proceedings adopted by him in the present litigation he was probably not advised to make a proper application under s. 5. sub-s. (2) of the Ordinance; but that is the only protection that he and judgment-debtors of his class were entitled to after the amending Ordinance of 1952 came into force. It would, therefore, not be reasonable to complain that no protection whatever has been given to this class of thika tenants. It may be that the extent of the protection now afforded to this class may not be as wide as it originally was under s. 28 of Act II of 1949 but the deletion of s. 28 clearly indicates that the Legislature wanted to revise its policy in this matter. The position, therefore, is that the conclusion which follows from a reasonable construction of s. 5, sub-s. (1) is corroborated by the deletion of s. 28 from the Act and by the provision of s. 5, sub-s. (2) of the amending Ordinance of 1952 and s. 9 of the amending Act VI of 1953. We must, accordingly, hold that the Calcutta High Court was right in rejecting the appellant's argument that civil courts had no jurisdiction to entertain the execution petition filed by the respondent against the appellant. In the result, the appeal fails and must be dismissed with costs.

Appeal dismissed.

THE COUNCIL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA & ANOTHER

v.

B. MUKHERJEA

(BHAGWATI, S.K. DAS and GAJENDRAGADKAR, JJ.)

Chartered Accountant—Misconduct during appointment as liquidator by Court—If amounts to professional misconduct—Reference—Power if High Court—Chartered Accountants Act, 1949 (*XXXVIII of* 1949) *ss.* 2(2), 21 *and* 22.

Respondent, a chartered accountant and a member of the Institute of Chartered Accountants, was appointed liquidator of three insurance companies in pursuance of the orders of the High

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Court. He received records, cash and securities on behalf of these companies. The Assistant Controller of Insurance found that his conduct as liquidator was wholly unsatisfactory and that he would not even reply to the letters addressed to him. His appointment was cancelled and another person was appointed. In spite of repeated demands he failed to return all the records, cash and securities. A complaint was lodged against him with the Council of the Institute of Chartered Accountants. After inquiry the respondent was found guilty of misconduct, and the report was forwarded by the Council to the High Court for necessary action under s. 21 of the Chartered Accountants Act, 1949. The High Court rejected the reference on the ground that the conduct of which the respondent was found guilty could not be said to be professional misconduct and did not attract the provisions of ss. 21 and 22 of the Act.

Held, that the respondent, when working as a liquidator, must be deemed to have been in practice as a chartered accountant within the meaning of s. 2(2) of the Act. The definition of misconduct in s. 22 is inclusive and the Council may hold an inquiry and find a member guilty of conduct which, in its opinion, renders him unfit to be a member of the Institute, even though such conduct does not attract any of the provisions of the schedule referred to in s. 22. The conduct of the respondent was grossly improper and unworthy and amounted to professional misconduct within the meaning of the Act.

In a reference under s. 21 of the Act the High Court has ample powers to adopt any course which would enable it to do complete justice between the parties. It can examine the correctness of the findings recorded by the Council or refer the matter back for further inquiry and call for a fresh finding. The High Court is not bound to deal with the merits of the finding as it has been recorded and either to accept or reject it.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 170 of 1956.

Appeal by special leave from the judgment and order dated the 12th January, 1955, of the Calcutta High Court in exercise of its Special Jurisdiction under the Chartered Accountants Act, 1949, in Matter No. 107 of 1954.

M.C. Setalvad, Attorney-General for India, S.N. Andley, J.B. Dadachanji and *Rameshwar Nath*, for the appellants.

Aswini Kumar Ghose, T. S. Venkataraman and *K. R. Chaudhury*, for the respondents.

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1957, September 10. The following Judgment of the Court was delivered by

