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GORDON BROWN VS PAULINE SIMPSON

COMPLAINT NO. 6/93

DECISION

This complaint was brought by Mr. Gordon Brown of the firm Perkins, Grant, Stewart, Phillips & Co., who at the relevant time was located at their Montego Bay office. The complaint was that the attorney Miss Pauline Simpson failed to honour her undertakings dated November 13, 1992 and November 27, 1992 to pay the balance of purchase money and half costs amounting to US\$92,802.24 in exchange for the duplicate certificate of title registered at Volume 1080 Folio 284 in the name of her client.

The complaint came up for hearing on the 14th August 1993, at which time Miss Simpson did not appear. Evidence was given by employees of the General Legal Council to the effect that a notice advising Miss Simpson of the date of the hearing was sent to her by registered post to her address in accordance with the records of the General Legal Council. The affidavit of service by Mervalyn Walker, one of the witnesses, was also admitted in evidence as Exhibit 3. This showed that the notice to Miss Simpson was posted on the 5th July 1993, to her address at 16 East Street, Montego Bay P.O., St. James.

The committee was satisfied that the notice was properly served on Miss Simpson in accordance with Rule 5 and Rule 21 of the 4th Schedule of the Legal Profession Act, The Legal Profession (Disciplinary Proceedings Rules) and decided to proceed with the

hearing of the application in the absence of Miss Simpson pursuant to Rule 8 of the said Rules.

Evidence was given by Mr. Gordon Brown to the effect that he had represented one Mr. Nafis Khan in the sale of premises at Lot 52 Bengal in St. Ann for a total purchase price of US\$135,000, being US\$105,000 for the realty and US\$30,000 for chattels. Miss Simpson represented the purchaser, one Mr. Lawrence Lambek, a Canadian.

The sale proceeded in the normal way, the deposit was paid and the balance of purchase money and half costs were to be paid by Miss Simpson on completion of the transfer to her clients. Her two letters of undertaking mentioned above were tendered in evidence and accepted as Exhibits 6 and 7. These were straightforward and unconditional, and Mr. Brown proceeded to register the transfer to the purchaser and deliver the title to Miss Simpson by letter dated 14th December, 1992. However, Miss Simpson did not pay the amount of US\$92,802.24, which she had undertaken to pay.

The purchaser, Mr. Lambek, gave evidence at the hearing that he retained Miss Simpson to act for him in the purchase and he paid her a total of US\$138,146.04. The final amount of US\$30,146.04 was paid to her by Bank Draft dated November 1992. He duly received the duplicate certificate of title registered in his name and was put in possession of the property. After some time he was informed by the vendor that he had not received the balance of purchase money. He contacted Miss Simpson who made various excuses and then

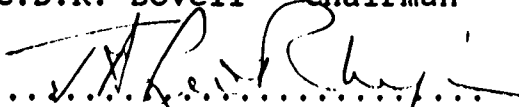
eventually he could not locate her and he was informed that she had left the island.

Mr. Brown lodged a caveat against the title on behalf of the vendor and demanded payment of the balance of purchase money from the purchaser, Mr. Lambek. In order to avoid litigation and to get a free and clear title Mr. Lambek then paid Mr. Gordon Brown the amount of US\$95,000 representing the balance of purchase money and half costs which should have been paid by Miss Simpson plus interest.

We have no difficulty in finding that Miss Simpson was guilty of the worst kind of misconduct in a professional respect. Specifically, we need only refer to Canons I(b) and VI(d). We can find no mitigating circumstances and we accordingly order that her name be struck off the Roll of Attorneys-at-Law in accordance with Section 12(4) of the Legal Profession Act.

Dated this 19th day of October 1993.


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C.D.R. Bovell - Chairman


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J. Leo-Rhynie - Q.C.


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Craftern Miller