



Cúirt Uachtarach na hÉireann Supreme Court of Ireland

**BARRY SHEEHAN PRACTISING UNDER THE STYLE OF BARRY SHEEHAN, SOLICITOR v.
THE SOLICITORS DISCIPLINARY TRIBUNAL, BERNARD BINGHAM, VIOLA BINGHAM AND
THE LAW SOCIETY OF IRELAND
On appeal from: [2020] IECA 77**

The Supreme Court held today that the Solicitors Disciplinary Tribunal were entitled to consider the complaints made by the first and second named respondents despite previous complaints made to the Complaints and Client Relations Section of the Law Society and a counterclaim which was dismissed in proceedings before the Circuit Court.

Composition of the Court

O'Donnell CJ, Dunne J., Charleton J., Baker J., Woulfe J.

Judgment

Dunne J. (with whom O'Donnell CJ, Charleton, Baker, and Woulfe JJ. agree)

Background of the Appeal

For a comprehensive overview of the background to these matters, see the judgment of Dunne J. in *Sheehan v. Solicitor Disciplinary Tribunal & Ors* [2021] IESC 64.

This is the second decision of the Supreme Court relating to these proceedings. In scope of the appeal decision, Dunne J. held that the appellant was entitled to raise the issue of *res judicata* by way of a statutory appeal under s. 7(11) of the Solicitors (Amendment) Act, 1960, as substituted by s. 17 of the Solicitors (Amendment) Act, 1994, and amended by s. 9(f) of the Solicitors (Amendment) Act, 2002. At paragraph 103 of that judgment, Dunne J. invited the parties to make submissions as to whether the complaints considered by the first respondent were in fact *res judicata*.

The complaints that are the subject of this appeal arose from an allegation of professional misconduct against Mr. Sheehan in the course of medical negligence proceedings in which he was retained as a solicitor by Bernard and Viola Bingham. Having previously made a number of complaints to other entities within the Law Society or established by the Law Society, the Bingham's made further complaints to the Solicitors' Disciplinary Tribunal about Mr. Sheehan. Following this, the Solicitors' Disciplinary Tribunal concluded that there was a *prima facie* case in respect of two of the Bingham's complaints: the allegation that the appellant was abusing his position by threatening to destroy their entire file unless the Bingham's settled his claimed bill of costs, despite a Circuit Court Order dismissing his claim, of which Mr. Sheehan was found guilty, and the appellant's refusal to return the file or grant access to the file for the purpose of the Supreme Court appeal, which was dismissed.

This part of the appeal considered whether the Solicitor Disciplinary Tribunal was precluded from considering the Bingham's complaint about Mr Sheehan's refusal to return their files, as this had previously been considered by the Complaints and Client Relations Committee of the Law Society of Ireland on two occasions, and dismissed by the Circuit Court. A second jurisdictional argument raised by the appellant was that, because the first complaint made by the Bingham's was referred to an Independent Adjudicator, it fell outside of Section 7 of the Solicitors (Amendment) Act 1960 by virtue of Section 15 of the Solicitors (Amendment) Act 1994.

Judgment

The Supreme Court dismissed the appeal.

Reasons for the Judgment

Dunne J. concluded that the allegation that Mr. Sheehan was abusing his position by threatening to destroy their entire file unless the Bingham's settled his claimed bill of costs could not be *res judicata* as it arose from an email sent by Mr. Sheehan in June 2014, some time after the complaints to the bodies established by the Law Society and the Circuit Court proceedings. Dunne J. further concluded that the review undertaken by the Independent Adjudicator in 2009 in respect of the first complaint made by the Bingham's was not precluded by the gateway provision under section 7(1) of the Solicitors Acts 1960, as amended. **[26]**

Dunne J. noted that, while the written submissions on behalf of the appellant focused on the two jurisdictional challenges to the Solicitors' Disciplinary Tribunal, in the course of oral argument, counsel for the appellant sought to argue that the Solicitors' Disciplinary Tribunal should not have considered a complaint concerning the return of the files as that matter was *res judicata*, and as a result, the entire hearing before the SDT was tainted, notwithstanding that that complaint was dismissed. Dunne J. could not accept that the hearing of the two complaints together as happened before the Solicitors Disciplinary Tribunal gave rise to that hearing becoming "tainted". The appellant presented no evidence that the Tribunal did not act impartially or fairly. Dunne J. noted that both of the complaints were considered separately, and in any event, it is commonplace that a variety of issues might fall to be considered in the same hearing, but this did not result in a hearing becoming unfair. **[27-28]**

Note

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document.

Case history

30 November 2021

[\[2020\] IESC 64](#)

[\[2020\] IESC DET 137](#)

[\[2020\] IECA 77](#)

[\[2017\] IEHC 643](#)

Oral submissions made before the Court

Substantive appeal judgment of the Supreme Court

Supreme Court Determination granting leave

Judgment of the Court of Appeal (**judgment which was the subject of the appeal to the Supreme Court**)

Judgment of the High Court