GAJENDRAGADKAR J.—The material facts leading to the present appeal are not in dispute and may be conveniently stated at the outset. On July 17, 1933, the respondent was enrolled as a registered accountant under the Auditors Certificate Rules, 1932. When the Chartered Accountants Act, 1949, came into operation, the respondent's name was entered as a Member of the Institute of Chartered Accountants of India on July 1, 1949. On September 13, 1950, the respondent was appointed as Liquidator of three companies. The respondent obtained refund of the sums and securities deposited on behalf of the three companies with the Reserve Bank of India. He, however, made no report about the progress of liquidation of the said three companies. Repeated requests made to him by the Assistant Controller of Insurance found no response. As Liquidator the respondent gave a cheque to Shri S. K. Mandal, Solicitor to the Central Government at Calcutta, towards payment of the taxed costs in the winding-up proceedings of one of the companies. The said cheque was, however, returned dishonoured on the ground that the payment had not been arranged for. When the Assistant Controller of Insurance found that the conduct of the respondent as Liquidator was wholly unsatisfactory and that he would not even show the ordinary courtesy of replying to the letters addressed to him, he proceeded to cancel the appointment of the respondent as Liquidator by his letter dated October 29, 1952. The respondent was then called upon to hand over all books of account, records, documents, etc., to Shri N.N. Das, who was appointed a Liquidator in his place. Shri Das as well as the Assistant Controller of Insurance then made repeated demands on the respondent to deliver to Shri Das the assets and records of the three companies. It is common ground that the respondent had with him securities of the value of Rs. 11,950 and a cash sum of Rs. 642 on account of the United Common

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Provident Insurance Co. Ltd. He had also with him securities to the value of Rs. 12,100 on account of the Asiatic Provident Co. Ltd., and securities and cash on account of the Citizens of India Provident Insurance Co. Ltd. Out of these amounts the respondent returned only securities of the face value of Rs. 10,000 and Rs. 350 of Asiatic Provident Co. Ltd., and United Common Provident Insurance Co. Ltd., respectively. He failed to send any further securities or cash held by him on account of the said three companies. It was at this stage that a complaint was lodged against the respondent with the Council of the Institute of Chartered Accountants of India in Calcutta. As required by the provisions of the Act, the disciplinary committee of the Council inquired into the matter. Notice was served on the respondent but he filed no written statements within the time fixed. On August 1, 1953, a letter was received from the respondent that he was ill and was unable to attend personally. The respondent had also requested for the adjournment of the case. Proceedings were accordingly adjourned to August 29, 1953, on which date the respondent was represented by a counsel who filed the respondent's affidavit stating that he was prepared to hand over the entire cash, books of account, etc., to the newly appointed Liquidator without rendering the necessary accounts. It appears that Shri Das, the subsequently appointed Liquidator, gave evidence before the disciplinary committee. Though several opportunities were given to the respondent to appear before the disciplinary committee he failed to appear or to take part in the proceedings. Ultimately the committee made its report on September 13, 1953, and found that the respondent was guilty of gross negligence in the conduct of his professional duty in not handing over charge of the assets and the books of account of the said companies to the newly appointed Liquidator. This report was considered by the Council itself as required by the Act. The Council agreed with the finding recorded by the disciplinary committee in substance, but took the view that the

acts and omissions of the respondent were more serious than what can be described as gross negligence. The finding of the Council was then forwarded to the High Court of Judicature at Calcutta as required by section 21 (1) of the Act and the matter was heard by the learned Chief Justice and Mr. Justice Lahiri. By their judgment delivered on January 12, 1955, the reference was rejected on the ground that no action could be taken against the respondent under the Act though the facts proved against the respondent showed that "he had been guilty of grossly improper conduct if not dishonesty". On these facts the main point which arises for our decision is what is the nature, scope and extent of the disciplinary jurisdiction which can be exercised under the provisions of this Act against the respondent.

It would now be necessary to examine the scheme of the material provisions of the Act. This Act came into force in 1949 and it was passed, because the Legislature thought it expedient to make provision for the regulation of professional accountants and for that purpose it has provided for the establishment of the Institute of Chartered Accountants. Section 2, sub-s. (1) (b) defines a Chartered Accountant as meaning "a person who is a member of the Institute and who is in practice". Section 2, sub-s. (2) provides that a member of the Institute shall be deemed to be in practice when, individually or in partnership with chartered accountants, he, in consideration of the remuneration received or to be received, does any of the acts mentioned in the following 4 sub-clauses: .....Sub-clause (iv) is relevant for our purpose :

"S. 2 (2) iv) : " (Where a member) renders such other services as in the opinion of the Council are or may be rendered by a chartered accountant, (he is deemed to be in practice)."

