Quek Hung Heong *v* Tan Bee Hoon (executrix for estate of Quek Cher Choi, deceased) and others and another suit
[2014] SGHC 17

Case Number	: Suit No 722 of 2011 consolidated with Suit No 24 of 2012
Decision Date	: 27 January 2014
Tribunal/Court	: High Court
Coram	: Vinodh Coomaraswamy JC (as he then was)
Counsel Name(s)	: Mr Burton Chen, Mr Han Kee Fong and Ms Millie Yeo (Tan Rajah & Cheah LLP) for the plaintiff; Mr Hee Theng Fong and Ms Clare Lin (RHTLaw Taylor Wessing LLP) for the first defendant; Mr Johnson Loo (Drew & Napier LLC) for the third defendant.
Parties	: Quek Hung Heong — Tan Bee Hoon (executrix for estate of Quek Cher Choi, deceased) and others

Trusts – Resulting trusts – Presumed resulting trusts

Trusts – Constructive trusts

Equity – Estoppel – Proprietary estoppel

Equity – Defences – Laches

27 January 2014 Judgment reserved.

Vinodh Coomaraswamy J:

Introduction

1 8A Coronation Road, Singapore 269412 ("the Property") is just over 1,000 square metres [note: 1] of freehold land off Bukit Timah Road. In consideration of the sum of $66,000, [note: 2] the Singapore Trading Co Ltd as vendor conveyed the Property together with the new two-storey bungalow erected upon it to all five members of one family on 7 October 1966. [note: 3] They took the conveyance of the Property as tenants in common in equal shares. They have held the Property in that manner without interruption for over 47 years. [note: 4]

2 The plaintiff, now 72 years old, is the youngest child of that family. The other four members of that family are: [note: 5]

(a) Quek Cher Choi, the father of the family ("the father"). He died on 8 November 1981. [note: 6]

(b) Heng Sai Kee, the mother of the family ("the mother"). She died on 20 November 1986. [note: 7]

(c) Kwek Hann Song, the plaintiff's older brother ("the brother"). He died on 7 January 2006.

[note: 8]

(d) Quek Yang Eng, the plaintiff's older sister ("the sister"). She is now 77 years old.

3 In the consolidated actions before me, the plaintiff lays claim to the entire beneficial interest in the Property. He claims it by reason of a resulting trust, alternatively a constructive trust, alternatively a proprietary estoppel in his favour. He therefore seeks to compel each of the other four members of his family (or their estates) to transfer to him what he says is their bare legal interest in the Property.

4 For the reasons given below, I dismiss the plaintiff's action with costs. In summary, I find that the plaintiff has failed to establish the factual elements necessary for his claim on any one of the three legal bases on which it is put.

The sister consents to judgment

5 The consolidated actions before me comprise Suit 722 of 2011 ("S722") and Suit 24 of 2012 ("S24"). The plaintiff commenced S722 on 14 October 2011. The three defendants in S722 are the father's estate, the brother's estate and the sister. The plaintiff commenced S24 on 11 January 2012. The sole defendant in S24 is the mother's estate. S722 and S24 were consolidated by an order of court dated 26 March 2012.

6 The sister did not contest the plaintiff's claim. On 24 November 2012, a few weeks after S722 was commenced, she consented to the plaintiff entering judgment against her. That consent judgment declares that she holds her one-fifth interest in the Property on trust for the plaintiff and compels her to transfer it to him. [note: 9] The plaintiff therefore now holds, or is entitled to hold, two one-fifth shares in the underlying beneficial interest in the Property.

7 As a result of the consent judgment, the sister ceased to be an active party to these proceedings on and after 24 November 2012. The only parties contesting the plaintiff's claim in the trial before me were the father's estate, the mother's estate and the brother's estate. When I refer to the "defendants" in this judgment, therefore, I refer only to those three remaining parties and leave out the sister.

The witnesses

8 Two witnesses gave evidence for the plaintiff: the plaintiff himself and his wife, Mdm Tan Suan Poh.

9 The only witness for the father's estate and the mother's estate was Mdm Tan Bee Hoon. She is the sole surviving executrix of both those estates and is the brother's widow.

10 The only witness for the brother's estate is Mr Guo Charng Haw. He is one of the brother's sons and a co-administrator of the brother's estate. He was 2 or 3 years old when the Property was purchased in 1966. [note: 10] He has no personal knowledge of any of the material disputed events and offers no admissible evidence on those events. As a result, the defence advanced by the brother's estate rests principally on submissions of law and on the evidence of Mdm Tan Bee Hoon.

