

H. L. Wee - - - - - *Appellant*

v.

The Law Society of Singapore - - - - - *Respondent*

FROM:

**THE HIGH COURT OF SINGAPORE**

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ORAL JUDGMENT OF THE LORDS OF THE  
JUDICIAL COMMITTEE OF THE PRIVY COUNCIL  
DELIVERED THE 13TH JULY 1982

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*Present at the Hearing:*

LORD DIPLOCK

LORD BRANDON OF OAKBROOK

SIR JOHN MEGAW

*[Delivered by LORD DIPLOCK]*

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This is an appeal against an order of the High Court in Singapore of 27th August 1981, under section 84(1) of the Legal Profession Act, that the appellant, an advocate and solicitor of Singapore, be suspended from practice for two years.

The appellant was in practice alone under the firm name of Braddell Brothers. He employed a number of solicitors as assistants in that practice. The senior of these assistants was one Santhiran who, as the appellant had discovered by March 1976, had misappropriated a large amount of money from clients' accounts. The appellant did not disclose the fact of Santhiran's defalcations to the Law Society or the police until some 13 or 14 months later, during the course of which he endeavoured, with considerable but not complete success, to obtain restitution from Santhiran of the monies belonging to clients and to the firm itself that had been misappropriated.

The appellant was charged before a Disciplinary Committee with grossly improper conduct in the discharge of his professional duty within the meaning of section 84(2) of the Legal Profession Act, the charge being based upon his failure to report earlier the criminal breaches of trust committed by Santhiran. His defence in substance was that his failure to report was a mere error of judgment; he was actuated by a desire to obtain Santhiran's co-operation so that it would be possible to allocate as between individual clients the total amount of money which Santhiran admitted he had misappropriated and of most of which he had by March 1976 already made restitution. It was submitted to the Disciplinary Committee that, in determining whether what the appellant did was grossly improper conduct in the course of his professional duty, they were not entitled either to consider whether the appellant's motives in avoiding

disclosure of Santhiran's criminal breaches of trust were as exclusively altruistic as he claimed; nor, it was also submitted, were they entitled to take into account the fact that he retained Santhiran in his employment until December 1976, although unpaid, allowed him to conduct business including court business on behalf of clients, and did nothing until April 1977 to prevent him thereafter from carrying on practice on his own account as a solicitor.