Section 4 provides for the entry of names in the register of chartered accountants. Section 5 divides the members of the Institute into two classes designated respectively as Associates and Fellows. Section 6 lays down that no member of the Institute shall be

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entitled to practise unless he has obtained from the Council a certificate of practice. Under s. 7, every member of the Institute in practice shall be designated as a chartered accountant and no person practising the profession of accountancy in India shall use any other designation whether in addition thereto or in substitution therefor. Section 8 deals with disabilities. Any person who incurs any one of the disabilities enumerated in sub-cls. (i) to (vi) of s. 8 shall not be entitled to have his name entered in or borne on the Register. Sub-clause (v) deals with the disability arising by reason of conviction by a competent court whether within or without India of an offence involving moral turpitude and punishable with transportation or imprisonment or of an offence not of a technical nature committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing, removed the disability. Sub-clause (vi) deals with the disability in cases where the chartered accountant is found on an inquiry to be guilty of conduct which renders him unfit to be a member of the Institute. Chapter III deals with the constitution of the Council, the committees of the Council and the finances of the Council. Chapter IV deals with the register of members and the removal from the Register of the name of a chartered accountant, as provided by s. 20, sub-cls. (a),(b) and (c). Under s. 20, sub-s. (2), it is provided that the Council shall remove from the Register the name of any member who has been found by the High Court to have been guilty of conduct which renders him unfit to be a member of the Institute. Chapter V deals with the question of misconduct. It consists of ss. 21 and 22. Chapter VI deals with the constitution and functions of the Regional Councils; Chapter VII deals with penalties and Chapter VIII deals with miscellaneous matters. Section 21 deals with the procedure of enquiries relating to misconduct of members of the Institute. It reads thus :

"S. 21. (1)—Where on receipt of information or on receipt of a complaint made to it, the Council is of opinion that any member of the Institute has been guilty of conduct which, if proved, will render him unfit to be a member of the Institute, or where a complaint against a member of the Institute has been made by or on behalf of the Central Government, the Council shall cause an inquiry to be held in such manner as may be prescribed, and the finding of the Council shall be forwarded to the High Court.

(2) .....
(3) .....
(4) ....."

Sub-sections (2), (3) and (4) of s. 21 deal with the powers of the High Court in dealing with the reference made to it, under s. 21. sub-s. (1). Section 22 defines misconduct. It reads thus :

"S. 22. For the purposes of this Act, the expression "conduct which, if proved, will render a person unfit to be a member of the Institute " shall be deemed to include any act or omission specified in the Schedule, but nothing in this section shall be construed to limit or abridge in any way the power conferred on the Council under sub-s. (1) of section 21 to inquire into the conduct of any member of the Institute under any other circumstances."

The learned Judges of the Calcutta High Court have held that the conduct of which the respondent is proved to have been guilty cannot be said to be professional misconduct properly so-called and cannot, therefore, attract the provisions of ss. 21 and 22 of the Act. "There, thus, seems to be no room for contending", observes the learned Chief Justice in his Judgment, "that misconduct not connected with the exercise of the profession is also within the ambit of the Act, provided it involves moral turpitude or appears to render a person unworthy to remain a member of a responsible profession". It has also been found by the learned Judges that even if they were to hold that the misconduct proved against the respondent attracted the provisions of ss. 21 and 22 of

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the Act it would not be open to them to take any action against the respondent on that ground because the Institute cannot expect the Court to take action in the present case on the footing that the respondent had been guilty of misconduct otherwise than in his professional capacity since that is not the finding which the Council arrived at and which is reported to the Court. It is the correctness of these findings that is challenged before us by the learned Attorney-General. He contends that the learned Judges of the Calcutta High Court have put an unduly restricted and narrow construction on the provisions of ss. 21 and 22 in holding that the respondent's conduct does not amount to professional misconduct; and he has also urged that the technical reason given by the learned Judges in not taking any action against the respondent even if they had accepted the broader interpretation of the two said sections proceeds on a misconception about the nature and extent of the powers of the High Court while hearing references made to it under the provisions of s. 21, sub-ss. (2), (3) and (4) . In our opinion, the contentions raised by the learned Attorney-General are well-founded and must be upheld.

Let us first consider whether the conduct of the respondent amounts to professional misconduct or not. In dealing with this question it is necessary to bear in mind the provisions of s. 2, sub-s. (2) (iv) of the Act. A member of the Institute under this provisions shall be deemed to be in practice when he renders such other services as in the opinion of the Council are or may be rendered by a chartered accountant. In other words, just as a member of the Institute who engages himself in the practice of accountancy is by such conduct deemed to be in practice as a chartered accountant, so is he deemed to be in practice as a chartered accountant when he renders other services mentioned in s. 2, sub-s. (2) iv). What other services attract the provisions of this sub-section has to be determined in the light of the regulations framed under provisions of this Act. Section 30 of the Act confers power on the Council to make regulations by notification

in the Gazette of India for the purpose of carrying out the object of the Act and it provides that a copy of such regulation should be sent to each member of the Institute. Section 30, sub-s. 2 sets out the several topics in respect of which regulations can be framed though, as usual, it provides that the enumeration of the different topics is without prejudice to the generality of the powers conferred by s. 30, sub-s.(1). Sub-s. (4) lays down that, notwithstanding anything contained in sub-ss. (1) and (2), the Central Government may frame the first regulations for the purposes mentioned in the section and such regulations shall be deemed to have been made by the Council and shall remain in force from the date of coming into force of this Act until they are amended, altered or revoked by the Council. Regulation 78 is one of the regulations originally framed by the Central Government under s. 30, sub-s. (4). It reads thus :

