

Law Society of Singapore v Jayaram Bala Subramaniam
[2005] SGHC 169

Case Number : OS 243/2005, NM 50/2005
Decision Date : 12 September 2005
Tribunal/Court : High Court
Coram : Chao Hick Tin JA; Tan Lee Meng J; Yong Pung How CJ
Counsel Name(s) : Aziz Tayabali (Aziz Tayabali and Associatees) for the applicant; Respondent absent
Parties : Law Society of Singapore — Jayaram Bala Subramaniam

Legal Profession – Show cause action – Advocate and solicitor convicted of criminal breach of trust under s 409 Penal Code (Cap 224, 1985 Rev Ed) – Advocate and solicitor convicted of dishonest misappropriation of money under s 406 Penal Code – Appropriate order to be made – Sections 83(1), 98(5) Legal Profession Act (Cap 161, 2001 Rev Ed), Sections 406, 409 Penal Code (Cap 224, 1985 Rev Ed)

12 September 2005

Tan Lee Meng J (delivering the judgment of the court):

1 This case concerns an application by the Law Society of Singapore (“the Law Society”) pursuant to s 94A, read with s 98(1), of the Legal Profession Act (Cap 161, 2001 Rev Ed) (“the LPA”), for the respondent, Mr Jayaram Bala Subramaniam, an advocate and solicitor of the Supreme Court of Singapore, to show cause why he should not be dealt with under s 83(2)(a) of the LPA. We ordered the respondent to be struck off the roll of advocates and solicitors and now give the reasons for our decision.

Background

2 The respondent, who was called to the Bar on 8 November 1978, was the sole proprietor of M/s Bala & Co (“the firm”) at all material times. In breach of his obligations to his clients, he used funds in the clients’ account for his personal expenses. The amount of clients’ money misappropriated by him was \$238,420.60 and he only managed to return \$109,700.00 to them.

3 Eight charges were preferred against the respondent. With respect to breach of trust, he faced six charges under s 409 of the Penal Code (Cap 224, 1985 Rev Ed) and one charge under s 406 of the Penal Code. He also faced a charge under s 33(2) of the LPA for preparing a sale and purchase agreement between June to September 2001 when he did not have a practising certificate to act as an advocate and solicitor.

4 The Prosecution proceeded with only four charges. The first charge relates to the purchase of a property by two of the respondent’s clients, Ms Nancy Arifin and her late father, in 2000. Ms Arifin took a loan from Overseas Union Bank (“OUB”) to finance the purchase of the property and a cashier’s order for \$35,061.60 was forwarded by OUB to the respondent for payment of the stamp and registration fees for the transfer of the property. This sum was misappropriated by the respondent.

5 The second charge concerned the purchase of property by Pang Jang Enterprises Pte Ltd (“Pang Jang”). On 20 July 1999, the respondent requested Pang Jang to forward to him \$11,338 for the registration and stamp fees due for the transfer of the said property. After receiving this sum from Pang Jang, the respondent misappropriated it.

6 The third charge faced by the respondent was in relation to his dealings with Chip Soon Aluminium Pte Ltd ("Chip Soon"). He requested Chip Soon to hand over a sum of \$45,658 to him for the purpose of paying for the registration and stamp fees due on the transfer of a property being purchased by the company. After receiving the funds from Chip Soon, he used the money to pay for his own expenses.

7 As for the fourth charge against the respondent, the complainant was Mr Manganmal Jhamathmal Lalwani ("Lalwani"), who engaged the former to handle the purchase of a property. Lalwani forwarded to the firm two cheques, one for \$30,000 and the other for \$6,663, for the purpose of paying a deposit to the vendor and for registration and stamp fees. The respondent used the money to pay his own creditors.

8 The respondent, who said that his sole purpose in misappropriating the funds in question was to pay his staff and his office rental, pleaded guilty to the charges against him. He asked the court to note that he had fully and willingly co-operated with the police and had volunteered information to them so that the investigation could be concluded speedily. On 30 August 2002, he was sentenced to imprisonment for a term of 39 months. He has since served the sentence.

9 Pursuant to s 94A(1) of the LPA, the Law Society proceeded with an application for the respondent to show cause why he should not be dealt with under the provisions of s 83(2)(a) of the LPA. On 16 October 2004, a show cause Order of Court was obtained and in the proceedings before us, the Law Society applied for this show cause order to be made absolute and for the respondent to bear the cost of the proceedings.

10 Cases of dishonest use of clients' funds must be viewed very seriously by the court. In *Law Society of Singapore v Ravindra Samuel* [1999] 1 SLR 696 at [12], the court, while referring to the requirement that lawyers be honest in their work, stated as follows:

The administration of justice can only proceed on the basis that solicitors can place reliance upon the honesty of the solicitors with whom they deal. The public too must be able to repose confidence in a profession which plays so indispensable a part in the administration of justice. Similarly, the courts of this country must be able to depend on the honesty and integrity of all practitioners appearing before them and to expect that they will maintain the highest standards of personal honesty and integrity in their dealings with the courts.

11 For the purpose of determining the appropriate penalty to be imposed on the respondent, it is worth noting that in *Law Society of Singapore v Lau See-Jin Jeffrey* [1999] 2 SLR 215, the court noted that disciplinary action under s 83 of the LPA serves three functions, namely the punishment of the errant solicitor, deterrence against similar defaults by other solicitors in the future and the protection of public confidence in the administration of justice. In *Law Society of Singapore v Ravindra Samuel*, the court held that where a solicitor had acted dishonestly, he should be struck off the roll of advocates and solicitors. The court accepted at [13] that it had a duty to itself, to the rest of the profession and to the community "to be careful not to accredit any person as worthy of public confidence and therefore fit to [practise] as an advocate and solicitor who cannot satisfactorily establish his right to those credentials".

12 The respondent in the present case has been convicted of committing criminal breach of trust and dishonest misappropriation of money entrusted to him by his clients. By committing these offences, he has shown that he is unfit to practise as an advocate and solicitor. We thus ordered the respondent to be struck off the roll of advocates and solicitors. We also ordered him to pay the cost of these proceedings.

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