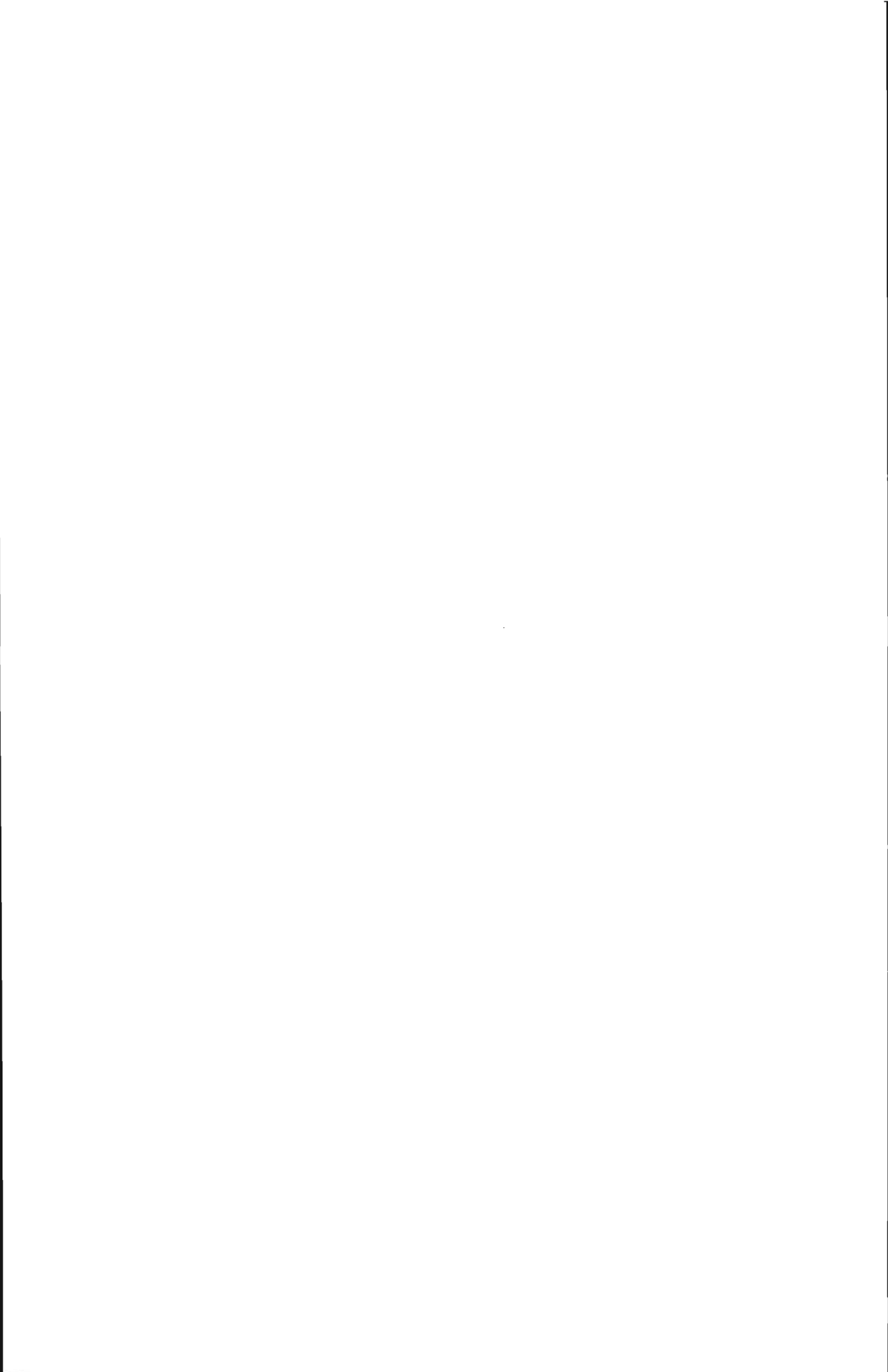
The Disciplinary Committee rejected these submissions which, despite counsel's sustained and ingenious reasoning to the contrary, in their Lordship's view remain quite unarguable. The appellant gave evidence as to his motives; he was cross-examined and was disbelieved by the Committee. They found that the dominant motive for his non-disclosure was his own financial protection, to ensure, if possible, that he himself was not out of pocket but got back full restitution for all that the firm had lost or might be liable for as a result of Santhiran's dishonesty. This was a finding of fact. The Committee's reasons for reaching it are set out in meticulous and convincing detail in their report. In the result they found that cause of sufficient gravity existed for disciplinary action under section 84 of the Act.

This finding was brought before the High Court by the Law Society under sections 94(1) and 98 of the Act. The appellant's submissions, which their Lordships have already stated they regard as quite unarguable, were repeated to the High Court and rejected by that Court.

The Court was also pressed with an argument on behalf of the appellant that the evidence before the Disciplinary Committee did not justify the conclusion they had reached as to the appellant's motives for his long delay in disclosing Santhiran's defalcations. The High Court, in a careful judgment, considered and rejected this argument: so on this matter the appellant is faced with concurrent findings of fact with which it is the well-established and invariable practice of this Board not to interfere, particularly as the finding was dependent upon the credibility of the oral evidence of the appellant as a witness.

Finally, it was submitted that the penalty of two years' suspension from practice imposed by the High Court on the appellant was too severe. The High Court with its familiarity with the conditions which obtain in the legal profession in Singapore, is in a much better position than their Lordships to assess the appropriate penalty for grossly improper conduct. Their Lordships would hesitate long before interfering with the High Court's assessment. They see no sufficiently strong ground to entitle them to do so in this case.

This appeal must be dismissed with costs.



In the Privy Council

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H. L. WEE

p.

THE LAW SOCIETY OF SINGAPORE

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DELIVERED BY  
LORD DIPLOCK

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