

LEGAL PROFESSION

Company providing service of connecting general public to legal firms – Whether company allowed to do so – Objects and powers of Bar Council – Whether Bar Council has *locus standi* to initiate action – Legal Profession Act 1976, sections 37, 41 and 42

Bar Malaysia v Index Continent Sdn Bhd

[2016] 2 CLJ 545, Federal Court

Facts The appellant was a body corporate established under the Legal Profession Act 1976 (“the LPA”) while the respondent was a company. The respondent intended to offer services to the members of the public who are seeking legal services, by providing information on law firms that offer such services and thereafter to connect the requesting party to the relevant law firms (“the impugned services”). The appellant obtained an injunction against the respondent at the High Court on the basis that the impugned services amount to a breach of the LPA as such services are customarily undertaken by Advocate and Solicitors of the High Court of Malaya. The Court of Appeal allowed the respondent’s appeal, stating that the appellant’s powers to initiate legal proceedings through the Bar Council were limited only to the affairs of the Malaysian Bar, and that the respondent’s alleged infringement of section 37¹ of the LPA, which is penal in nature, does not form part of the affairs of the appellant. Hence, this appeal.

Issue The issue was whether the appellant had *locus standi* pursuant to sections 41(2)² and 42(2)³ of the LPA to commence action against the respondent for infringement of section 37 of the LPA.

Held In allowing the appeal, the court held that section 41(2) of the LPA confers the appellant powers to sue, and the extensive objects and powers in section 42 of the LPA provide *locus standi* for the appellant to commence the action and apply for the injunction against the respondent in this case. Thus, the appellant is empowered by section 42(2) of the LPA to sue when an unauthorised person is purported to have acted only as is allowed by an Advocate and Solicitor, which violates section 37 of the LPA.

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¹ Section 37 of the LPA states that no unauthorised person to act as advocate and solicitor.

² Section 41 of the LPA provides for the establishment of Malaysian Bar.

³ Section 42 of the LPA states the object and powers of the Bar.