

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2012] NZLCDT 11
LCDT 014/11

IN THE MATTER

of the Lawyers and Conveyancers
Act 2006

BETWEEN

**THE STANDARDS
COMMITTEE 3 OF THE
CANTERBURY-WESTLAND
BRANCH OF THE NEW
ZEALAND LAW SOCIETY**
Applicant

AND

MR TIM BAN CHOON TEE
Respondent

CHAIR

Judge D F Clarkson

MEMBERS OF TRIBUNAL

Mr W Chapman

Ms S Gill

Mr M Gough

Mr C Rickit

HEARING on the papers

APPEARANCES

Mr P Whiteside for the Applicant

Mr M Withers for the Respondent

DECISION ON APPLICATION FOR SEPARATE HEARINGS

[1] The respondent, a lawyer formerly practised in Christchurch but now resides in Malaysia, has sought severance of the three charges faced by him and a hearing framework which would allow such charges to be considered individually over a six-year period.

[2] This is resisted by the Standards Committee.

[3] The Standards Committee correctly points the Tribunal to section 231 of the Lawyers and Conveyancers Act 2006 ("the Act") where the responsibilities of the Chairperson are set out:

"231 Responsibilities of chairperson

(1) The chairperson of the Disciplinary Tribunal is responsible for -

- (a) making such arrangements as are practicable to ensure the orderly and expeditious discharge of the functions of the Disciplinary Tribunal ..."

[4] There is case law authority for the proposition that it is in the public interest for disciplinary charges to be disposed of in a timely manner. For instance, in *Hart v Standards Committee (No 1) of the New Zealand Law Society & Anor*¹ the Court of Appeal raised concerns about the prospect of lengthy delays in hearing the disciplinary proceedings and pointed out that "[a] long delay would not be in the public interest". The same point was again reiterated by the Court of Appeal in *Orlov v New Zealand Law Society & Anor*² where the Court stated at para [23] that:

[23] ...But Heath J was rightly also concerned with the position of other affected parties. They include the respondents, and all the members of the first respondent, the New Zealand Law Society. Indeed, all legal practitioners have an interest in the timely disciplining of fellow practitioners. That interest is shared by the general public.

[5] These charges are not criminal charges and are not heard before a jury of laypeople. Rather they are heard before a specialist Tribunal which is well used to

¹ [2011] NZCA 676.

² [2012] NZCA 12.

dealing with a number of charges at once, covering fact situations which may have occurred over a lengthy period and involving different witnesses.

[6] There is nothing to distinguish this case from the usual situation faced by the Tribunal which is well able to separate out events and make findings as to facts and credibility in relation to different sets of circumstances, background and different charges. The suggestion that a hearing ought to be delayed for up to six years is completely without merit and contrary to the provisions of the Act. One of the purposes of the Act is to provide a “responsive regulatory regime”.³

[7] There is a further issue to be addressed in terms of directions for this hearing, which concerns one of the complainants (in relation to Charge 3) giving her evidence by video link because she is out of the jurisdiction. This is also a matter which has been previously encountered by the Tribunal which has no difficulty in arranging for cross-examination of witnesses by video link in order to test evidence in a thorough manner.

[8] This hearing will be located in Christchurch and thus a venue must be obtained where such a video link is available and directions are made to that end.

Decision

[9] The application for separate hearings is rejected. The matter is to be set down for a telephone conference before a Chairperson of the division which will hear this case, namely Mr D J Mackenzie, as soon as this can be conveniently arranged with counsel. The direction is given for approval of a video link which is initially to be at the cost of the New Zealand Law Society but which may well have to be met by the respondent if the charges are proved.

DATED at AUCKLAND this 14th day of May 2012

Judge D F Clarkson
Chair

³ Lawyers and Conveyancers Act 2006, section 3(2)(b).