Lee Kuan Yew v Chee Soon Juan
[2002] SGHC 17

Case Number	: OM 600002/2002
Decision Date	: 31 January 2002
Tribunal/Court	: High Court
Coram	: Lai Kew Chai J
Counsel Name(s)	: Chee Soon Juan in person; Jeffrey Chan, Senior State Counsel for the attorney-general; Yang Lih Shyng [Khattar Wong & Partners] for the law society; Davinder Singh, SC/Hri Kumar/Siraj Omar [Drew & Napier] for the plaintiffs
Parties	: Lee Kuan Yew — Chee Soon Juan

Judgment

GROUNDS OF DECISION

By this originating motion filed on 11 January 2002, Mr Stuart Littlemore QC ("Mr Littlemore") sought ad hoc admission under s 21 of the Legal Profession Act (Cap 161, 2000 Ed) ("the Act") as an advocate and solicitor of this court to appear for Dr Chee Soon Juan ("Dr Chee") in the trials of two defamation suits in which Dr Chee was sued by Mr Goh Chok Tong, the Prime Minister, and Mr Lee Kuan Yew, the Senior Minister, until the final disposal of the two suits.

2 I heard the motion on 18 January 2002. Dr Chee appeared in person and made the application in support of which he filed a very brief affidavit. Both counsel for the Attorney General and The Law Society of Singapore opposed the application on a number of grounds, but it is necessary only to deal with the most fundamental objection. Both the Attorney General and The Law Society of Singapore fundamentally questioned the suitability of Mr Littlemore for admission, having regard to the incontrovertible evidence that he had disparaged the Singapore Judiciary by saying that it is "compliant" and "in the pocket of the Government". Counsel for the plaintiffs in the two defamation suits informed me that his clients had no objections to Dr Chee being represented by a Queen's Counsel. On the question whether Mr Littlemore was a fit and proper person for admission counsel told me that his clients would leave it to the court. At the conclusion of the hearing of the application, I dismissed it.

The Law on QC admission

3 Section 21 of the Act states as follows:

> (1) Notwithstanding anything to the contrary in this Act, the court may, for the purpose of any one case where the court is satisfied that it is of sufficient difficulty and complexity having regard to the circumstances of the case, admit to practise as an advocate and solicitor any person who –
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> (a) holds Her Majesty's Patent as Queen's Counsel;
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> (b) does not ordinarily reside in Singapore or Malaysia but who has come or intends to come to Singapore for the purpose of appearing in the case; and
>
> (c) has special qualifications or experience for the purpose

of the case.

4 The requirements of s 21 were clearly set out by Yong Pung How CJ in *Re Caplan Jonathan Michael QC* (No 2) [1998] 1 SLR 440 at [para 11]:

> At the first stage, the applicant must demonstrate that the case in which he seeks to appear contains issues of law and/or fact of sufficient difficulty and complexity to require elucidation and/or argument by a Queen's Counsel. Such difficulty or complexity is not of itself a guarantee of admission, for the decision to admit is still a matter for the court's discretion. At the second stage, therefore, the applicant must persuade the court that the circumstances of the particular case warrant the court exercising its discretion in favour of his admission. Finally, he has to satisfy the court of his suitability for admission.

5 By s 21 of the Act Parliament conferred on a QC the eligibility to apply for ad hoc admission. The conferment of that privilege must obviously be predicated upon at least two essential qualities which an applicant must possess. First, and it is of fundamental importance, we must be satisfied that by his reputation and conduct he will be responsible, honourable, courteous and respectful of our Judiciary. Though it is his duty to advance the cause of those instructing him fearlessly and with courage in accordance with his duties to his lay client, he should never under any circumstances allow his personal feelings or those of his lay client to affect his duty as officer of the court to be courteous and respectful to our judges and our Judiciary. Further, and it is beyond question, he should never scandalise, disparage or insult our judges and our Judiciary. If he has dishonoured the Judiciary he cannot reasonably expect to be honoured by being admitted as an honourable advocate and solicitor in our courts.

6 Secondly, he must prove that he is an experienced QC and is plainly at the forefront of his area of specialisation so that he can adequately assist our courts in our deliberations and the administration of justice.

