



The Pretoria **advocates case**

In *Pretoria Society of Advocates & Another v Geach & Others* (delivered on 29 September 2011 but as yet not reported) Van Dijkhorst, Combrinck and de Villiers AJJ commenced their joint judgment thus:

‘When counsel mount the steed of greed and attempt to clear the hurdle of their professional rules their fall inevitably dents the reputation of the profession. In this case the proud reputation of the Pretoria Bar. We write this judgment in sorrow and lament the loss of integrity, in the past the hallmark of the profession of advocates. We sit in judgment on 13 members of the Bar, among them two silks, who by their action have brought the good name of their profession into disrepute.’

When this matter came to my attention I raised it at the March 2011 meeting of the executive committee of the GCB and asked the Pretoria representatives to furnish me with the records. That was done and thereafter my suggestion that the GCB intervene in the proceedings was approved.

In the judgment that decision was vindicated thus:

‘The General Council of the Bar of South Africa (GCB), the umbrella body of its constituent Bars, with leave intervened ... and contended that all the respondents should be struck off. The GCB and its team of advocates, ably led by Mr Epstein SC, are commended for their assistance.’

The decision to intervene was one not lightly made. At stake was the integrity of the Bar as a whole, not just Pretoria. We took no particular pleasure in taking that step and, certainly for my part, see no reason to celebrate the outcome. Like the Bench, the GCB approached the matter with generous doses of sorrow and feelings of loss.

The judgment of the court provides us with the opportunity to revisit our ethics and to examine whether, as their lordships said,

integrity appears no longer to be a hallmark of the Bar.

I take the view that the overwhelming majority of our colleagues would disagree. They would still hold dear the sentiment expressed in *Kekana v Society of Advocates of South Africa* 1998 (4) SA 649 (SCA) at 656A ‘... firstly, that absolute personal integrity and scrupulous honesty are demanded of each of them and, secondly, that a practitioner who lacks these qualities cannot be expected to play his part.’ In paragraph 8 of their judgment their lordships again endorsed that sentiment.

What then does the judgment mean for the Bar?

Firstly, it demands being commended to each constituent Bar if for nothing more than being an aid in their ethics courses and lectures for pupils. Of course, it means much more.

Secondly, I would commend it to all advocates of whatever standing, even as bedside reading, because a reminder of what we are and what we are about is never misplaced.

It does not help to say that the problem that the judgment dealt with is unique to Pretoria or to other jurisdictions or to say that the problem is confined to matters concerning the Road Accident Fund. The general principles revisited in the judgment remain constantly and consistently applicable.

Thirdly, we must welcome the view that Bar councils are not confined to act only upon receipt of a complaint but are entitled to be proactive where circumstances warrant. In my opinion this view, while respectfully making eminent sense, is also of tremendous value to us in our rightful and proper demand to be allowed to continue as a self-governing and self-regulating profession.

On that score the steps taken by the GCB, to my mind, support that very point. The fact that the GCB took the steps that it did demonstrates that it is indeed capable of fearless self-governance and self-regulation and at the same time of acting in the public interest.

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