Kay Swee Pin v Singapore Island Country Club
[2007] SGHC 166

Case Number : OS 2125/2006

Decision Date : 28 September 2007

Tribunal/Court : High Court

Coram : Tay Yong Kwang J

Counsel Name(s) : Plaintiff appearing in person; Ang Cheng Hock and Ramesh Selvaraj (Allen & Gledhill) for the defendant

Parties : Kay Swee Pin — Singapore Island Country Club

Administrative Law – Disciplinary tribunals – Plaintiff falsely declaring spouse in club membership application form – Whether tribunal adopted correct definition of "spouse" – Whether tribunal acted ultra vires the club rules – Whether plaintiff given fair chance to be heard – Whether proceedings time barred

Administrative Law – Judicial review – Ambit – Court's role only to examine correctness of decision-making process

28 September 2007

Tay Yong Kwang J:

The application

1 The plaintiff is a member of the defendant, Singapore Island Country Club ("SICC"), a members' club and a society registered under the Societies Act (Cap 311). The plaintiff acted in person in this Originating Summons ("this OS") which is an application by her for an order that the decision made by SICC to suspend her for one year from 19 May 2006 to 18 May 2007 be revoked forthwith and that SICC pay her damages for loss of use of club facilities, refund her the subscriptions paid and pay her the costs of these proceedings. Procedurally, this OS was flawed in that a statement of claim was annexed thereto but no issue was made of this by counsel for SICC before me.

2 The dispute concerned the suspension of the plaintiff's membership in SICC on the ground that she had acted in a manner prejudicial to the interests of SICC and its members in that she had falsely declared that Ng Kong Yeam ("NKY") was her spouse in registering him as a spouse member to make use of the club's facilities since September 1992.

The factual background

3 The plaintiff joined the club as a member on 4 September 1992 for a consideration of $190,000. In paragraph 8 of the application form ("Form of particulars of proposed transferee of ordinary (transferable) membership") for membership, under "Spouse to be registered as user of the Club's facilities", she wrote the name of NKY, stating also his date of birth and identity card number. Subsequently, her daughter from her previous marriage and her other daughter from her marriage to NKY became junior members.

4 Rule 6(a) (formerly rule 5(a)) of the club's rules ("SICC Rules") provides:

The spouses and unmarried children below 21 years of age of members and nominees of Corporate members shall be entitled to use those facilities of the Club as such members or nominees are entitled to use subject to these Rules and such registration and other requirements of any Bye-Laws made under these Rules.

5 Before January 1994, SICC did not require its members to provide a copy of their marriage certificate when registering their spouses as spouse members of the club. The plaintiff therefore was not required to and did not submit such certificate for verification purposes. SICC relied entirely on her declaration in the application form that NKY was her spouse.

6 According to the plaintiff, sometime in July 2005, the wife of one John Lee ("Mrs John Lee) was suspended for one month for having acted in a manner unbecoming of a member. The Disciplinary Committee ("DC") had recommended a censure but the General Committee ("GC") revised the sanction to one of suspension pursuant to Rule 34(a) of the SICC Rules. At the material time, Mrs John Lee was the Lady Captain of the Lady Golfers' Sub-Committee and the plaintiff was the Lady Vice Captain. When the former returned from her suspension in August 2005, she announced her intention to seek re-election as Lady Captain. The plaintiff decided to challenge her as she felt that Mrs John Lee had lowered the status of that position and had lost the moral authority to lead.

7 John Lee then wrote a letter to the general manager of SICC complaining that he was perturbed by news on the ground that there were concerns among the club's members regarding the marital status of the plaintiff. The plaintiff claimed that any rumour concerning her marital status was attributable to John Lee and his wife and that the said letter was written with a malicious intent.

8 The general manager of SICC asked to see the plaintiff on an urgent basis on the day of the elections in late September 2005. He told her that there was a letter of complaint against her by John Lee and that he was under instruction to warn the plaintiff that if she persisted in running against Mrs John Lee, there would be negative consequences if the plaintiff were elected. The letter of complaint resulted in the GC ordering the plaintiff to appear before the DC.

