

**DECISION OF THE DISCIPLINARY COMMITTEE OF THE GENERAL
LEGAL COUNCIL**

IN THE MATTER of MILLICENT FORREST
v CARLTON CAMPBELL, an Attorney-at-Law
A N D

IN THE MATTER of the Legal Profession Act.

Complaint No. 234 /2002

Coram: Mrs Gloria Langrin
Miss Beryl Ennis
Mr Stephen Shelton

Hearings: 18th, March 2006 & 29th, November 2008

BACKGROUND

MS FORREST (hereinafter called the Complainant) complained by Affidavit dated September 4, 2002, that her Attorney-at-Law, MR CARLTON CAMPBELL (hereinafter called the Attorney), had not dealt with her business with due expedition and had acted with inexcusable or deplorable negligence in the performance of his duties contrary to Canons IV r and s.

In support of her case, the Complainant deponed, that she had retained the services of the Attorney in 1996, to obtain a registered certificate of title for a parcel of land and to date the Attorney has not applied for the title.

Several Notices of dates of hearing were sent to the Attorney and he failed to respond to any of them.

Eventually, having been satisfied that due notice was again given for hearing on March 18, 2006, the panel proceeded with the matter in the Attorney's absence.

Notes of Evidence taken on March 18, 2006 were sent to the Attorney on the 31st, May 2005 at his 101 Main Street, Santa Cruz P.O. address. By letter dated March 27, 2006 the Council advised him of Five Thousand Dollars (\$5,000.00) costs awarded to Mrs Forrest. On the 9th, May 2006 he was advised of the continuation of the hearing set for the 10th, June 2006.

On the 10th, June 2006 the matter was adjourned in response to medical certification of the Attorney's illness at that time.

It was observed that the Attorney had written from a new address at Middle Quarters. The Notes of Evidence were therefore again sent to him at the Middle Quarters address on April 19, 2007.

On the next hearing date the 21st, April 2007, the panel observed that the notes were sent too late, to the Attorney and therefore adjourned for a later date.

On the 18th, October 2007, Notice was again sent to the Attorney by registered mail, advising him of the date 17th, November 2007 for the continuation of the matter.

The Complainant was absent due to illness on the 17th, November 2007, but the Attorney did not attend either.

Registered notice was again sent to the Attorney on the 13th, October 2008 advising of the continuation on the 29th, November 2008.

The Attorney again failed to present himself at the continuation on the 29th, November 2008.

THE EVIDENCE

The complainant's evidence was, that in July 1996, she saw the Attorney at the Balaclava Court and spoke to him about wanting title to a parcel of land.

The Attorney and herself agreed a fee of Twenty Thousand Dollars (\$20,000.00). Pursuant to this agreement the complainant paid Five Thousand Dollars (\$5,000.00) to the Attorney in July 1996, but lost the receipt.

However, receipts dated September 16, 1996 for Five Thousand Dollars (\$5,000.00) dated September 2, 1996 for Seven Thousand Dollars (\$7,000.00) and dated October 12, 1999 for Four Thousand Dollars (\$4,000.00) were admitted in evidence as exhibits 1, 4 and 5 respectively.

Complainant said she also gave the Attorney the original and copy of the title (common law) dated April 29, 1985 in the names of her mother Evelyn Banton and herself Millicent Forrest. The Attorney returned the original to her. The original title was seen by the panel and admitted as exhibit 2.

The complainant's further testimony was that she told the Attorney that she could not afford to pay any more money at that time due to her mother's illness. She would therefore sell the land and from the proceeds, pay the balance owed to him.

The Agreement for Sale of the land to a Mr Duff for Two Hundred Thousand Dollars (\$200,000.00) was admitted as exhibit 3. The Agreement provides for the balance of payment to be made "on completion of title."

Mr Duff paid One Hundred Thousand Dollars (\$100,000.00) to the complainant and was put in possession of the land.

Evidence was also given of a Will that was given to the Attorney that has not been dealt with by him.

Receipts totalling Seventeen Thousand Five Hundred Dollars (\$17,500.00) were seen by the panel on November 29, 2008

In addition, on the 29th, November 2008 the panel was informed that the purchaser, Mr Duff had died and that the Attorney had not returned the Will, mentioned above, to the complainant.

FINDINGS

The panel finds as a fact that:

- a) monies were paid to the Attorney by the Complainant in 1996 for an application for a registered certificate of title to be processed.
- b) to date the Attorney had not made the application for the title.
- c) the parcel of land for which the title was requested was sold and the purchaser put in possession .
- d) the balance of purchase price remains outstanding, in accordance with the Sale Agreement, due to the unavailability of the title which was to have been applied for by the Attorney.

CONCLUSION

Based on the matters above stated, the panel accepts that the Complainant has proved her case that the Attorney has prevented her from bringing her business to a successful conclusion, due to his failure to perform the duties for which he was retained viz the application for a registered certificate of title for her land.

The panel is satisfied that the high standard of proof as set out in *Re: a Solicitor 1992 2 ALL ER 35*, endorsed in *Wilston Campbell and Davida Hamlet (Trinidad & Tobago) 2005 UK PC 19 25 April 2005* has been met.

The Attorney is therefore guilty as charged in that contrary to

Canon IV(r)

An Attorney shall deal with his client's business with all due expedition and shall whenever reasonably so required by the client provide him with all information as to the progress of the client's business with due expedition.

- (s) In the performance of his duties an Attorney shall not act with inexcusable or deplorable negligence or neglect.

In addition, the Attorney is in breach of his obligation to attend at the Disciplinary Committee proceedings when required to do so.

However, the panel is mindful that the Attorney returned the original documents, the conveyance and the Agreement, to the Complainant, enabling her to seek the assistance of another Attorney. Arising from discussions with the Complainant, it appeared that she did not appreciate that she could have sought legal assistance elsewhere, which could have mitigated her loss.

Obviously, when the title is eventually obtained, the One Hundred Thousand Dollars (\$100,000.00) balance of purchase price would be worth less than it would have been ten (10) years ago.

This prompts the panel to express that quite apart from upholding the canons, Attorneys must bear in mind their moral obligation to persons who seek their counsel. Should an Attorney not wish to continue representing a client, merely returning documents without explanation is not enough. Guidance to seek alternative legal help may be necessary.

Nevertheless, for failure to act for these past ten years in this matter constitutes professional misconduct and the Attorney should put the Complainant in the position in which she would have been, had he fulfilled his obligation.

THE ORDER

The panel therefore order that the Attorney:-

- 1) Return the Will left with him by the Complainant, to her.
- 2) Compensate the Complainant with a payment of One Hundred Thousand Dollars (\$100,000.00) with interest at 10% from September 1997 to date
- 3) Pay Fifteen Thousand Dollars (\$15,000.00) cost of the Complainant.
- 4) Pay Twenty Thousand Dollars (\$20,000.00) cost to the Council.

DATED THE

20th

DAY OF

March

2000

at
Mel

GLORIA LANGRIN (Mrs)

BERYL ENNIS (Miss)

STEPHEN SHELTON (Mr)