

The State (On the Application of Golden Mwangulube t/a MWANGULUBE & COMPANY) v The Disciplinary Committee of the Malawi Law Society

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Edna Bodole
Cause Number:	Judicial Review Application Number 05 of 2025
Date of Judgment:	June 30, 2025
Bar:	appellant unrepresented respondent unrepresented

The Claimant, a legal practitioner, sought leave for judicial review against a decision by the Defendant, the Disciplinary Committee of the Malawi Law Society, which suspended the Claimant for one year, recommended his debarment to the Chief Justice, and ordered him to pay K500,000.00 in costs. The Claimant's application for leave was accompanied by a prayer for an interim injunction to restrain the implementation of the resolutions pending the determination of the matter. The underlying dispute arose after Claimant's law

firm, *Mwangulube & Company*, due to an alleged administrative error, filed a Notice of Adjournment in Civil Cause No. 268 of 2023: *Joseph Nyalapa and Ben Charles v Nico General Insurance Company Limited* before the Senior Resident Magistrate Court in Chikwawa, when the Claimant's practising licence had expired. When the issue was brought to the attention of the lower court, it subsequently ruled the judgment obtained by the firm was a nullity, and the Claimant was ordered to refund executed sums, an issue later resolved by a consent order between the parties. Despite this, the same complaint was lodged with the Defendant, leading to the impugned disciplinary decision. The Claimant contended that the Defendant's decision amounted to double punishment, was unlawful, unreasonable, procedurally unfair, and *ultra vires* the powers conferred under the *Legal Education and Legal Practitioners Act*. Specifically, the Claimant argued that the matter had already been resolved by a competent judicial body and that the disciplinary action constituted an abuse of process. The principal legal question was whether the Claimant had established an arguable case warranting permission for a full judicial review hearing.

The application was dismissed. The Court found that the settlement in the lower court was a standard legal procedure for improperly obtained judgments and was entirely separate from the disciplinary proceedings applicable to legal practitioners. The Court's decisive rationale was that the lower court lacked the jurisdiction to discipline a legal practitioner for misconduct; that power is reserved solely for the High Court and the Defendant under the *Legal Education and Legal Practitioners Act*. Consequently, the disciplinary process was not a "second punishment". Furthermore, the Court concluded that the Defendant was obliged to hear the complaint as it was never withdrawn and concerned ethical violations. The Court also held that the Claimant only underwent one disciplinary

hearing, preceded by a non-substantive conduct meeting. Since the Claimant had not demonstrated any clear error of law in the Committee's exercise of its statutory powers under the Legal Education and Legal Practitioners Act, there was no arguable case warranting a full judicial review hearing. Given the failure of the application for permission for judicial review, the Court made no ancillary order regarding the interlocutory injunction.