9 According to SICC, in August 2005, members of the club began questioning the plaintiff's marital status. The club then informally inspected the plaintiff's membership file to see whether there was a copy of her marriage certificate in it. As there was none and as the club was in the midst of updating the bio-data of all its members at that time, the club decided to request a copy of the same from her. The request was conveyed to the plaintiff on 15 August 2005.

10 The plaintiff informed the club that she would revert on its request. Subsequently, on 10 September 2005, she sent the club a copy of her marriage certificate. That certificate showed that the marriage between the plaintiff and NKY was solemnised only on 24 August 2005 in Las Vegas, Nevada, USA. The club then did a search at the Registry of Marriages. The records there revealed that the plaintiff was married to Koh Ho Ping ("Koh") in Singapore on 16 June 1977 while there was no record of her marriage to NKY.

11 Subsequently, on 26 September 2005, John Lee sent an email to the general manager of the club, copied to the GC, stating that there were concerns among the members about the plaintiff's marital status and that since it involved the club's interest and as the plaintiff was "seeking lofty office within the Club, it would be prudent for the Club to investigate this complaint on an urgent basis to satisfy itself that these are non-issues". John Lee added that he was raising the matter as a concerned member "to prevent any loss of dignity and perhaps help to put an end to the unpleasantness currently flying fast and furious".

12 The rest of the facts were not in dispute. John Lee's complaint was referred to the GC on 10 October 2005. The GC decided that the matter be referred to the DC for further action. Accordingly, on 18 November 2005, the general manager of SICC wrote to inform the plaintiff of disciplinary proceedings to be conducted pursuant to Rule 34 of the SICC Rules and to ask her to appear before the DC on 6 December 2005:

> "to answer a charge that you have acted in a manner prejudicial to the interests of the Club and its members in that, you have falsely declared Mr Ng Kong Yeam (NRIC S2504572/F) as your spouse, to make use of Club facilities since September 1992, when the marriage certificate submitted by you on Sat, 10 September 2005 showed that your marriage to Mr Ng Kong Yeam was only registered on 24 August 2005 in Las Vegas, State of Nevada."

As the plaintiff was abroad on the scheduled date of the DC hearing, it was postponed to 16 January 2006.

13 On 7 January 2006, the plaintiff sent an email to the club, in response to the club's email sent a day earlier, stating that she had been away from Singapore since 14 November 2005 and putting on record that that was the first time she had heard about the DC hearing. She asserted that she had every intention of defending her husband's and her reputation and wanted to put an end to the malicious rumour started by some vindictive people. She requested that the DC hearing be postponed until after the Chinese New Year that year as she would be back in Singapore only then. Nevertheless, she went on in her email to say that she would provide some information regarding her marriage, which was as follows:

> My husband and I have been happily married for over 20 years and our daughter is already 18 years old. In 1982, we married in Johore Bahru where my husband lived and worked. We observed traditional and customary rites in our marriage ceremony, which was witnessed by our very close friends (some of whom I will ask to sumit (*sic*) affidavits if necessary) and relatives. As traditional marriages were acceptable and legal in Malaysia at that time, we had done what was necessary and regarded ourselves as legally and properly married. Everyone who knew us acknowledged us as husband and wife and throughout our over 20 years together, no third party has ever emerged to challenge the validity of our marriage.
>
> When the club, from out of the blues, asked for a copy of my marriage certificate, I realised that I did not possess one as customary marriages did not provide for one. As I felt it was too much hassle to explain to the club, my husband and I decided to obtain one from Las Vegas as that is where our second home is. Even though it is registered in August 2005, it certainly does not mean that we have only been recently married. We married in 1982 and only registered it in 2005 because the club needed something in black and white.
>
> I am very saddened that members of our club can be so cruel and unkind. My personal life has been severely violated and rumours are widespread about my impending suspension due to my "false" declaration. Let me repeat that I have been happily married for over 20 years to a husband that is devoted, kind and generous. To suggest that I declared he is my husband when he is not, just to take advantage of using the club's facilities for free, is an insult to our positions in society. We do not need the club to raise our self esteem nor cheat the club just to save a few dollars.
>
> If the charge that I have acted in a manner prejudicial to members of the club just because someone believed that my husband and I did not marry in a procedurally "correct" way under Singapore law, has any merit, then the club should prepare itself for a lot more simillar (*sic*)

complaints because I am sure out of the 5,000 married couples, a good percentage would have to appear before the DC, to answer the same charge. By the way, since the GC has decided to investigate me, please let me know how many married couples do not have a marriage certificate on file and will similar inquiry be held for them.

