

Decision of the Disciplinary Committee
of the General Legal Council

Complaint No. 14/08

IN THE MATTER of a Complaint by Albert
Rose against Charles Sinclair, Attorney-at-Law

A N D

IN THE MATTER of the Legal Profession Act.

PANEL

Mrs Pamela Benka –Coker, Q.C
Miss Beryl Ennis.
Mr. Charles Piper

This is a Complaint laid on 11th day of December 2007 in which the Complainant Mr.

Albert Rose complained that his Attorney Mr. Charles Sinclair

1. Has not dealt with his business with all due expedition
2. has acted with inexcusable or deplorable negligence in the performance of his duties.
3. has not provided him with all information as to the progress of his business with due expedition , although he had reasonably required the Attorney to do so.

The complaint came up for hearing on 21st June, 2008 and the Attorney was absent. On the matter coming up for hearing on the 20th September 2008, Mr. Sinclair was again not present.

At the hearing of 21st June, 2008 there being no answer from Mr. Charles Sinclair the Panel noted that he was properly served with the Notice of Hearing under the provisions of Rules 5 & 21 of Schedule 4 of the Legal Profession Act and exercised its discretion to proceed with the hearing in the absence of Mr. Sinclair in accordance with Rule 8 of the 4th Schedule of the Legal Profession Act.

The Panel heard testimony from the Complainant and his witness, daughter Amelia Rose.

THE FACTS

This complaint arose from the length delays leading to the non-completion of the complainant's instructions, namely, to obtain a Certificate of Title under the Registration

of Titles Act for lands he owned in the parish of Westmoreland, namely, lands part of Gardner's Pen, Bridgewater, Westmoreland.

The Complainant by his testimony retained Mr. Sinclair 8-9 years ago, paid him \$40,000.00 to commence this Application for registered Title. He also gave him the diagram for the land.

As at the dates of hearing the Complainant had not received a Certificate of Title for these lands.

The Complainant relates in his testimony that he visited the Attorney's Office enquiring of the progress in obtaining his Title. He was always told he would soon get it.

The Complainant testified also that his daughter would also visit the Attorney's Office over the years in an effort to secure or to enquire of the Attorney's progress in securing this Title.

In desperation he sought to retrieve the papers delivered to the Attorney for making the application but the Attorney has refused to return them to him.

The Complainant's daughter Amelia Rose also testified.

From her testimony she lives in West Palm Beach, Florida, United States of America and would visits Jamaica from time to time.

On these visits she would attend at the Attorney's Office on behalf of her Father, her first visit being in 2003. Over the years 2003 to 2008 the visits have proven non-fulfilling as the registered Title has still not yet been obtained.

The Panel notes that the Attorney has ignored and or refused to respond to the Complaints filed with the Disciplinary Committee of the General Legal Council and that he has neglected or refused to attend any hearing. Notes of evidence taken from the Claimant and his Witness were sent to the Attorney to provide him with a further opportunity to deal with the complaint, but this has not evoked any response from him.

FINDINGS

On the evidence, the Panel is satisfied beyond reasonable doubt that in breach of Canon (1v) (r) of the Legal Profession (Canons of Professional Ethics) Rules, Mr. Charles Sinclair has not dealt with the Complainant's business with all due expedition.

Further in breach of Canon IV (s) the Attorney Mr. Charles Sinclair has acted with inexcusable neglect.

In all the circumstances and in pursuance of Sec. 12 (4) (C) of the Legal Profession Act, we impose the following sanction:

1. We order the Attorney, Mr. Charles Sinclair to make full restitution to the Complainant of the sum of Forty Thousand Dollars (\$40,000.00) paid to him, with interest thereon at the rate of 10 per centum per annum computed from the 20th September 2000 to date of payment.
2. The Attorney Mr. Charles Sinclair is to pay a fine of Three Hundred Thousand Dollars (\$300,000.00) of which Two Hundred and Fifty Thousand Dollars (\$250,000.00) is to be paid to the Complainant, Mr. Albert Rose, and the sum of Fifty Thousand Dollars (\$50,000.00) is to be paid to the General Legal Council.
3. The said fine is to be paid forthwith.

DATED THE 9th DAY OF May, 2009


PAMELA BENKA COKER


BERYL ENNIS


CHARLES PIPER