

**IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE
(CIVIL)**

GRENADA

CLAIM NO. GDAHCV2023/0585

BETWEEN:

**IN THE MATTER OF PART 5 (SECTIONS 85-89) OF THE WEST INDIES
ASSOCIATED STATES SUPREME COURT (GRENADA) ACT CAP 336 OF
THE 1990 REVISED LAWS OF GRENADA**

AND

IN THE MATTER OF THE LEGAL PROFESSIONAL ACT NO. 25 OF 2011

AND

**IN THE MATTER OF AN APPLICATION BY SANA CHRISTYL MARK TO BE
ADMITTED TO PRACTICE AS AN ATTORNEY-AT-LAW OF THE SUPREME COURT
OF GRENADA AND THE WEST INDIES ASSOCIATED STATES**

Before:

The Hon. Mde. Justice Agnes Actie

High Court Judge

Appearances:

Mr. Ruggles Ferguson K.C for the Applicant

Ms Regine Mondesir for the Attorney General

2024: February 24th
Submissions filed 6th & 13th September 2024
October 27th

JUDGMENT

- [1] **ACTIE, J.:** The issue arising in this claim is whether the Applicant satisfies the academic and professional educational requirement for admission to practice as an Attorney-at-Law of the Supreme Court of Grenada.

Background

- [2] The applicant seeks to be admitted to practice as an Attorney-at-Law of the Supreme Court of Grenada pursuant to Part 5 (Sections 85- 89) of **West Indies Associated States Supreme Court (Grenada) Act**¹ (hereafter called 'the Act') .
- [3] The applicant is a citizen of Grenada and the holder of a Bachelor of Laws Degree from the University of the West Indies dated 1st February 2016, a Master of Laws (LLM), an article of clerkship of three-year duration with the practicing law firm of Ciboney Chambers under the supervision of Mr. Ruggles Ferguson K.C, for the period June 2016-2019, a Graduate Diploma in Law Common Professional Examination (CPE) from the University of Lancashire, September 2019 and a Legal Practice Certificate (LPC) from the Solicitor's Regulation Authority University of Law, England and Wales dated August 1, 2023.
- [4] The matter came on for hearing before the full court on 28th February 2024 and directions were issued for the Attorney General and the President of the Bar to file submissions in relation to the said application.
- [5] Counsel Ms. Regine Mondesir, Crown Counsel in the Attorney General's Chambers, in filed submissions, posits that the applicant has not satisfied the statutory criteria as stipulated by Section 86 of the Act. Counsel further states that the key elements necessary for admission under the specifically outlined circumstances are, namely.
- i. Educational Qualification: The Applicant must have at least one of the mentioned degrees as mentioned in the Act from any of the Universities of England, Wales, Northern Ireland or Scotland.
 - ii. Clerkship: The Applicant must have successfully served under the articles of clerkship to a barrister or solicitor practicing in Grenada for a term of three years.
 - iii. Examination: The Applicant must have satisfied whatever prescribed examination as directed by the Act

¹ Cap 336 of the 1990 Revised Laws of Grenada

- [6] Counsel further avers that **Section 86** of the **Act** specifies as one of the cumulative factors for admission to the bar that the Applicant's Bachelor of Laws Degree must have been from any of the Universities of England, Scotland, Wales or Northern Ireland. Ultimately then, the applicant cannot satisfy the required proficiency required to apply under this **Act** despite having completed her three-year period of clerkship as evidenced by her Completion Certificate.
- [7] The applicant in response states that she obtained a Graduate Diploma in Law: Common Professional Examination University of Central Lancashire which is part of the vocational stage of training under the old system for qualification as a solicitor in England and Wales. The applicant states that she then pursued a Master of Laws in Professional Legal Practice specifically in Family Law.