14 The DC hearing was postponed to 7 February 2006 but that date had to be changed again because a member of the DC had to make an urgent business trip to the USA on 6 February 2006. The club communicated with the plaintiff regarding the re-scheduling of the DC hearing to 11 February 2006. On 6 February 2006, the plaintiff informed the club that she would be unable to attend the hearing on the re-scheduled date. The club's staff consulted the President of the club, Mr Giam Chin Toon, and the Chairman of the DC, Dr Chandra Das. Mr Giam and Dr Chandra Das decided that, instead of delaying the matter further, the DC could proceed to hear the evidence of other witnesses on 11 February 2006 and arrange a later date for the plaintiff to present her case before the DC. There was some communication between the club and the plaintiff regarding the latter's unhappiness at the decision to proceed with the hearing on 11 February 2006 in her absence but the plaintiff was assured by Mr Giam in his email that the DC would not be concluding its hearing without giving the plaintiff a right to be heard first. However, this issue regarding the first part of the DC hearing proceeding in the plaintiff's absence was not pursued by her in the hearing before me.

15 The DC met on 11 February 2006 to hear the evidence of two witnesses, John Lee, the complainant, and Ong Siew Beng, the Head of the Membership Administration Department of SICC. John Lee repeated his concerns about the plaintiff's marital status and said that he had checked the Registry of Marriages website and found no record of the plaintiff's divorce from her first husband, Koh. He said that he knew the plaintiff when she was married to Koh and was also acquainted with NKY, who had previously invited him to his home in Johor Baru. John Lee was unable to determine whether NKY was still legally married to his first wife or, if not, when he was divorced. Ong Siew Beng told the DC, in essence, about the plaintiff's application to join the club and the bio-data updating exercise during which the plaintiff was asked to provide a copy of her marriage certificate.

16 The DC studied the plaintiff's written responses dated 7 January and 3 February 2006. The plaintiff had submitted a letter dated 7 January 2006 from a firm of Malaysian solicitors together with four statutory declarations on NKY's customary marriage to her on 12 January 1982. The solicitors stated that under s 4 of the Malaysian Law Reform (Marriage & Divorce) Act 1976, a marriage solemnized under any law, religion, custom and usage prior to 1 March 1982 shall be deemed to be registered under the said Act and they were therefore of the opinion that the marriage between NKY and the plaintiff in accordance with Chinese custom was deemed registered under the said Act. The four statutory declarations by NKY, his secretary, his sister and his friend confirmed the customary marriage at the New Hong Kong Restaurant in Johor Baru.

17 The DC was of the view that "the crux of the matter was whether [the plaintiff] had been divorced from her first husband when she joined the Club". The DC then requested information from the plaintiff relating to the dissolution of her first marriage, with documentary proof to be furnished by 23 February 2006. The DC hearing was then adjourned to 3 March 2006 for the plaintiff to present her case in person.

18 The plaintiff's written response to the request for information was that her first marriage was dissolved more than 2 decades ago and she could not recall the exact date and had no documents on that "unhappy event". She also asserted that the details pertaining to the dissolution of her first marriage were irrelevant and that the club was completely out of order to ask her for them as she was entitled to her privacy. She reiterated that NKY was her spouse for more than ten years when she became a member of SICC. Her subsequent request for a copy of the letter of complaint by John

Lee was acceded to.

