

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

COMPLAINT NO: 135/2001

JUNETTE MORGAN

COMPLAINANT

AND

NANCY TULLOCH-DARBY

RESPONDENT

PANEL: MR. CHRISTOPHER BOVELL

MRS MARGARETTE MACAULAY

MISS LILIETH DEACON

HEARING DATE: 15TH JUNE, 2002

In this matter we heard the evidence from the complainant Miss Junette Morgan against Mrs. Nancy Tulloch-Darby and we noted the affidavit of service of the notice of today's hearing. We decided to proceed with the hearing as we are entitled to do. Miss Morgan gave evidence that Mrs. Darby represented herself, her nephew, father and sister who were selling two properties, one in St. Catherine and the other in St. Andrew. Those sales were completed and \$2,550,252.13 in net proceeds of sale of two properties due to the vendors was held by Mrs Darby, those statements of account were put in as Exhibits #2 and # 4. This amount was intended to be used to purchase the premises at 17 Farewell Avenue in the Parish of St. Andrew, and the complainant and the vendors were the purchasers of 17 Farewell Avenue. We were given as Exhibit # 5 a copy of the Agreement for Sale of 17 Farewell Avenue, signed by the complainant, her father, her nephew who is the son of her sister Winsome Morgan-Ward, her said sister and the vendor, who is Carmen Mardner. Mrs. Darby had carriage of sale and was acting for both parties. The purchase price of Farewell Avenue was \$4 million and was to be paid for by the proceeds of sale and from a National Housing Trust mortgage of \$1,200,000.00. A copy of the letter of Commitment from National Housing Trust was tendered as Exhibit # 6. Mrs. Darby paid two instalment of \$400,000.00 on the Agreement for sale from the proceeds of the sales in her possession but paid no further amount, accordingly the purchase of the property hasn't been completed. In spite of numerous requests on behalf of the parties to have the matter completed and by the purchaser's attorney Mr. John Graham, the matter has not been completed by Mrs. Nancy Tulloch-Darby. The complainant gave evidence that she also went to the Fraud Squad to report Mrs. Nancy Tulloch-Darby and after investigation they found out that Mrs. Darby had left the island. We find that the Attorney failed to account to and to pay over funds to her clients which were held by her, despite several requests for her to do.

We also find that the funds held by the Attorney were in the sum of \$1,750.252.13 plus interest. We also find that she failed to complete the transaction she was retained to effect without any just cause. We therefore conclude that the Attorney is guilty of professional misconduct. As a result of our findings and conclusion we therefore make the following orders:

- (1) The Attorney ought to be struck from the Roll of Attorneys-at-law entitled to practise in the several Courts of the island of Jamaica, save that this Attorney was struck off the Roll of Attorneys-at-law in Complaint No. 94/2001
- (2) That the said Attorney do pay by restitution to the complainants the sum of \$1,750.252.13 with interest thereon so that they can proceed to complete the sale and purchase transaction.
- (3) That the Attorney also pay interest on the said sum, at the rate of 12 per centum per annum from the 4th day of April, 1997 to date of payment.
- (4) That the attorney pay costs
 - (a) to the complainants in the sum of \$10,000.00
 - (b) to the General Legal Council in the sum of \$10,000.00

DATED 15th DAY OF June, 2002



CHRISTOPHER BOVELL



MARGARETE MACAULAY



LILIETH DEACON