11 But even Mdm Tan Bee Hoon has no personal knowledge of the material disputed events. She has personal knowledge only of certain *circumstances* surrounding those events. From those circumstances, she invites me to draw certain inferences that contradict the plaintiff's case. The only

one of the four witnesses at trial who was in a position to speak from personal knowledge on all of the material disputed events was the plaintiff.

12 I therefore begin by setting out from [13] to [61] – largely without comment – facts which are either undisputed or which form part of the plaintiff's case or evidence. I then turn to consider the defendants' evidence, the disputes of fact which that evidence gives rise to, the parties' case on the law and my findings.

The plaintiff's case on the facts

The family company

13 The father carried on the family business through a company known as Chin Thye Chiang Limited ("the Company"). The Company was incorporated in 1949 and became the vehicle for the family business then or shortly after its incorporation.

14 As at 10 October 1966, all five of the family members were shareholders in the Company. [note: 11] The mother held 40% of the Company's shares, the father held 26.5%, the plaintiff and the brother held 13.5% each and the sister held 6.5%. [note: 12] The three directors of the Company as at 10 October 1966 were the father, the mother and the brother. The father was therefore in a minority not only on the Company's board of directors but also in general meeting. But that was a simpler age. As was then typical, patriarchal authority and filial piety prevailed over the corporate form and over strict legal rights. Through a combination of the other family members' tacit acquiescence and their express consent, therefore, the father controlled and managed the Company as though he was its absolute owner. [note: 13]

15 The father ran the Company with the assistance of the brother, as the older of the family's two sons. [note: 14] The father did not involve the mother, the sister or the plaintiff in the family business. [note: 15] By 1973, the brother had come to be principally in charge of the Company. [note: 16] The father nevertheless continued to be peripherally involved in running the Company until his health deteriorated around 1980. He then withdrew entirely from management of the Company, leaving it in the hands of the brother.

Mdm Tan Bee Hoon's involvement and the Company's accounts

16 Mdm Tan Bee Hoon initially had no involvement in the family business. But in or around 1961, at the father's request, she began to assist the father, principally by tallying and recording the Company's daily transactions and updating the Company's books of account. [note: 17]

17 On 17 August 2012, after the parties had filed their pleadings, Mdm Tan Bee Hoon disclosed in S722 on behalf of the father's estate the Company's accounts [note: 18] for the period from 1 January 1968 to 31 July 1970. [note: 19] They revealed that the Company maintained separate running accounts for each male member of the family: the father, the brother and the plaintiff. Each running account comprised credits (money which that member paid *to* the Company) and debits (money which that member drew *from* the Company). Each running account showed the net position on any given date as between the Company and that member. Both parties accepted and relied on the accuracy of these accounts. [note: 20]

The plaintiff finds the Property

18 At the end of 1965, the plaintiff finished his university studies in Australia and returned to Singapore. He decided to buy a home for himself and his future family. He was then a civil servant. His intention was to borrow money at concessionary rates of interest from his then employer, the Ministry of Finance, to pay for his home. [note: 21] However, the father feared that if the plaintiff did so, he would be tied to the civil service forever. [note: 22] Further, the father told the plaintiff that the family business was in a position to lend the necessary money to the plaintiff and to lend it to him interest-free. The father told the plaintiff that there was therefore no reason for the plaintiff to pay interest at all, even at a concessionary rate. He asked the plaintiff to consult him again before committing to a loan from the Ministry of Finance. The plaintiff was hesitant about accepting the father's offer.

19 In 1966, the plaintiff viewed the Property and decided to buy it. [note: 23] He negotiated the asking price down from $67,500 to $66,000. He told the father about the Property and took him to view it. The father approved. The plaintiff again told the father that he intended to finance his purchase of the Property with a loan from the Ministry of Finance. The father again offered the plaintiff an interest-free loan from the family business. The plaintiff acquiesced to his father's wish and accepted his offer of funding.

The family meeting in 1966

20 Shortly thereafter, the father called a family meeting. The father, the mother, the brother and the plaintiff attended the meeting. The sister did not. At the meeting, the father said *he* would finance the plaintiff's purchase of the Property on the following terms: [note: 24]

(a) The loan would be funded *substantially* by the Company;

(b) The Property was to be registered in the name of all the shareholders of the Company, namely the five family members, for convenience;

(c) The loan would be interest-free and would have no fixed period for repayment but it had to be repaid; and

(d) When the plaintiff had repaid the loan in full, each family member was to transfer his or her one-fifth share in the Property to him.

