r 3 of the then applicable Solicitors' Account Rules; and

(b) failing to keep proper written accounts of his dealings with client's money as required by r 11(1)(*a*)(i) of the same Solicitors' Accounts Rules.

Finding that the solicitor was also not guilty of dishonesty in that case, the court determined that a suspension for a period of two years was appropriate. We note, however, that the solicitor in that case was a senior practitioner of 23 years' standing when the complaint was made against him. Furthermore, he could neither satisfactorily nor adequately explain nor justify his failure to adhere to the Solicitors' Accounts Rules.

31 We are mindful that the respondent is now a bankrupt and that we need, as such, to address the implications and ramifications of her bankruptcy. Pursuant to s 26(1)(*e*) of the LPA, a solicitor is barred from applying for a practising certificate if he is an undischarged bankrupt. The respondent is obviously unable to practise while she remains a bankrupt, but she has reiterated that she intends to apply for the discharge of her bankruptcy in the near future.

32 Bankruptcy does not, however, invariably connote dishonesty; nor does it preclude a solicitor from resuming practice once he has been discharged. The purport and intent of s 83(2)(*c*) of the LPA makes it amply evident that a solicitor who has been made a bankrupt, without being guilty of any impropriety, is not *ipso facto* denied a right to practise because of a prior act of bankruptcy or indeed, actual bankruptcy. A solicitor will have his name struck off the roll if he is found guilty of any of the acts or omissions specified in s 124(5) of the Bankruptcy Act (Cap 20, 2000 Rev Ed) ("BA"). In this case, the respondent did not commit or omit to do any of the acts stated in s 124(5) of the BA. Her bankruptcy was the direct consequence of her illness and clouded judgment. Assoc Prof Leslie Lim explained that her spendthrift habits were well-established symptoms of hypomania or mania.

33 We turn now to the appropriate penalty. In coming to a decision, we were faced with two primary concerns. First of all, what would happen if the respondent should fail to regularly take her medication? Secondly, should she fail to take her medication, would she attempt to commence another sole proprietorship again in future and commit further lapses? After some deliberation, we concluded that the interests of the public could be adequately protected by a confirmation from the respondent that she would not commence another sole proprietorship. When the respondent was asked if she was prepared to give such an undertaking, she promptly complied.

34 All things considered, we are of the view that the appropriate punishment must be tempered by some measure of sensitivity to the respondent's plight. This is an unusual case. Her indiscretions were caused purely by human frailty and not by a character defect or deficit. Her illness was triggered by the birth of her first child. The arrival of two more children only served to exacerbate her illness. The respondent is clearly an able person who ought to be able to practise once her medical condition stabilises. We note that there have been no complaints about her when she practised as an associate in various firms before she struck out on her own. Her present illness will hopefully not prove to be a permanent stumbling block. As long as she takes her medication and is adequately supervised at work, we are satisfied that there is no real risk of a professional relapse.

35 In the result, we are therefore of the view that a period of suspension from practice of one year coupled with the undertaking will be an appropriate penalty in this matter.

Conclusion

36 Turning now to the existing legislative requirements in connection with sole proprietorships, we note that s 75C of the LPA in essence mandates three years of experience by a solicitor before he commences a sole proprietorship. However, s 75C of the LPA only requires solicitors who are called on or after 1 March 1997 to complete a Legal Practice Management Course ("LPMC") prior to commencing practice, *inter alia*, as sole proprietors. For the ease of reference, s 75C of the LPA is now reproduced:

> 75C.—(1) No solicitor, who is admitted as a solicitor *on or after 1st March 1997*, may practise as a solicitor on his own account or in partnership or as a director of a law corporation unless he —
>
> (*a*) has successfully completed such legal practice management course within such time as the Council may by rules made under section 71 prescribe; and
>
> (*b*) has, since being admitted as a solicitor, been employed for not less than 3 continuous years or 3 years out of a continuous period of 5 years in the practice of a solicitor in Singapore or in the practice of a law corporation; or
>
> (*c*) has been employed as a legal officer for not less than 3 continuous years or 3 years out of a continuous period of 5 years.
>
> (2) The Council may, with the approval of the Minister, exempt a solicitor from subsection (1) (*a*) or shorten any period referred to in subsection (1) (*b*) and (*c*) if it is satisfied that the solicitor has gained substantial experience in law in Singapore or elsewhere.
>
> (3) Subsection (1) shall not apply to a solicitor who practises in partnership with any solicitor who has been in active practice in Singapore for not less than 3 continuous years or 3 years out of a continuous period of 5 years.