Analysis

- [8] The overarching legislation for admission to the bar is the **Legal Profession Act**. (hereafter called "**LPA**")². However, an applicant who wishes to be admitted to practice must satisfy the court that he or she holds the qualifications prescribed by law.
- [9] **Section 17** of the **LPA** provides:
- “(1) Subject to the provisions of this Act, a person who makes an application to the Supreme Court, and satisfies the Supreme Court that he—(a) is of good character; and either (i) **holds the qualifications prescribed by law**; (my emphasis) or (ii) is a person in respect of whom an Order has been made under section 18; shall be eligible to be admitted by the Court to practise as an attorney-at-law in Grenada.
- (2) Notwithstanding the provisions of this Act or any other written law to the contrary, a national of Grenada who makes an application to the Court and satisfies the Court

² Cap 167 Act No.25 of 2011

that—

(a) he has the qualifications which would allow him to practise law in any country having a sufficiently analogous system of laws as Grenada; and
(b) he has obtained a certificate from the head of chambers of an attorney-at-law of not less than ten years standing, practising in Grenada to the effect that the national has undergone an attachment to those chambers for a continuous period of not less than six months relating to the practise of law; is deemed to hold the qualifications prescribed by law and is entitled, subject to fulfilling the conditions under subsection (1), to be admitted by the Court to practise as an attorney-at-law in Grenada.”

[10] Mr Ruggles Ferguson K.C., on behalf of the applicant, states that the application is made pursuant to **Section 86** of the **Act** and not under the **LPA**.

[11] Ms. Mondesir, in filed submissions, states that in interpreting Section 17 (1) (a) of the **LPA** therefore, in conjunction with the Council Legal Education Act, the Legal Education Certificate is one of the qualifications prescribed by law together with persons with the qualifications and admitted to practice under the **Act**

[12] Ms. Mondesir further posits that Section 17 (1) of the LPA is inapplicable to the Applicant as she does not possess a Legal Education Certificate as established by the Council of Legal Education (CLE). Counsel states that although the Applicant has met the clerkship requirement, her LLM and LPC are not among the exhaustive list specified degrees in Section 86 of the Act.

[13] It is therefore necessary to consider the avenue under which the applicant seeks to be admitted, and the qualifications prescribed by law. The applicant has produced certificates evidencing her completion of (i) A law degree from the University of the West Indies, (ii) a graduate diploma in law - Common Professional Examination (CPE) and (iii) a letter providing that the applicant has successfully completed the Legal Practice Course (LPC).

- [14] Mr Ferguson K.C in submissions filed on 6th September 2024, referred the court to the Court of Appeal decision, "**In the Matter of an Application of Cajeton Anthony Kelvin Hood to be Admitted to Practice as a Barrister at Law of the Supreme Court of Grenada and the West Indies Associated States**" (hereafter "Cajeton Hood Case "). In this case the issue was whether the Applicant, a Grenada national who was admitted on 16th August 1999 to the Honourable Society of Lincoln's Inn in England and was called to the Bar as a Barrister on 12th October 2000 having completed the prescribed courses of study and training in the Bar Vocational Course could be admitted to practice pursuant to Section 77 of The West Indies Associated States Supreme Court (Grenada) Act, Cap 336. The High Court, in refusing the admission, held that the applicant must, in addition, be the holder of a Certificate of Legal Education from the University of the West Indies pursuant to Articles 5 and 6 of the Agreement establishing the Council of Legal Education pursuant to the Council of Legal Education Act 1972 ("Cap71") of the Revised Laws of Grenada.
- [15] The Court of Appeal, in reversing the High Court's decision, held that The West Indies Associated States Supreme Court (Grenada) Act, Cap, 336, and the Council of Legal Education Act, Cap. 71, were both contained in the 1990 Revised Edition of the Laws of Grenada. The court held that Cap.336 is the last of the relevant statutory provisions;- it is unfettered; it is unqualified, and the whole question of the intention of Parliament ought to be determined by looking at both Cap. 336 and Cap. 71 to know the intention of Parliament.
- [16] The same reasoning can be applied to the case at bar, albeit that the prescribed courses of study are different. I agree with the applicant's submission that, for the purposes of the West Indies Associated States Supreme Court (Grenada) Act, the LPC satisfies the requirement of examination. This, however, being the avenue for entry as a solicitor, the applicant would have to be herself under the qualifying provisions of the **Act**.
- [17] It is now necessary to consider the qualifying sections of the **Act** in relation to the application.

