

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

COMPLAINT NO: 118/2012

BETWEEN	TEASHA LEVY-MANFRED	COMPLAINANT
AND	RAMON GORDON	RESPONDENT

PANEL: Mr. Allan S. Wood Q.C.
Mr. Michael Thomas
Mr. Peter Champagnie

Hearing Dates: 14th and 28th September 2013
Appearances: Teasha Levy-Manfred

The Complaint

1. In this matter, Teasha Levy-Manfred, the Complainant has made a complaint against the Respondent, Ramon Gordon that:

- “(a) He has not dealt with my business with due expedition and provided me with all information, although I have reasonably required him to do so.
- (b) He has not accounted to me for all monies in his hands for my account or credit, although I have reasonably required him to do so.
- (c) He has acted with inexcusable or deplorable negligence in the performance of his duties.”

2. The Complainant gave evidence in this matter on 14th September 2013. She is a teacher who was at the time attempting to purchase a home. She

identified a property for sale at 29½ First Avenue, Vineyard Town and contacted the agents. An agreement for sale was drawn up for the price of \$4,500,000.00. The premises was being sold by Barrington Walker and the Respondent acted for the him. The Complainant was represented by Miss. Patricia Ramsaran. The agreement for sale (**Exhibit 1**) was duly signed by the Complainant in November 2009 and forwarded to the Attorney by Miss Ramsaran under cover letter mistakenly dated 26th November 2008 with a manager's cheque made payable to the Respondent in the sum of \$467,475.00 to cover the deposit and the Purchaser's half costs. The Respondent's signature on the copy letter acknowledging receipt is dated 26th November 2009 (**Exhibit 2**). A copy of the Agreement that was returned by the Respondent and bears the date 26th January 2010 and was returned to Ms. Ramsaran by the Respondent under cover letter 14th January 2010 (**Exhibit 3**).

3. The Panel has seen nothing to suggest that stamp duty and transfer tax has been paid as required within 30 days of the making of the Agreement.
4. Prior to signing the Agreement for sale, the Complainant obtained a surveyor's report from Jerome Lofters, Commissioned Land Surveyor in October 2009 that disclosed that the house encroached on adjoining property while the front wall encroached on the road reserve. As a consequence of that report a meeting was held with the Respondent, Ms. Ramsaran and the Complainant at which the Respondent sought permission to use a part of the deposit to rectify the encroachment and further indicated that if the Complainant was not satisfied with his steps to rectify the problem she could

cancel the sale and he would refund the money within 30 days of cancellation and after which any outstanding balance would attract interest at the commercial bank rate. He further indicated that he would retain Mr. Lofters to assist in rectifying the problem. The Respondent also promised to keep the Complainant updated and she was satisfied with the Respondent's assurances and agreed that he could proceed.

5. However, so far as the Complainant was aware, since that meeting no steps had been taken to rectify the problem. As a consequence, the Complainant cancelled the contract on 3rd January 2011 as to up to that date the Attorney had produced no evidence to show what steps he had taken.
6. Further, by letter dated 26th June 2013 (**Exhibit 5**) to the Secretary of The General Legal Council, Mr. Jerome Lofters stated:

"Re: Lands part of 29 ½ First Avenue, Vol 480 Folio 4, Lot 63

In or around August 2010, Mr. Ramon Gordon instructed me to conduct a survey of captioned property in order to rectify certain sections of the boundaries which were not in accordance with the registered title. I recommended to Mr. Gordon that the boundaries that were not in conformity with the registered title be moved back to their correct positions except the northern section where there was a substantial wall. It was decided that this area be surveyed and a new precheck plan prepared from which a boundary adjustment could be done and this sliver of land could now be incorporated into the captioned property by acquisition.

Mr. Gordon visited my office on numerous occasions since then but no firm action was taken as to the step forward. He finally decided to instruct me to prepare a precheck plan for the encroachment area. This was done and the prechecked plan had been approved for some time now. Since then I have been trying to contact Mr. Gordon but to date I am unable to do so."

7. The Complainant further testified that on the day before the matter was heard by the Panel she received an email from the Respondent advising her that he had sent J \$2,000.00 to her at Western Union to settle an outstanding costs order made on the 8th June 2013.

8. It is to be observed that although the Respondent was acting in the sale for the Vendor, in October 2009 he made a commitment to the Complainant to rectify the boundary problem in return for her giving permission to him to use part of the deposit for that purpose. Accordingly, he clearly assumed a duty of care to the Complainant by his promise to rectify the boundaries, to keep her up dated as to the progress of the matter and to refund her money within 30 days if she was dissatisfied and wished to cancel the sale.