19 When the DC resumed its hearing on 3 March 2006, the plaintiff made very much the same points about her marriage to NKY before it. The plaintiff said that if the club had insisted on a marriage certificate in 1992 before NKY could be registered as a spouse member, she could have easily complied by registering their marriage at that time. The DC explained to her the purpose of the request regarding the details of her first marriage, that the dissolution thereof was not reflected in the Registry of Marriages records. The DC advised her to update her marital status with the said registry. The DC hearing was then concluded and the plaintiff was informed that she would be informed of the GC's decision in due course.

20 The DC then deliberated on the evidence. It noted that the plaintiff filed her divorce petition on 23 December 1982 and obtained a decree nisi on 28 November 1983 and a decree absolute on 2 March 1984. She was therefore already divorced from Koh when she joined SICC in 1992. The DC agreed that there was sufficient evidence from the statutory declarations about the customary marriage in January 1982 between NKY and the plaintiff, that they had been living as husband and wife and had a daughter in May 1987. The DC was, however, unable to confirm whether Singapore law recognized the customary marriage as her divorce was only finalised in 1984.

21 The DC recommended that the charge against the plaintiff be withdrawn in view of her customary marriage to NKY and since she was already divorced from her first husband when she joined SICC in September 1992.

22 On 3 April 2006, the GC considered the DC's report on the matter. Discussions were held on whether the plaintiff was legally divorced from her first husband before she married NKY. After the discussions, the GC resolved "that the matter be referred back to the DC to deliberate further on the basis that [NKY] was not the spouse at the material time of nomination to the Club".

23 On 7 April 2006, the GC wrote to inform the DC that the GC had decided that:

> 1 It is not a question of whether Chinese customary marriage in Malaysia solemnized in 1982 should be recognized as a valid marriage and whether we require a legal opinion on it.
>
> 2 The issue, if there is one, is whether she had committed bigamy.
>
> 3 GC does not intend to pursue the issue of bigamy because it is not concerned about enforcement of the law in Malaysia.
>
> 4 The GC cannot accept that the "second marriage" to [NKY] is valid in view of the existence of her first marriage at the time.
>
> 5 At the time [the plaintiff] joined the Club on 4 September 1992, [NKY] would not have been entitled to use Club facilities as a spouse member as their marriage was not valid.
>
> Based on the above, DC is requested to deliberate and make its recommendation on the complaint to the GC based on the fact that [NKY] was not a spouse. To be fair, the DC would also have to consider relevant mitigating factors, if any, in their deliberations as well when it makes its recommendation.

24 On 21 April 2006, the DC met again to deliberate on the complaint based on the fact that NKY was not a spouse. It noted that the ordinary grammatical meaning of the word "spouse" was

one's husband or wife by a valid marriage. The DC then considered the following as relevant mitigating factors. Prior to January 1994, the club did not require a copy of members' marriage certificate before registering their spouses as family members. The DC had no reason to doubt that the plaintiff would have registered her marriage to NKY if the club had insisted on their marriage certificate when she applied to join the club. The DC was of the view that there was no attempt to cheat or deceive the club and that NKY had used the facilities as a spouse member not with the intention of cheating but as a result of a technical breach of the SICC Rules. It recommended that the plaintiff be required to pay green fees for the number of times that NKY had played golf at the club, which, according to available records from 2001, would amount to $12,500. It also recommended that the plaintiff be advised to re-apply to register NKY as a family member. The DC also stated that it was perturbed that John Lee appeared to be aware of the confidential proceedings of the DC before its findings and recommendations were placed before the GC on 3 April 2006. It noted that John Lee had emailed his views on 1 April 2006on the DC's deliberations, two days before the GC met to consider its report, and that the matters of the meeting on 21 April 2006 were already known to the members of the club, including John Lee, on 22 April 2006.

25 On 8 May 2006, the GC deliberated on the further report of the DC. After deliberations, it was decided that the plaintiff's membership be suspended for one year and that she be directed to pay the said green fees (calculated to be $13,729.80 inclusive of tax). On 13 May 2006, the club wrote to inform the plaintiff of the GC's decision to suspend her for one year from 19 May 2006 to 18 May 2007 and of her liability to pay the fees for the golf games played by NKY "[b]ased on the fact that [NKY] was not a spouse at the time you joined the Club on 4 September 1992".