(4) Subsection (1) shall not apply to a solicitor who is a director of a law corporation if at least one of the directors of that law corporation is a solicitor who has been in active practice in Singapore for not less than 3 continuous years or 3 years out of a continuous period of 5 years.

[emphasis added]

As the respondent was admitted to the roll on 29 April 1995, s 75C of the LPA could not, and did not, apply to her. The Law Society therefore approved her application for use of her name as a sole proprietor as a matter of technical formality, without requiring her to complete the LPMC as mandated by s 75C of the LPA. As a result of this lacuna, the respondent was able to commence and carry on a practice that ultimately culminated in alarming, albeit inadvertent, breaches of the Solicitors' Accounts Rules.

37 Such a lacuna appears literally to amount to a legislative slip between the cup and the lip. In our view, the requirement to complete the LPMC ought to apply without any qualification to all practitioners who commence sole proprietorships for the first time, and should not be confined merely to those admitted after 1 March 1997. Perhaps the time has also come to consider whether it is necessary to initiate further appropriate steps to examine the competence and fitness of all solicitors who aspire to *commence* a sole proprietorship. Individuals commencing sole proprietorships must be properly equipped with the necessary management, accounting and professional skills, and most crucially, ethical values, to competently and diligently discharge their professional responsibilities. Public interest demands this. Parliament and the Law Society ought to probe further into this matter. In this regard, the prerequisite of three years' experience as presently stipulated by s 75C of the LPA should be reappraised and possibly raised.

38 This matter pinpoints the dilemma associated with the regulation and policing of sole proprietorships: excessive and overzealous regulation and policing will inevitably constrict the ability of sole practitioners to practise competitively; insufficient or inadequate regulation and policing on the other hand may present more opportunities for inappropriate conduct. Neither situation is desirable. Sole practitioners play an important role in the provision of legal services. A large majority of sole practitioners discharge their professional obligations competently and conscientiously. Nevertheless, there seems to be an increasingly worrying trend of a certain number of sole practitioners transgressing, and in some instances, blatantly flouting their professional obligations and responsibilities.

39 We take this opportunity to make some general observations on the decidedly tangible and disquieting swell in the number of disciplinary cases finding its way to DCs and/or the court. The collective standing and reputation of the profession hinges primarily upon the public perception of, and confidence reposed in, its members. The profession cannot afford to compromise its standing and reputation. The esteem it commands is its greatest asset.

40 Sole proprietors recently appear to be involved in a disconcertingly conspicuous number of disciplinary cases involving the dishonest misappropriation of moneys and/or professional misconduct. It is axiomatic that a chain is only as good as its weakest link. If left unchecked, current disciplinary statistics certainly do not augur well for the legal profession's collective image or standing. Conscious and concerted efforts must be made by the Law Society and all stakeholders in the legal profession to arrest any erosion of standards and discipline. Granting, once again, that most practising solicitors discharge their professional responsibilities competently and conscientiously, the profession simply cannot afford to allow the current growing trend of professional misconduct to pass unheeded. At any rate, we can say with certitude that no solicitor who is referred to court can expect his or her conduct to be dismissed lightly. This matter must be regarded as a case with exceptional

circumstances that warrants exceptional treatment.

41 As a rule, in addition to the three considerations adverted to earlier (see [26] above) we will in future accord careful thought, in every case that comes up, to the notion of deterrence as a further sentencing consideration. As the court observed in *Law Society of Singapore v Ravindra Samuel* ([26] *supra*) at [11]:

> The orders made must therefore accord with the seriousness of the default and leave no doubt as to the standards to be observed by other practitioners. *In short, the orders made should not only have a punitive, but also a deterrent effect*. [emphasis added]

Solicitors who are found wanting in any aspect of probity, integrity, competence or conscientiousness must be prepared for appropriate sentences. Such sentences will leave both the profession and public in no doubt that while solicitors have been accorded extraordinary privileges, they are in turn entrusted with extraordinary responsibilities. The public must always rest assured that solicitors who lack these wholly essential and indispensable attributes will be promptly and appropriately dealt with. Both the public and the profession stand to gain if legal practice is restricted exclusively to persons of integrity who discharge their responsibilities competently. Solicitors play a vital role in society and must collectively be seen to be above reproach if they are to discharge that role effectively. Every disciplinary case is one too many.

Respondent suspended from practice for one year.