

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

Complaint No. 102/2011

IN THE MATTER of a Complaint
against **Chrystine Wedderburn-
Bernard**

A N D

IN THE MATTER of a Complaint
by **Charles Oliver Tate**

A N D

IN THE MATTER of the Legal
Profession Act.

Panel:

Mr. Richard Donaldson
Mr. David Batts
Mr. Christopher Kelman

1. In this Complaint filed on the 4th February, 2011 the offences alleged by the Complainant against Ms. Chrystine Wedderburn-Bernard are that:
 - “(a) She has not provided me with all information as to the progress of my business with due expedition although I have reasonably required her to do so.
 - (b) She has not dealt with my business with all due expedition.
 - (c) She has acted with inexcusable or deplorable negligence in the performance of her duties.
 - (d) She has not accounted to me for all my moneys in her hands for my account or credit although I have reasonably required her to do so.

- (e) **She is in breach of Canon 1(b) which states that an Attorney-at-Law shall at all times maintain the honour and dignity of the profession and shall abstain from behaviour which may tend to discredit the profession of which she is a member.”**
2. On the 4th February, 2012 Chrystine Wedderburn-Bernard (hereinafter referred to as the attorney) was not present when the matter was called. She however arrived at approximately 11:00 a.m. after we had commenced the hearing. At that stage she indicated that she wished to have her attorney present. We therefore completed the taking of the Complainant’s evidence in chief and adjourned the matter for continuation on the 3rd March, 2012 at 10:00 a.m. On that date all parties were present and the attorney attended without legal representation but stated clearly to the panel that she wished to proceed without legal representation. She had been afforded by letter dated 21st February, 2012 a copy of the typed notes of the evidence taken on the 4th February, 2012. We therefore completed the hearing. Upon completion of the evidence we heard submissions and then adjourned the matter to the 14th April, 2012 for delivery of our decision.
3. The Complainant gave evidence on the 4th February, 2012. He stated that he is a retiree and that he employed the attorney on or about the 10th March, 2010 in relation to a house he was purchasing. This is the premises at which he now resides. The purchase price was £58,500.00. The attorney represented both himself and the purchaser. He made a cheque payable to the vendor of £53,977.86. He also paid to the attorney J\$913,807.50. A receipt from the attorney for that amount was tendered in evidence as **Exhibit 2**. The Complainant further testified that he had difficulty obtaining title. He went to her office twice and also made lots of phone calls but could get no proper explanation. On one occasion she told him she had used his money. In the words of the witness she said, **“she got some problem with her firm and had to use my money”**.

4. He then went to the General Legal Council. The Complainant stated also that he went to the Stamp Office and he paid J\$569,220.00 to get his title. No attorney assisted him but he got advice. Tendered in evidence as **Exhibit 3** were Original Agreement for Sale and receipt from the Stamp Office. He says he borrowed the J\$569,220.00 from his daughter in England and his brothers. He also had to pay about J\$38,000.00 when he lodged the title. He has not been able to recoup the money he had paid to the attorney.

5. The Complainant was cross examined by the attorney. It is fair to say that the cross examination was relatively innocuous. She obtained an admission that the Complainant received a letter of possession and letters to the utility companies. These were put in evidence as **Exhibits 4 and 5**. The Complainant admitted that after going to England to get the title from the vendors he did not advise the attorney as he could not contact her. In response to the suggestion that he did not give her a chance to complete the transaction, the Complainant stated, **“you took 2 years and is 30 days you say”**.

6. The attorney completed her cross examination and the Complainant closed his case. The attorney indicated she would not be giving evidence. She also indicated she had no witness to call. In her closing submission to the panel the following exchange occurred:

“Wedderburn:

Just like to apologize to Mr. Tate for the hold up of the funds that he is to receive. Some personal embarrassing situation. No issue with the evidence he has given, it is true. Just feel he could have worked further with me in order to work out the issues in this matter.

Panel: In what way?

A: Communication that he collected the title. A transfer to be signed. He never came back to complete

documentation. I have \$1,180,000.00 inclusive of interest. The principal amount is \$913,807.50”.