26 The plaintiff wrote to the club on 25 May 2006 to complain that the registered letter (in [25] above) was not received by her as she was away for the past two weeks. She was therefore shocked to learn from her friends that notices concerning her suspension were displayed all over the club's premises. She asserted that she had never been convicted or even charged for committing bigamy and asked to know the legal authority on which the decision of the GC was made.

27 The GC responded on 7 June 2006 stating that it disagreed with her "that it should accept the fact that there can be 2 valid marriages existing at the same time whether in Malaysia or that it ought to accept your view as insisted by you that your customary marriage is validly solemnized while the other marriage was still in existence". Further correspondence followed between the plaintiff and the club. The plaintiff attempted to bring her case before the Annual General Meeting for the decision of the GC to be revoked "on the basis that the [GC] had acted beyond its authority" but this request was turned down by the GC.

The hearing in the High Court and my decision

28 SICC obtained an order earlier in this OS to cross-examine the plaintiff on her affidavits. At the start of the hearing before me, it was agreed that cross-examination was not necessary in the light of the issues before the court. The plaintiff's contentions may be compendiously summarised as follows:

(a) in 1992, when she applied to join the club, the club did not interpret "spouse" in the SICC Rules to mean one's husband or wife under a valid marriage;

(b) the GC had acted *ultra vires* the SICC Rules by rejecting the DC's recommendation in its first report;

(c) the GC acted in breach of the rules of natural justice in convicting her without giving her

an opportunity to be heard before the GC.

(d) the six-year time bar for contractual claims in the Limitation Act (Cap 163) had already set in by the time the disciplinary proceedings were instituted.

29 Before me, the plaintiff elaborated on the circumstances leading to the declaration of NKY as her spouse in the application form. She said that the application form was submitted to SICC through her sister's law firm, S T Kay & Company. While the plaintiff was filling in the form, she noticed that there was no requirement for a copy of marriage certificate to be produced. She discussed this with her sister who advised that "in every sense of the word, besides the piece of legal paper, you are husband and wife", so she could state that NKY was her spouse. However, if the club should object or ask for documentary proof, then her sister would revert to her and let her decide what to do. The plaintiff said she could simply decide not to join SICC or remove NKY's name "for the time being until such time when I decide to get married and … or when I decide to register our marriage …" (see page 6 of the Notes of Evidence). SICC did not ask for a copy of her marriage certificate and did not query her about it until 13 years later.

30 In matters relating to disciplinary tribunals of clubs which are essentially social in nature, such as SICC, the court does not sit on appeal from their decisions. The court's role is to ensure that the rules of natural justice have been complied with and that the disciplinary procedure set out in the club's rules have been observed (see *Lee v Showmen's Guild of Great Britain* [1952] 1 All ER 1175 at 1181). As stated by the Court of Appeal in *Singapore Amateur Athletics Association v Haron bin Mundir* [1994] 1 SLR 47 at 59F:

> The jurisdiction of the courts in reviewing the decisions of domestic tribunals is clearly of a limited nature. The decision of such a tribunal cannot be attacked on the ground that it is against the weight of evidence. The function of the courts is to see that the rules of natural justice have been observed, and that the decision has been honestly arrived at. The court has no power to review the evidence for the purpose of deciding whether the tribunal came to a right conclusion. It is not the function of the court when exercising such supervisory jurisdiction to resolve issues of fact which are within the proper sphere of the tribunal's inquiry.

31 The plaintiff in this OS appears to be inviting the court to scrutinise the fact-finding of the DC or the definition of "spouse" adopted by the GC when it directed the DC to deliberate further on the matter on the basis that NKY was not the plaintiff's spouse. Assuming I could examine whether the GC and, consequently, the DC, proceeded on a wrong interpretation of the term in issue, I would conclude that there was nothing erroneous in the legal definition adopted by the GC.