"Regulation 78. Without prejudice to the discretion vested in the Council in this behalf, a Chartered Accountant may act as liquidator, trustee, executor, administrator, arbitrator, receiver, adviser, or as representative for costing financial and taxation matter or may take up an appointment that may be made by Central or State Governments and Courts of law or any Legal Authority, or may act as Secretary in his professional capacity not being an employment on a salary-*cum*-full-time basis."

The last clause has been added by the Council by a notification dated August 22, 1953. Now it is clear that when the respondent accepted his appointment as liquidator of the three companies in question he agreed to work as a liquidator in pursuance of an order passed by the High Court of Judicature at Calcutta and there can be no doubt that in working as such liquidator he was rendering services which in the opinion of the Council may be rendered by a chartered accountant. The provisions of Regulation 78 must inevitably be considered in the light of s. 2, sub-s. (2), cl. (iv) and the result of considering the two provisions together obviously is that when the respondent was working as a liquidator in pursuance of an order passed by the Calcutta High Court he

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must be deemed to be in practice within the meaning of s. 2, sub-s. (2). We feel no difficulty in holding that chartered accountants who render services falling within s. 2, sub-s. (2), cl. (iv) are as much entitled to be deemed to be in practice as those whose duties attract the provisions of cls. (i), (ii) and (iii) of sub-s. (2). If that be the true position it is difficult to accept the view that the conduct of the respondent while he discharged his duties as a liquidator is not the professional conduct of a chartered accountant even within the narrow and restricted sense of the term. If, while acting as liquidator, the respondent must be deemed to be in practice as a chartered accountant all acts and omissions proved against him in respect of such conduct as liquidator must be characterised as his professional acts and omissions. "Practice" according to Webster's New International Dictionary means "exercise of any profession or occupation" and if the performance of the duties as liquidator attracts the provisions of s. 2, sub-s. (2), whatever the chartered accountant does as a liquidator must be held to be conduct attributable to him in the course of his practice. The object with which cl. (iv) in sub-s. (2) of s. 2 has been deliberately introduced by the Legislature, in our opinion, appears to be to bring within the disciplinary jurisdiction of the statutory bodies recognized under the Act, conduct of chartered accountants even while they are rendering services otherwise than as chartered accountants properly so-called. It is because the Legislature wanted to provide for a self-contained code of conduct is respect of chartered accountants that the denotation of the expression "to be in practice" has been in a sense deliberately and artificially extended by virtue of s. 2, sub-s. (2), cl. (iv). We must, therefore, hold that, on the facts proved, the respondent is clearly guilty of professional misconduct.

This would really dispose of the appeal before us, because once it is held that the respondent is guilty of professional misconduct it would be obviously necessary to deal with him on that basis and make an appropriate order under s. 21, sub-s. (3) of the Act. However,

since the learned Attorney-General has alternatively urged before us that in confining the exercise of disciplinary jurisdiction only to cases of professional misconduct, technically so-called, the learned Judges of the Calcutta High Court have misconstrued the relevant provisions of the Act, we propose to deal very briefly with that question also.

Section 21, sub-s.(1), deals with two categories of cases in which the alleged misconduct of members of the Institute can be inquired into. If information is received or complaint is made to the Institute against the conduct of any chartered accountant the Council is not bound to hold an inquiry straightaway. The Council is required to examine the nature of the information or complaint made and decide whether, if the facts alleged against the member are proved, they would render the member unfit to be a member of the Institute. In other words, in the case of a private complaint made against members, it is only where the Council is satisfied *prima facie* that facts alleged against the member, if proved, would justify the exercise of disciplinary jurisdiction against the member that the Council is required to hold an inquiry. The conduct alleged must be such as, if proved, would render the member unfit to be a member of the Institute. The other class of cases has reference to the complaint received by the Council from the Central Government. In regard to this class of cases, the Council is not required,—and indeed has no jurisdiction to apply the *prima facie* test—before holding an inquiry. The Council is required to cause an inquiry to be held on such complaint straightaway. In both the cases when the inquiry is concluded, the findings of the Council are to be forwarded to the High Court. Section 22 purports to define the expression "conduct which, if proved, will render a person unfit to be a member of the Institute". It is an inclusive definition; it includes any act or omission specified in the schedule but the latter portion of s. 22 clearly lays down that nothing contained in this section shall be construed to limit or abridge in any way the power conferred on the Council under sub-s. (1) of s. 21. The position thus