21 The father told the sister of this arrangement on a separate occasion in the presence of the plaintiff. She initially declined to be a co-owner of the Property as she was afraid that co-owning private housing would breach the conditions of her existing co-ownership of public housing with her husband. [note: 25] She changed her mind, however, when the father explained that she would hold her one-fifth share on trust for the plaintiff rather than in her own right, and that she would bear no part of the financial burdens of co-ownership. [note: 26]

22 The father did not at this time discuss with the plaintiff exactly how the loan would be funded or exactly how the plaintiff was to repay the loan. The father also did not discuss what would happen to the Property if the plaintiff failed to repay the loan. [note: 27]

The sale and purchase transaction

23 Even though the purchase of the Property took place close to 50 years ago, Mdm Tan Bee Hoon was in a position to disclose a surprisingly complete set of contemporaneous documents evidencing

the mechanics of the purchase, including a full set of receipts from the Singapore Trading Co Ltd and its solicitors.

24 On 1 July 1966, the plaintiff executed, on behalf of the family, a preliminary agreement [note: 28] as a precursor to the sale and purchase agreement for the Property. [note: 29] Acting in the same capacity, the plaintiff executed the actual sale and purchase agreement on 27 July 1966. [note: 30] Between 24 June and 18 July 1966, the Company issued three cheques for the total sum of $6,600 to the vendor, being payment of the deposit of 10% of the purchase price required under the sale and purchase agreement. The vendor signed the conveyance of the Property on 23 August 1966, conveying the Property to the five family members as tenants in common. [note: 31] Completion was scheduled for 31 August 1966 [note: 32] but was delayed because of concerns over construction defects. [note: 33] By October 1966, these concerns had been resolved. Three of the five members of the family signed the conveyance on 7 October 1966 with the other two signing on 10 October 1966. The Registry of Deeds duly registered the conveyance on 31 October 1966. [note: 34]

25 In evidence also was correspondence relating to the purchase of the Property, both before and after completion, with and by the family's solicitors, [note: 35] with the developer, [note: 36] with utilities companies [note: 37] and with government departments. [note: 38]

26 These documents show that the total acquisition cost of the Property, including all transaction and incidental costs, was $67,840 or very close to it. [note: 39] It is not disputed that the Company funded this amount in full.

Plaintiff has resided uninterrupted in the Property to date

27 After the purchase of the Property completed, the plaintiff went into residence there. He continued to reside there after he married in 1969, at first with his wife and eventually with his children and grandchildren. He has lived in the Property, either alone or with his family, uninterrupted from 1966 until today. [note: 40] During that period, he has attended to the Property's upkeep and maintenance, paid all or virtually all of the outgoings for the Property and dealt as needed with relevant government agencies and other third parties in relation to the Property.

Payments to the father and the brother

28 After the Property was purchased, the father eventually told the plaintiff that the plaintiff was to repay the purchase-money loan for the Property by paying $10,000 to the father, $6,000 to the brother and $50,000 to the Company. [note: 41]

29 Over the course of 1967, the plaintiff paid his debt of $10,000 to his father and his debt of $6,000 to his brother in full. He made these payments from his current account with HSBC. To evidence these payments, the plaintiff relied on cheque stubs from his 1966-1967 cheque book for that account. These stubs show that he paid *precisely* $10,000 to his father by way of seven cheques drawn between May 1967 and December 1967. These stubs also show that he paid $6,125.50 to his brother by way of two cheques drawn in April and May 1967. This exceeds by $125.50 the sum that the father told the plaintiff to pay to the brother. This additional sum of $125.50 represents the plaintiff's reimbursement to his brother for a transaction entirely unrelated to the purchase of the Property. [note: 42]

Payments to the Company up to 1968

30 The plaintiff also paid in full the $50,000 that he owed to the Company. First, between September 1966 and April 1967, he paid the Company $3,280 by way of 6 cheques drawn on his HSBC current account. As evidence of this, the plaintiff again relies on stubs from his 1966-1967 cheque book.

31 The company accounts (see [17] above) [note: 43] show a *credit balance* of $3,698.90 in the plaintiff's favour as at 1 January 1968. This means that the Company *owed* the plaintiff $3,698.90 on that date. This sum of $3,698.90 includes the $3,280 he paid to the Company in 1966 and 1967. [note: 44] The plaintiff therefore relies on the company accounts as independent corroboration of his evidence that he paid $3,280 to the Company in 1966 and 1967.

32 The company accounts show further that by 31 October 1968, the credit balance in the plaintiff's running account with the Company had increased to $13,529.49. In other words, as at 31 October 1968, the Company *owed* the plaintiff $13,529.49. This means that his remaining debt to the company as at the end of October 1968 stood at $36,470.51 (*ie* the original $50,000 less this credit balance of $13,529.49).

The Property is mortgaged in 1968

33 In or around November 1968, the brother told the plaintiff that the Company was short of funds. The brother said that the sum then remaining due to the Company was about $37,000 and demanded that the plaintiff pay that entire sum immediately. [note: 45] The plaintiff again relies on the company's accounts as corroboration: this figure of $37,000 is very close to the figure of $36,470.51 he derives by setting off his credit balance in the company accounts against the initial loan of $50,000 (see [32] above).