The Facts

7 In support of the application, Dr Chee filed a brief affidavit. He stated that Mr Littlemore is a Queen's Counsel as from 9 December 1992. He confirmed that Mr Littlemore did not ordinarily reside in Singapore or Malaysia. Paragraphs 5 to 7 of the affidavit were couched in the following terms:

> "5. The applicant has special experience for the purpose of the cases, in that he is an advocate specialising in defamation in all the States and Territories of Australia, Papua New Guinea, and the United States of America.
>
> 6. The cases are extremely complex defamation matters, involving factual and legal issues of publication and republication; qualified privilege, contextual truth, comment and justification; there are also Counterclaims in defamation, and Third Party claims.
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> 7. The nature of the issues in the case and the identify and positions of the Plaintiffs are further powerful reasons why it is proper and necessary for me to engage the services of leading Counsel from outside Singapore. I believe that the Applicant with his expertise and experience will be in the best position to assist the Court in coming to a just and fair decision."

8 Mr Jeffrey Chan, Senior State Counsel, filed an affidavit with the authority of the Attorney General to set out the facts in opposing the application. It was disclosed that Mr Littlemore was in Singapore from 8th to 12th August 1997 and attended the defamation trial in the case of Goh Chok Tong v J B Jeyaretnam in his capacity as an observer for the International Commission of Jurists ("ICJ"). As an observer from the ICJ, he was accorded all appropriate courtesies by the court hearing the matter. Mr Littlemore subsequently submitted a report on the trial and the judgment of the court. On 1st October 1997 the ICJ released a copy of the report which elicited from the Ministry of Law, Singapore a point-to-point rebuttal. For present purposes, it is unnecessary to consider those points in issue. My reference to the controversy is merely to provide the backdrop.

9 Following the release of the report by ICJ Mr Littlemore was interviewed by the Australian Broadcasting Corporation. This interview was broadcast on 14th October 1997. A transcript of the interview was produced before me as an exhibit. Its accuracy was not challenged by Dr Chee. Among other things, Mr Littlemore uttered the following:

> "The ICJ is dedicated to the rule of law. That is, a government of laws, not of men – the rule of laws, not men. Now that's very uncomfortable for a regime that does impeccably in its judiciary on commercial matters – you couldn't fault the Courts – but when it comes to human rights, they really don't matter..."
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> ... ...
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> "I think it's paying judges eight hundred thousand a year – or the chief judge, 1.2 million. I mean people in Singapore... lawyers will say to you ... that guarantees the independence of the judiciary. I think anybody would say no, it puts the judiciary in the pocket of the government... And you know, when judges are appointed in Singapore, they serve two and a half years probation. Now, the idea of that is anathema to people who believe in an independent judiciary."

10 Mr Littlemore repeated his attacks on the Singapore Judiciary on 15th October 1997 in his article which was published in the Sydney Morning Herald. A copy of the article was also exhibited in these proceedings. He wrote, among other things, the following:

> "The Singapore High Court has a regrettable reputation as compliant with the interests of the Government. Its judges are paid S$800,000 (US$703,730) a year, and the Chief Justice S$1,200,000 (A$1,055,600) – a situation which, far from demonstrating the independence of the judiciary, provides a very persuasive basis for concluding that the judiciary would be highly motivated to comply with the Government priorities.
>
> While the rest of the common-law world has formulated a "public figure" test for defamation or treated political life as requiring a higher degree of robust tolerance, and while such jurisdictions have also placed reasonable limits on damages awards, the Singapore judiciary is exposed as unable to accommodate the fundamental right of free speech alongside the right to protection of reputation."

Submissions

11 Mr Jeffrey Chan for the Attorney General submitted that Mr Littlemore had deliberately disparaged the Singapore Judiciary and the Government of Singapore. He said that Mr Littlemore not only had insulted the Judiciary but he had presented distorted facts of proceedings before our courts in order to propagate a biased and loathsome image of the Judiciary.

12 Counsel for the Law Society of Singapore informed the court that the Law Society of Singapore had studied the affidavit of Mr Jeffrey Chan and the statements made by Mr Littlemore concerning the Singapore Judiciary . Counsel said: "(w)e are of the view that these statements are such as to bring into question his suitability and fitness to be accorded the privilege of being admitted to appear before a Judiciary of which he thinks and speaks with such derision."

13 Dr Chee initially declined to reply to those submissions but later, after I had dismissed his application, he told me that he failed to see how Mr Littlemore's views could impact on Mr Littlemore being able to represent him. He saw those "as very different matters". They are not; honourable conduct must go hand in hand with technical competence in the case of every officer of our courts.

Conclusion

14 As I had said in open court, I concluded that Mr Littlemore had shown us contempt and had been utterly disrespectful. He came across to me as a person who lacked "decency, measure and maturity". I could not trust him to assist our courts in our deliberations in relation to the suits against Dr Chee. I also said that our Judiciary could not possibly be expected to honour those who dishonoured us, disparaged us, and who said such hurtful things about us.

Sgd:

Lai Kew Chai
Judge

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