9. In the circumstances, we find that the Complainant is a witness of truth and that the complaint has been established beyond a reasonable doubt. We find:
 - (i) That the Attorney received the sum of \$467,475.00 as a deposit in November 2009 for the purchase of 29½ First Avenue, Vineyard Town.
 - (ii) Prior to making that payment in October 2009, a surveyor's report carried out by Jerome Lofters, Commissioned Land Surveyor had revealed irregularities in the boundaries of the premises.
 - iii. The Complainant agreed that the Respondent could utilize a part of the deposit to rectify the problem provided that he keep her updated on the steps taken to do so and that if she were dissatisfied she could cancel the agreement in which event the deposit would be refunded by

- the Respondent within 30 days and that he would pay interest after that period on any sum owing at commercial bank rates.
- iv. In August 2010, the Respondent instructed the Commissioned Land Surveyor, Jerome Lofters to carry out a survey to rectify certain sections of the boundary and a new pre-checked plan was prepared with boundary adjustments. However, no further step has been taken regarding the adjoining land which was encroached upon.
 - v. Being dissatisfied with the progress, the Complainant cancelled the sale and demanded a refund of her deposit on 3rd January 2011. Her money was not refunded.
 - vi. In breach of Canon VII (b) of the Legal Profession (Canons of Professional Ethics) Rules, the Respondent has failed to account for the monies in his hands for the account or credit of the client when reasonably required to do so.
 - vii. Further, in breach of Canon IV (r) of the Legal Profession (Canons of Professional Ethics) Rules, the Respondent has failed to deal with his client's business with all due expedition and when required to do so he failed to provide all information as to the progress of the client's business with due expedition.
 - viii. In breach of Canon IV (s) of the Legal Profession (Canons of Professional Ethics) Rules, in the performance of his duties the Respondent has acted with inexcusable neglect.
 - ix. The Respondent has failed to offer any explanation or response to the Complainant to provide an accounting on what exactly he has done with the Complainant's money and what steps he had taken to rectify

the boundary encroachment to the date when the Complainant cancelled the agreement in January 2011.

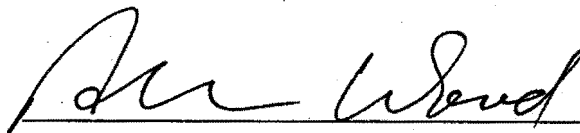
- x. Further, the Respondent has failed to honour his promise, which amounted to a professional undertaking to refund the Complainant's money within 30 days of the cancellation of the agreement and again the Respondent has provided no explanation or good reason for his failure so to do. We find that in the performance of his duty, the Respondent has fallen far below the standards which are to be expected of the profession in performing their duties and in honouring their financial commitments.

10. Since cancelling the agreement, the Respondent has been in default in refunding the Complainant's money for 2 years and 8 months. The Complainant is a teacher who must have struggled to raise that sum to be able to make that deposit to acquire a home. Given these circumstances, we do not think it sufficient to simply order the Respondent to refund the money. We find that the Respondent did initiate some steps to rectify the boundary encroachment and was therefore not dishonest in his dealings with the Complainant. In Bolton v The Law Society [1994] 2 ALL ER 486 Sir Bingham MR, observed that in certain circumstances it is appropriate to make an order by way of suspension where the Attorney's conduct though not dishonest falls markedly below those standards which are expected of members of the profession. We find that this is such a case.

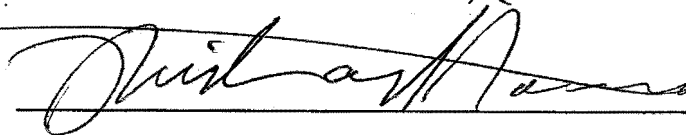
14. Accordingly, it is hereby ordered as follows:

- i. Pursuant to s12(4)(f) of the Legal Profession Act, by way of restitution, the Respondent, Ramon Gordon is to pay to the Complainant the sum of \$467,475.00 together with interest thereon at the rate of 6% per annum from the 1st February 2011 to the date of payment.
- ii. The Respondent, Ramon Gordon is to pay costs to the Complainant in the sum of \$40,000.00.
- iii. Should the Respondent fail to make restitution and to pay the costs as ordered at pars. i and ii hereof by 31st October 2013 , pursuant to s 12(4)(b) of the Legal Profession Act, it is further ordered that the Respondent, Ramon Gordon, be suspended from practice for a period of twelve months commencing 1st November 2013 to 31st October 2014.

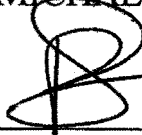
Dated the 28th day of September 2013



ALLAN S. WOOD, QC



MICHAEL THOMAS



PETER CHAMPAGNIE