- [18] **Part V** of the **West Indies Associated States Supreme Court (Grenada) Act** deals with Solicitors' examinations. **Section 85** provides for the admission of solicitors on examination and reads:-

"Subject to the provisions of this Part, a Judge of the High Court shall have power to admit and enrol as a solicitor of the Court any fit person who has served under articles of clerkship for a term of five years continuously in the office of a practising barrister or solicitor residing in Grenada and who has passed such examination touching the principles and the practice of the law as may be prescribed by rules made by the Chief Justice..".

- [19] **Section 86** of the **Act** on which the application is premised reads:

"Notwithstanding section 85, a person having taken the degree of bachelor of arts or bachelor of laws in any of the universities of England, Wales, or Northern Ireland, or the degree of bachelor of arts, master of arts, bachelor of laws or doctor of laws in any of the universities of Scotland, such degree not being an honorary degree, and who either before or after the passing of this Act has been bound by and has duly served under articles of clerkship to a barrister or solicitor, practising in Grenada, for a term of three years and has been examined in manner directed by this Act, may be admitted and enrolled as a solicitor of the Court."

- [20] **Section 87** of the **Act** makes provision for the Chief Justice, notwithstanding sections 85 and 86 of the Act, to abridge the period of clerkship from 5 years to 3 years to a person who has produced evidence that they have worked as a bona fide clerk to a barrister or solicitor and has performed that role faithfully, honestly and diligently.

- [21] **Section 88** of the **Act** provides for the preliminary and qualifying examinations and reads:-

No person shall enter into articles of clerkship with a barrister or solicitor unless he or she has passed either a preliminary or a qualifying examination.

- [22] The qualifying examination is defined as a degree (other than an honorary degree) in arts or law at any of the Universities of England, Scotland, Wales or Northern Ireland, The Matriculation or other corresponding examination of any of the Universities of England, Scotland, Wales or Northern Ireland. The Responsions Examination at Oxford or the Previous Examination at Cambridge, or any examination accepted as exempting therefrom. The School Certificate Examination or the Higher School Certificate Examination established by the Universities of Oxford and Cambridge. The Preliminary Examination held by the Law Society of England.³
- [23] Having reviewed the above sections of the Act, the court is of the view that the applicant is unable to come under Section 86 as premised in her application. An applicant under Section 86 must possess a degree of Bachelor of Arts or Bachelor of Laws in any of the universities of England, Wales, or Northern Ireland, or the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws or Doctor of Laws in any of the universities of Scotland, such degree not being an honorary degree. The applicant at that time did not have such a qualifying degree from England, Wales, Northern Ireland or Scotland.
- [24] The applicant has adduced as evidence her Registration of Articles of Clerkship pursuant to Section 91, whereby on 24th June 2019, the Chief Justice directed that the Articles of Clerkship dated 15th June 2016 be submitted for Registration with the Registrar of the High Court and that upon Registration the Articles of Clerkship shall be deemed to commence from 15th June 2016. In the affidavit filed by the applicant in support of the application, the applicant deposes to having completed 3 years of articles of clerkship prior to obtaining the qualifications that she now states enable her to practice as a solicitor.
- [25] It is in the court's view that an applicant seeking admission to practice under Section 86 of Act should first possess the qualification to be admitted to practice under part

³ West Indies Associated States Supreme Court (Grenada) Act Cap 336 the Schedule

17 (1) or has the qualification to satisfy the provision of section 17 (2) of the Legal Profession Act.

[26] The court is of the view that the applicant does not meet the qualifying requirement to be admitted to practice under Section 86 of the West Indies Associated States (Grenada) Act to satisfy the requirements of Section 17 of the Legal Profession Act. The application must therefore be dismissed.

Agnes Actie
High Court Judge

By the Court

Registrar