

[TRIANAFYLLIDES, P., STAVRINIDES, L. LOIZOU,
HADJIANASTASSIOU, A. LOIZOU, MALACHTOS, JJ.]

1973
Mar. 6

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IN THE
MATTER
OF F. G.
AN ADVOCATE

IN THE MATTER OF SECTION 17 (5) OF THE
ADVOCATES LAW, CAP. 2,

and

IN THE MATTER OF F. G., AN ADVOCATE.

(Case No. 3/72.)

Advocates—Conduct and Etiquette—Advocate entrusted by client to safely invest on client's behalf money belonging to client—Using part thereof for his own benefit and lending another part without sufficient security—Guilty of conduct inconsistent with honesty, straightforwardness and fairness—Fine of £200 imposed by Advocates' Disciplinary Board—Monetary punishment wrong in principle and inappropriate in a case of this nature—Suspension from practising for a month substituted for the fine—Section 17 (5) of the Advocates Law, Cap. 2.

This is a case in which the Supreme Court has decided, under section 17 (5) of the Advocates Law, Cap. 2, to review of its own motion, a decision of the Advocates' Disciplinary Board imposing a monetary punishment on the advocate concerned.

The facts sufficiently appear in the judgment of the Court, substituting for the fine an order for suspension of the advocate from practising for a month.

Review proceedings.

Review proceedings before the Supreme Court of its own motion, under section 17 (5) of the Advocates Law, Cap. 2 (as amended) for the review of the decision of the Disciplinary Board established under section 12 of the Law, whereby a fine of £200 was imposed on the respondent advocate for unprofessional conduct contrary to the provisions of section 17 of the Advocates Law, Cap. 2.

Chr. Demetriades, as *amicus curiae*, to present the matter at the request of the Court.

A. HadjiIoannou with *C. Velaris*, for the respondent advocate.

L. Clerides, for the Advocates' Disciplinary Board.

The judgment of the Court was delivered by :—

TRIANTAFYLLIDES, P.: This is a case in which the Court has decided, under section 17 (5) of the Advocates Law, Cap. 2, to review, of its own motion, a decision of the Advocates' Disciplinary Board.

The Court has had the benefit of the assistance of learned counsel who appeared at the Court's request to present the case, of counsel who appeared for the Board and of counsel who appeared for the respondent advocate.

The gist of the matter is that the respondent advocate was entrusted through an agreement between him and the complainant (a client of his at the time) to safely invest on her behalf £6,000 with yearly interest not less than 7% and for not more than three years; however, later on, and at a time when it should have been clear to him that his client was no longer capable, due to infirmity, of managing her own affairs, he proceeded, in breach of the fiduciary relationship with the complainant, to use £1,250 for his own benefit, that is, £850 for medical treatment of his daughter, who had been born very severely handicapped, and £400 for the installation of storage heating in his house; he, also, lent to a colleague of his, without sufficient security, £2,700.

The Board found him guilty of conduct which was inconsistent with honesty, straightforwardness and fairness; this finding has not been, actually, disputed before us, and we think that in the circumstances it was warranted. The Board ordered him to pay a fine of £200.

What has been in issue, and has given us quite some difficulty, was the proper punishment in this case; and we have carefully considered whether or not to interfere with the fine of £200. Having taken duly into account his lack of experience as an advocate, the grave family circumstances which he had to face, as well as the fact that in the end the whole amount, including interest, has been repaid to the complainant, and, therefore, she has not suffered any loss as a result of his conduct, we do find that it was wrong in principle and inappropriate in a case of this nature to impose only a monetary punishment. This was conduct calling for suspension from practising, and one of our problems was as regards what the period of suspension should be: Taking everything into account, including the fact that he is at the beginning of his career, we substitute for the fine the punishment of suspension for a month as from today.

Order accordingly.