

Law Society of Singapore v Loh Wai Mun Daniel
[2004] SGHC 36

Case Number : OS 1512/2003
Decision Date : 23 February 2004
Tribunal/Court : High Court
Coram : Chao Hick Tin JA; Tan Lee Meng J; Yong Pung How CJ
Counsel Name(s) : Zaheer K Merchant (Madhavan Partnership) for applicant; Respondent absent
Parties : Law Society of Singapore — Loh Wai Mun Daniel

Legal Profession – Show cause action – Advocate and solicitor convicted of criminal breach of trust – Weight to be given to mitigating factors – Appropriate order to be made – Section 83(1) Legal Profession Act (Cap 161, 2001 Rev Ed), s 409 Penal Code (Cap 224, 1985 Rev Ed)

23 February 2004

Yong Pung How CJ (delivering the judgment of the court):

1 This was an application by the Law Society of Singapore (“the Law Society”) under s 98(5) of the Legal Profession Act (Cap 161, 2001 Rev Ed) (the “LPA”) to make absolute an order to show cause. We granted the application and ordered the respondent, Daniel Loh Wai Mun, to be struck off the roll of advocates and solicitors. We now give our reasons.

Facts

2 The facts of this case were undisputed. The respondent was an advocate and solicitor of the Supreme Court of Singapore of some 11 years’ standing, having been called to the Bar in 1992. At all material times, he was practising as a sole proprietor in the firm of Daniel Loh & Partners. The respondent acted for his clients in various property transactions. In the course of his work, he would receive a percentage of the purchase price of the properties he was dealing with, to be held as stakeholder moneys. In addition, he was also trustee over funds which had been released by banks as loans to his clients. The respondent was to apply these funds to making progress payments on behalf of his clients to either vendors or developers.

3 Instead, the respondent used these moneys indiscriminately – sometimes using one client’s moneys to make progress payments for other clients, and at other times using the moneys to pay off his personal credit card debts. In short, he displayed a complete disregard for his obligations under the Legal Profession (Solicitors’ Accounts) Rules (Cap 161, R 8, 1999 Rev Ed). Between 1997 and 2001, the respondent misappropriated a total of \$881,887.68 of his clients’ moneys.

4 The law eventually caught up with him. On 27 August 2001, the respondent was charged with eight counts of criminal breach of trust as a servant under s 409 of the Penal Code (Cap 224, 1985 Rev Ed). He pleaded guilty to four of the charges, and the other four were taken into consideration for the purposes of sentencing. He was sentenced to a total of four and a half years’ imprisonment.

The show cause proceedings

5 Given that he was convicted of an offence that involved an element of dishonesty, the Law Society made an application, without any further directions, as was required under s 94A of the LPA,

for the respondent to show cause why he should not be dealt with under s 83(1) of the LPA.

6 The respondent was not represented, nor was he present to make any submissions before us on this point. Nevertheless, by virtue of the fact that this court must accept his criminal convictions as final and conclusive: *Law Society of Singapore v Wong Sin Yee* [2003] 3 SLR 209, there was little that could have been said in this respect. Given that the offence involved dishonesty committed in his capacity as advocate and solicitor, that, in itself, was sufficient for this court to determine that due cause had been shown under s 83(2)(a) of the LPA, which provides as follows:

Such due cause may be shown by proof that an advocate and solicitor has been convicted of a criminal offence, implying a defect of character which makes him unfit for his profession

7 As such, the sole issue that concerned this court was the determination of the appropriate order to be made under s 83(1) of the LPA.

Appropriate order to be made

8 Where a solicitor has been convicted of a criminal offence involving fraud or dishonesty, the court has almost invariably, no matter how strong the mitigating factors, chosen to strike a solicitor off the roll: *Law Society of Singapore v Ravindra Samuel* [1999] 1 SLR 696.

9 In this case, we saw no reason to depart from the norm. This appeared to us to be a typical case of a solicitor who could not be trusted to keep his paws out of the honey pot. This was just one of several cases last year involving solicitors in sole proprietorships who had misappropriated their clients' moneys. Given the prevalence of such unconscionable behaviour, we found that tough action needed to be taken against these knaves, both to deter those who might seek to do the same, as well as to prevent the good name of the profession from being tarnished by these recalcitrant few.

10 The respondent was not present to make any submissions on mitigating factors. Regardless, we found that any mitigating factors, even if present, would have been of little avail. As the court in *Law Society of Singapore v Tham Yu Xian Rick* [1999] 4 SLR 168 noted, where the case involves an offender of proven dishonesty, the weight to be attached to a plea in mitigation is negligible, and a striking off will be the consequence as a matter of course.

11 In the event, we granted the Law Society's application, and ordered the respondent to be struck off the roll. We further ordered that he should bear the costs of these proceedings.

Order accordingly.