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appears to be that though the definition of the material expression used in s. 21, sub-s. (1), refers to the acts and omissions specified in the schedule, the list of the said acts and omissions is not exhaustive; and, in any event, the said list does not purport to limit the powers of the Council under s. 21, sub-s. (1), which may otherwise flow from the words used in the said sub-s. itself. The schedule to which s. 22 refers has enumerated in cls. (a) to (v) several acts and omissions and it provides that, if any of these acts or omissions is proved against a chartered accountant, he shall be deemed to be guilty of professional misconduct which renders him unfit to be member of the Institute. Clause (v) is rather general in terms since it provides for cases where the accountant is guilty of such other act or omission in his professional capacity as may be specified by the Council in this behalf by notification in the Gazette of India. It must be conceded that the conduct of the respondent in the present case cannot attract any of the provisions in the schedule and may not therefore be regarded as falling within the first part of s. 22; but if the definition given by s. 22 itself purports to be an inclusive definition and if the section itself in its latter portion specifically preserves the larger powers and jurisdiction conferred upon the Council to hold inquiries by s. 21, sub-s. (1), it would not be right to hold that such disciplinary jurisdiction can be invoked only in respect of conduct falling specifically and expressly within the inclusive definition given by s. 22. In this connection it would be relevant to mention s. 8 which deals with disabilities. Section 8, sub-ss. (v) and (vi), support the argument that disciplinary jurisdiction can be exercised against chartered accountants even in respect of conduct which may not fall expressly within the inclusive definition contained in s. 22 We, therefore, take the view that, if a member of the Institute is found, *prima facie*, guilty of conduct which, in the opinion of the Council, renders him unfit to be a member of the Institute, even though such conduct may not attract any of the provisions of the schedule, it would still be open to the Council to hold an inquiry against the

member in respect of such conduct and a finding against him in such an inquiry would justify appropriate action being taken by the High Court under s. 21, sub-s. (3). It is true that the High Court would take action against the offending member only if the High Court accepts the finding made by the Council and not otherwise. This conclusion is strengthened if we bear in mind the extended meaning of the expression "to be in practice" given in s. 2, sub-s. (2), which we have already dealt with. In this view of the matter we must reverse the conclusion of the learned Judges of the Calcutta High Court that the conduct proved against the respondent does not fall within ss. 21 and 22 because it is not conduct connected with the exercise of his profession as a chartered accountant in the narrow sense of that term.

The next question to consider is in regard to the extent of the jurisdiction and powers of the High Court when the High Court deals with references under s. 21, sub-ss. (2), (3) and (4). The learned Judges of the Calcutta High Court took the view that even if they had agreed to put a wider construction on the material words used in ss. 21 and 22, they would not be justified in passing any orders against the respondent in the present proceedings because the finding which had been referred to the High Court was only one and that was that the respondent was guilty of professional misconduct in the narrow sense of the term. In other words, the High Court thought that in accepting, and acting on, the larger construction of the material words the High Court would be making out a new case on the reference and the High Court would not be justified in adopting such a course. In our opinion, this view is not well-founded. Section 21, sub-s. (2), lays down the procedure to be followed by the High Court when a finding made by the Council is referred to it under s. 21, sub-s. (1). Notice of the day fixed for the hearing of the reference has to be given to the parties specified in s. 21, sub-s. (1) and an opportunity of being heard has to be given to them. Section 21, sub-s. (3), then lays down that the High Court may either pass such final orders on the case as it thinks fit or refer it back for further

