

THE LAW SOCIETY OF ZIMBABWE
versus
BRUCE BEVEN MUJEYI

THE LEGAL PRACTITIONERS DISCIPLINARY TRIBUNAL
BHUNU & CHATUKUTA JJ
HARARE, 26 July 2013 and 27 September 2013 and 18 October 2013 and 15 November
2013 and 18 July 2014 and 5 September 2014 and 20 March 2015 and 21 October 2015

The legal practitioners' disciplinary tribunal

C H Dzinamarira, for the applicant
T Muhonde and C F Nyamudanda, for the respondent

BHUNU J: The applicant is a professional body for legal practitioners. It is responsible for enforcing discipline among legal practitioners in terms of the Legal Practitioners Act [*Chapter 27:07*], whereas the respondent is a legal practitioner subject to disciplinary action in terms of the Act.

On 6 May 2013 the applicant filed an application to this tribunal seeking the deregistration of the respondent from practising as a legal practitioner, prohibition from operating any trust or business account and placement of his law firm under curatorship.

The application was founded on the respondent's alleged numerous malpractices and abuse of his trust account. Scores of his clients wrote to the applicant in its capacity as the regulatory authority for all legal practitioners complaining of various acts of professional malpractices committed by the respondent which may be summarised as follows:

- 1.1 On 24 January 2012 the applicant received a written complaint from Mr Kenias Chawadya alleging that the respondent had negligently failed to appear at a hearing resulting in a default judgment being entered against his company in a labour case. Despite having failed to represent the complainant company at the trial, he was unable to account for an amount of \$18 980.00 deposited into the Deputy Sheriff's trust account.

- 1.2. When confronted he admitted liability and promised to repay the money. He however fled to South Africa without repaying the money. The money remains outstanding to date and the applicant's written enquiries have enlisted no response from the respondent.

2. On 17 May 2010 he is alleged to have accepted a brief from Elcombes to represent them in an eviction case (but took no action to represent his client). Despite having failed to account to the complainant on progress made in the matter, when requested to relinquish the file to substitute lawyers he refused claiming payment but has since failed to bill the client for work he claims to have done.

4. On 12 March 2011 the applicant received a complaint from Gill Godlonton and Gerrans, a firm of lawyers, to the effect that twice the respondent negligently failed to file a plea on behalf of his client Paul Gary Friendship resulting in the client being barred.

5. On 14 November the applicant received a complaint to the effect that the respondent had received \$30 750.00 from Cindy Stains of Kennan Properties for the purpose of paying utility bills. He however only used \$11 430.00 for the purpose and he converted the balance of \$19 320 to his own use. He then fled the country leaving his co-partner to make good the loss.

The respondent has no real defence to the allegations levelled against him. His is more a plea for mercy rather than a defence of substance. In short his plea is that he committed the offences while suffering under severe stress. He alleges that his ex-wife must have cast on him a spell which caused him to misbehave in the manner alleged by the applicant. He then goes on to narrate a host of misfortunes that befell him as a result of the alleged spell cast upon him by his ex-wife. His hitherto flourishing furniture and gold purchasing businesses suddenly collapsed. His driver was involved in a serious accident while taking his daughter to school. Thankfully both escaped unhurt. His professional assistant was however not so lucky as he sustained a broken leg in a separate accident that night.

A few days after the freak mysterious accidents the mother of his son passed away in Swaziland. He had to travel all the way to Swaziland for burial arrangements. After attending to the burial, the vehicle used to ferry his son to and from school mysteriously caught fire.

In the midst of all these misfortunes he got involved in a case in which his clients and certain members of the CIO extorted large amounts of money and vehicles from him.

The respondent claims to have been so stressed as a result of all these trials and tribulations to the extent that he completely lost control of his mental faculties to the point of contemplating suicide. As a result he has no independent clear recollection of the events surrounding the allegations against him.

Finally he claims to have been involved in a stage managed accident and haunted out of his office and the country by members of the CIO when he crossed swords with a certain unnamed Minister of Finance during which he was vasectomised.

In conclusion after having narrated a litany of his misfortunes, the respondent did not deny the allegations levelled against him but pleaded for mercy and the benefit of another chance. This can best be illustrated in his own words at para 3 (iv) when he says:

“The Respondent has come a long way since the besetting of his problems. He respectfully submits that applicant should have waited for the progress on and completion of reimbursements of funds to Kenan Properties in addition to waiting for the respondent to recover fully as well as for the conclusion of the matter pending at the High Court. However, the Applicant has seen it fit to institute these proceedings and the Respondent leaves the matter in the able hands of the Tribunal with a view to revisiting the matter once he has the full wherewithal.”

The respondent also admitted the fourth allegation levelled against him by the applicant at p 5 of the record of proceedings where he says:

“Ad paragraph 4 – 6 – Elcombes

In this matter the Respondent accepts a level of blame for the manner in which he responded to the letter that was written by Messrs Scanlen & Holderness at the time. He recalls that upon discussing the matter with Applicant he apologised in writing as well as in person at a meeting that was held at his then office to the Legal Practitioner concerned and did not expect this matter to be raised in this proceedings(sic)because, again, after he gave his version of events in correspondence that has not been attached to these proceedings he was not officially notified of the applicant’s verdict on the matter. In fact the Respondent had hoped that this matter had been concluded. Suffice to state that the Respondent hereby formerly tenders an apology to both the secretary of Applicant and the Tribunal regarding his conduct in this specific matter.”

The respondent having made the above damning admissions of guilt it is not necessary to exhaust all the allegations against him. Suffice it to say that s 5 (1) (f) of the Act requires a legal practitioner to be a fit and proper person to practice law. He must be an upright person whose character and handling of clients and trust funds is beyond reproach. By his own admission the applicant can hardly be said to be a fit and proper person to practise law.

For starters he claims to be a psychiatric patient in need of treatment and rehabilitation. He admits to having conducted himself in an improper, dishonest, unworthy and dishonourable conduct in the course of his duties. It does not seem to matter to me whether or not the misbehaviour was occasioned by stress or psychiatric problems. The bottom line is that he is not a fit and proper person to practise the noble profession of law. In the result the application can only succeed. It is accordingly ordered that:

1. In terms of s 28 (1) (c) (i) of the Legal Practitioners Act [*Chapter 27:07*], the respondent's name be and is hereby deleted from the Register of Legal Practitioners, Notaries Public and Conveyancers;
2. The respondent be and is hereby prohibited from operating any trust account or business account of his own accord in terms of the Legal Practitioners Act [*Chapter 27:07*]
3. The respondent's Law Firm be and is hereby placed under curatorship to administer trust accounts or business accounts with such rights, duties and powers in relation thereto as the Disciplinary Tribunal may consider fit.
4. The respondent pay the expenses incurred by the applicant in connection with these proceedings at the Secretary of the applicant's rate.

CHATUKUTA J agrees

The Law Society of Zimbabwe, applicant's legal practitioners
Muhonde Attorneys, respondent's legal practitioners