32 The SICC Rules do not define "spouse". The term must therefore be ascribed its natural and ordinary meaning and that is a person's husband or wife (see *Black's Law Dictionary* (6th Ed) at 1402). One becomes a husband or wife through marriage and it goes without saying that the marriage must be a valid one. There was no evidence that the club adopted a different interpretation of that term in 1992 or at any other time as meaning someone whom a member regarded or cohabited with as a spouse. It is true that before January 1994, the club did not require proof of marriage before it registered someone as a spouse or family member. However, not demanding proof is quite different from saying that there was therefore no need for even a valid marital relationship to exist. The existence of that relationship was reasonably assumed by the club once a member indicated that someone was a spouse. Even if there are many others in the club who are in the same sort of position that the plaintiff found herself to be in, as she asserted, that is a matter to be taken up subsequently. She could, if she wishes, lodge a complaint to the club, if she has evidence of such cases.

33 Section 4(3) of the Women's Charter (Cap 353) declares anyone who married after 15 September 1961 as being incapable of contracting another valid marriage under any law, religion, custom or usage during the continuance of the first marriage. The plaintiff and Koh were married in Singapore in 1977 and finally terminated that relationship only in March 1984. According to the Women's Charter, the plaintiff had no capacity to marry NKY in January 1982, whether under customary law or otherwise and whether in or outside Singapore, with the consequence that the 1982 marriage was invalid and void (see *Moh Ah Kiu v Central Provident Fund Board* [1992] 2 SLR 569). There would therefore have been no valid marriage in 1992, when the application to join SICC was made, even though NKY and the plaintiff regarded each other as husband and wife. Accordingly, NKY could not properly be declared as her spouse in the application form.

34 The GC, which is elected by the members at the Annual General Meeting, manages the club. The GC's powers are spelt out in the SICC Rules:

> 26(a) Subject to Rule 4A(b) the [GC], in addition to the powers hereinafter specially conferred upon them, shall have the control of the finances of the Club, power to engage, control and dismiss the Club servants, and all such administrative powers as may be necessary for properly carrying out the objects of the Club in accordance with these Rules.
>
> (b) The [GC] shall with the approval of the Chairman have full power to make, alter, add to or repeal Bye-Laws regulating the affairs of the Club on any matters not provided for in these Rules. Such Bye-laws so made, added to, altered or repealed shall come into operation at such time as is fixed by the [GC]. The [GC] shall further have full power to decide all questions relating to the management of the Club and all questions arising out of or not covered by any Rule or Bye-Law and any decision shall be final.

Pursuant to Rule 27, the GC appoints the various committees of the club, such as the DC, to assist it in the management of the club.

35 Rule 34 provides:

> If any member shall, in the opinion of the [GC], act in any way prejudicial to the interests of the Club or its members thereof or shall break any Rule or Bye-Law of the Club, the [GC] shall consider the conduct of such member at a meeting of the [GC]. If at such meeting it is considered that there is sufficient evidence to justify calling on the member to answer any charge made against him, a notice in writing shall be given to such member calling on him to attend a meeting before the [DC] for the purpose of answering such charges. Such notice shall be not less than seven days. At such [DC] meeting, the member concerned shall be informed of the charges made against him and shall have the right to be heard in his own defence. If such member refuses to attend the [DC] meeting in answer to the notice calling upon him to do so, the [DC] may nevertheless proceed in his absence. The [DC], at the conclusion of such hearing shall report to the [GC] its findings and recommendations. The [GC] may, after considering the findings and recommendations of the [DC], expel or suspend the member or impose any other lesser penalty. Notice thereof shall thereafter be sent to such member. No appeal shall lie from the decision of the [GC] to any other meeting or to any Court of Law.

36 As is evident from the above rule, the role of the DC is to hear evidence relating to any charge referred to it by the GC. It then submits its report containing its findings and recommendations to the GC. The recommendations need not be accepted by the GC. In its first report, the DC noted that it was unable to confirm whether Singapore law recognized the 1982 customary marriage as the plaintiff's divorce was finalised only in 1984. This legal question was dealt with by the GC which then

asked the DC to deliberate on the basis that the 1982 marriage could not have been a valid one. The GC was entitled to do this as it was to be the final decision-maker in disciplinary matters of the club. It should be noted that the GC here was not directing the DC on what factual findings to make but was merely addressing the legal poser.