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inquiry by the Council and, upon receipt of the finding after such inquiry, deal with the case in the manner provided in sub-s. (2) and pass final orders thereon. It is clear that in hearing references made under s. 21, sub-s. (1), the High Court can examine the correctness of the findings recorded by the statutory bodies in that behalf. The High Court can even refer the matter back for further inquiry by the Council and call for a fresh finding. It is not as if the High Court is bound in every case to deal with the merits of the finding as it has been recorded and either to accept or reject the said finding. If, in a given case, it appears to the High Court that, on facts alleged and proved, an alternative finding may be recorded, the High Court can well send the case back to the Council with appropriate directions in that behalf. The powers of the High Court under s. 21, sub-s. (3), are undoubtedly wide enough to enable the High Court to adopt any course which in its opinion will enable the High Court to do complete justice between the parties. Besides, in the present case, no such technical considerations can really come into operation because the material facts have not been in dispute between the parties at any stage of the proceedings. The only point in dispute between the parties has been whether on the facts proved disciplinary jurisdiction can be invoked against the respondent under the provisions of the Act. We, therefore, take the view that the learned Judges of the High Court were in error in holding that, even if they had accepted the broader interpretation of s. 21 and s. 22, they could not make an appropriate order in the present case against the respondent having regard to the specific finding recorded by the Council in the inquiry in question.

It would now be necessary to refer to some judicial decisions to which our attention has been invited. In *G. M. Oka, In re* (1), it has been held by a Division Bench of the Bombay High Court that, when a chartered accountant gives evidence before a court of law and he is in the witness box not as a chartered

(1) [1952] 22 Comp. Cas. 168.

accountant but as a witness, the falsity of his statement does not give rise to any disciplinary proceedings against him as a chartered accountant. If he gives false evidence he may be guilty of perjury and if he is convicted the conviction itself may call for disciplinary action. These observations undoubtedly lend support to the view taken by the Calcutta High Court. It is of course true that the conviction of a chartered accountant would attract the provisions of s. 8, sub-s. (vi) and in that sense the conclusion of the Bombay High Court that the conviction itself may be the basis of disciplinary action is, with respect, wholly correct; but the other observations on which reliance is placed by the respondent before us are *obiter* and it also appears from the judgment that the attention of the learned Judges was not drawn to the provision of s. 2 (2) (iv) and other relevant considerations do not appear to have been urged before them in that case. As the judgment itself points out, apart from the technical points which were urged before the court on behalf of the chartered accountant, there was a large volume of other evidence produced against him which conclusively proved that he was guilty of misconduct. Mr. Ashwini Kumar Ghosh, for the respondent, has also sought to rely on *Haseldine* v. *Hosken* (1). In this case the solicitor had taken out an indemnity policy which insured him against loss arising by reason of any neglect, omission or error while acting in his professional capacity. During the subsistence of this policy, the solicitor sustained loss through having, without realising the fact, entered into a champertous agreement. When the solicitor made a claim to be indemnified, it was held that the loss in respect of which indemnity was claimed did not arise by reason of any neglect, omission or error committed by the solicitor in his professional capacity but arose from his entering into a personal speculation. We do not see how this case can assist the respondent in any way. In considering the question as to whether the respondent has been guilty of professional misconduct in the present case, we are concerned with

(1) [1933] 1 K. B. 822.

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the material provisions of the Chartered Accountants Act itself. Observations made by the learned Judge in Haseldine's case can afford no assistance to us in interpreting the said provisions. Similarly the decision in *Krishnaswamy* v. *The Council of the Institute of Chartered Accountants* (1) where the court was primarily concerned with the question as to whether orders passed under s. 21 (2) of the Act are orders passed in civil proceedings or not is wholly inapplicable and gives us no help in deciding the points before us.

The only question which now remains to be considered is the final order to be passed against the respondent. The conduct of the respondent is, in our opinion, wholly unworthy of a chartered accountant in practice. His refusal to give prompt replies to the letters received from the Assistant Controller of Insurance followed by his failure to return the documents and all securities and cash received by him as liquidator leave no room for doubt that he was unable to return the said amount and the said securities and cash and that he was merely employing delaying tactics with the object of postponing the evil day. It is not conduct which is only technically improper or unworthy; it is conduct which is grossly improper and unworthy and as such it calls for a deterrent order. The respondent was appointed a liquidator by the Calcutta High Court presumably because he was a chartered accountant in practice. He thus received the benefit of this appointment as a result of his status as chartered accountant in practice and in acting as a liquidator he has been guilty of conduct which is absolutely unworthy of his status and it renders him unfit to be a member of the institute. We, therefore, think that the ends of justice require that the respondent's name should be removed from the Register for four years. In regard to costs we direct that the respondent should pay the costs of the appellants in this Court and that the parties should bear their own costs in the court below.

Appeal allowed.

(1) A.I.R. 1953 Madras 79.