7. In considering this matter we bear in mind the relevant burden of proof that is, we are required to be satisfied beyond reasonable doubt or so that we are sure. It is not sufficient to say that the attorney has not given evidence. We must still examine the evidence of the Complainant. We have done so and we find the Complainant to be a witness of truth.
8. Our findings of fact are as follows:-
 - (a) The Complainant retained the attorney to act in a sale of land transaction.
 - (b) The attorney acted for both the vendor and purchaser in the transaction.
 - (c) The purchase price was paid directly to the vendor by the Complainant.
 - (d) The Complainant paid to the attorney \$913,807.50 on or about the 10th March, 2010, being the relevant deposit, to do the necessary stamping as well as on account of legal fees.
 - (e) The attorney did not stamp the agreement or register the transfer on title nor take any adequate steps to see to the completion of the transaction.
 - (f) The Complainant in order to get his title borrowed money and went to the Stamp and Titles Offices and paid the necessary duties and taxes to obtain registration.
 - (g) The attorney has failed to account to the Complainant for the amount paid to her.
 - (h) The attorney is unable to account for the Complainant's money because she knowingly used her client's money for her own or other purposes.
9. When regard is had to the foregoing findings of fact, and to the primary duty of this Committee which is the maintenance of professional standards and the protection of the public, this Committee has no alternative but to make the following Orders:-

- (a) Pursuant to Section 12 (4) (a) of the Legal Profession Act the attorney be and is hereby struck from the Roll of attorneys entitled to practice law.
- (b) Pursuant to Section 12 (4) (f) of the Legal Profession Act the attorney shall pay by way of restitution to the Complainant the amount of ~~\$182,761.40~~ ^{\$1,182,761.40} (being \$913,807.00 with interest thereon at the rate of 10% per annum from the 10th March, 2010 to 11th March, 2012).
- (c) The attorney is to pay costs to the General Legal Council of \$50,000.00

Handwritten initials and scribbles.

Dated the 14th day of April 2012

Handwritten signature of Richard Donaldson
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Richard Donaldson

Handwritten signature of David Batts
.....
David Batts

Handwritten signature of Christopher Kelman
.....
Christopher Kelman

**FORMAL ORDER OF THE DISCIPLINARY COMMITTEE OF
THE GENERAL LEGAL COUNCIL MADE ON COMPLAINT
NO. 102 2011**

**IN THE MATTER OF CHARLES TATE VS CHRYSTINE
WEDDERBURN- ERNARD
AND**

**IN THE MATTER OF THE LEGAL PROFESSION
ACT 1971**

**PANEL: MR. Richard Donaldson
 Mr. David Batts
 Mr. Christopher Kelman**

DECISION DELIVERED ON THE 14th April, 2012

UPON THE APPLICATION dated 4th. February, 2011 made under section 12(1) (a) of the Legal Profession Act and coming on for hearing before the Disciplinary Committee on the 4th February, 2012, 3rd March, 2012 and 14 April, 2012

AND UPON the complainant Charles Tate appearing and having given evidence on oath and being cross-examined by Mrs. Chrystine Wedderburn Bernard

AND UPON the attorney-at-law Christine Wedderburn Bernard appearing but having failed to testify after been given the opportunity

AND UPON DUE CONSIDERATION of the sworn evidence of the complainant and the submissions of the complainant.

THE COMMITTEE FINDS THAT:

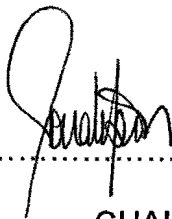
- (a) The Complainant retained the attorney to act in a sale of land transaction.
- (b) The attorney acted for both the vendor and the purchaser in the transaction.
- (c) The purchase price was paid directly to the vendor by the Complainant.
- (d) The Complainant paid to the Attorney \$913,807.50 on or about the 10th March, 2010 being the relevant deposit, to do the necessary stamping as well as on account of legal fees.

- (e) The attorney did not stamp the agreement or register the transfer on title nor take any adequate steps to see to the completion of the transaction.
- (f) The Complainant in order to get his title borrowed money and went to the Stamp and Title Offices and paid the necessary duties and taxes to obtain registration.
- (g) The Attorney has failed to account to the Complainant for the amount paid to her.
- (h) The attorney is unable to account for the Complainant's money because she knowingly used her client's money for her own or other purposes.

**PURSUANT TO THE FOREGOING FINDINGS THE COMMITTEE UNANIMOUSLY
HEREBY ORDERED THAT:-**

Pursuant to s 12 (4) (a) (e) and (f) of the Legal Profession Act:

1. The attorney-at-law Chyrstine Wedderburn-Bernard be struck from the Roll of attorneys-at-law entitled to practise in Jamaica
2. The attorney pay to the Complainant by way of restitution the amount of \$1, 182,761.40 (being \$913, 807.50 with interest thereon at the rate of 10% per annum from the 10th March, 2010 to the 11th March, 2012).
3. The Attorney is to pay costs to the General Legal Council in the sum of \$50,000.00



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CHAIRMAN OF PANEL

Dated 20th April, 2012