37 The plaintiff also argued that while Rule 35(b) of the SICC Rules expressly provides that the decisions of disciplinary sub-committees could be varied, discharged or revoked by the GC, there was no equivalent provision in Rule 34(a). Rule 35(a) provides for the power of committees (other than the DC) to suspend the right of members or their spouse and children to use the club facilities for a period not exceeding three months. To facilitate this, the committees (other than the DC) may appoint disciplinary sub-committees. Rule 35(b) then states:

> Any decision of any Committee (including the disciplinary sub-committee) made by virtue of or pursuant to the powers conferred by this Rule 35 may be varied discharged or revoked by the [GC].

38 While the DC merely reports its findings and recommendations to the GC under Rule 34(a) without making a decision, the other committees and their disciplinary sub-committees have the power to make the decision to suspend, subject only to review by the GC. The GC does not need the power to overturn decisions of the DC simply because the DC makes no disciplinary decision itself. Rule 35(b) in fact reinforces the point that the GC is the final decision-maker in all disciplinary matters in the club.

39 The next contention involves the plaintiff's complaint that she was not given the right to be heard by the GC before it convicted her on the charge. In the course of her submissions, the plaintiff appeared to be suggesting that she should have been heard by the DC for the second time when it made its further deliberations. The sequence of events set out earlier shows that the plaintiff was indeed heard fully and fairly by the DC as provided in the disciplinary scheme in Rule 34(a). Indeed, the DC even took into account her correspondence on the matter. In its further deliberations leading to the second report, the DC did not receive further evidence necessitating a response from the plaintiff. All that transpired between the two reports was the clarification on the meaning of "spouse" by the GC and even that issue was fully canvassed already by the plaintiff. She had been arguing consistently that her marriage to NKY in 1982 was a valid one and that NKY was indeed her spouse when she filled in the form in 1992. There was no reason why the plaintiff should be given another right to be heard at the DC's further deliberations or when the GC was considering the reports.

40 The GC could have decided on a different penalty, whether more severe or more lenient than that recommended by the DC. It could even determine that no sanction was necessary in the circumstances. Even if the court feels that the penalty imposed was too harsh, it must be remembered that social clubs are not subordinate courts, which are subject to the revisionary powers of the High Court.

41 The final point relates to the time bar issue. The plaintiff argued that the six-year limitation period had already accrued by the time the disciplinary proceedings were commenced against her. She contended as follows. She offered to be a member of SICC in 1992 for the consideration of $190,000, registering NKY as her spouse. Her offer was accepted by the GC on behalf of the club. The offer and acceptance constituted a contractual relationship between her and the club. The action initiated against her was 13 years after the event. The GC was therefore barred from taking any action against her as the Limitation Act did not "allow either party of an agreement to enforce compliance on any terms or conditions not fulfilled in the original agreement after 6 years of the acceptance of the agreement".

42 In my view, while it has often been said that the foundation of social clubs is contract, disciplinary proceedings within the club are not contractual claims although it may be argued that breach of the club's rules is breach of an agreement to abide by the rules. The nature of disciplinary proceedings in clubs is to enforce good order among members. They are not claims made to obtain compensation. While a claim by the club against a member for fees due may arguably become time-barred, disciplinary proceedings against that member for not paying the same fees are not because they are not contractual in nature.

43 In any event, even if the plaintiff was correct about the application of the Limitation Act to such disciplinary proceedings, she ought to have raised such a defence before the DC. That did not appear to have been done.

44 On all scores therefore, the plaintiff failed in her action against SICC. This OS was accordingly dismissed with costs to be agreed or taxed. I would only add that if the plaintiff had succeeded in her action, I do not think she would be able to ask for damages for loss of use of the club facilities and yet have her subscriptions refunded to her because the subscriptions would be a necessary expense before she could enjoy the use of the facilities.

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