34 The plaintiff did not have the money to repay the Company in full immediately. So his brother suggested (in the presence of the father) mortgaging the Property to Chung Khiaw Bank Limited as security for an overdraft facility with a credit limit of $37,000. The brother "would withdraw up to that sum for [the Company's] use" and the plaintiff would "be responsible to repay the overdraft of $37,000/-" to the bank. [note: 46] The plaintiff, the father and brother agreed to go ahead with the mortgage. [note: 47]

35 On 8 November 1968, the plaintiff and the brother opened an overdraft account with the bank. As they had agreed, the credit limit for the overdraft account was $37,000. The plaintiff and the brother were the account-holders and the borrowers. They therefore had the right to draw on the overdraft by issuing cheques on the account. As security for the overdraft, all five registered co-owners of the Property executed a mortgage over the Property in favour of the bank. [note: 48] All five registered co-owners of the Property also engaged their personal liability to the bank as sureties for the borrowers' indebtedness. [note: 49] The Company was not a borrower, a surety or a mortgagor for the overdraft account.

Payments to the Company after 1968

36 From November 1968 until 1976, the plaintiff continued to make payments to discharge the loan from the Company by cheques which he handed to his brother. He left each cheque uncrossed, as instructed by the brother, so that the brother could deposit any given cheque either into the

Company's bank account or into the overdraft account. [note: 50]

37 The plaintiff dealt with these payments in three periods:

(a) Between November 1968 and 1970;

(b) Between December 1970 and December 1972; and

(c) Between 1973 and 1976.

Repayments between November 1968 and November 1970

38 Between 9 November 1968 and 1 June 1970, the Company's accounts show total credits to the plaintiff's running account with the Company amounting to $21,044.39. Further, between 26 February 1970 and 9 November 1970, three deposit slips show that $2,200 was deposited into the overdraft account by way of three HSBC cheques.

39 The plaintiff relies on this as evidence that he paid the Company a total of $23,244.39 (*i.e.* the credits of $21,044.39 plus the deposited cheques totaling $2,200) over the 25-month period from November 1968 to November 1970, both months included.

Repayments between December 1970 and December 1972

40 The plaintiff estimates that he repaid a further $22,500 to the Company over the next 25-month period from December 1970 to December 1972, both months included. He arrives at this estimate by taking his total payments over the 25 months between November 1968 and November 1970 (*i.e.* $23,244.39, see [39] above), finding the monthly average payment (*i.e.* $929.78), rounding it down to $900 and then multiplying it by the 25 months between December 1970 and December 1972.

41 Adding this estimated figure of $22,500 to the earlier figure of $23,244.39 (see [39] above) the plaintiff estimates that by the end of December 1972, he had paid a total of $45,744.39 towards repaying his debt to the Company.

42 On this basis, the plaintiff's total payment of $45,744.39 by the end of December 1972 represented an overpayment to the Company of $9,273.88 as compared to the approximately $36,470.51 said to be owing when the overdraft account was opened (see [32] above) or an overpayment of $8,744.39 as compared to the $37,000 agreed as the limit on the overdraft account (see [33] above).

Repayments between 1973 and 1976

43 By the beginning of 1973, therefore, the plaintiff had more than discharged his indebtedness to the Company. He then approached the brother to see about getting the full legal title to the Property transferred to him. [note: 51] The brother refused, claiming that the plaintiff had not fully discharged his indebtedness to the Company. The brother threatened to let the bank force a sale of the Property if the plaintiff did not continue servicing the overdraft. [note: 52] "[S]hocked and upset", [note: 53] the plaintiff appealed to his father. His father chided him and told him not to be "too calculative as [they] were all family". [note: 54]

44 The plaintiff therefore had no alternative but to continue to service the overdraft to avoid a

mortgagee's sale of the Property. He carried on doing so from 1973 until he lost his job some time in 1976. [note: 55] As with the period from December 1970 to December 1972, the plaintiff has no documentary evidence that he *actually* made any payments between 1973 and 1976. But he *estimates* that he continued to make payments from 1973 to 1976 at his historical average of about $900 per month (see [40] above). [note: 56]

The brother's attempts to dispossess the plaintiff

45 The relationship between the plaintiff and the brother had never been close [note: 57] and became fraught over time. Finally in 1978, after a failed overseas business venture, there was an outright rupture. This led to the plaintiff and his brother having two serious altercations in January and May 1979. [note: 58] Attempts to dispossess the plaintiff from the Property soon followed.

46 On 14 August 1979, the plaintiff received a letter before action from Donaldson & Burkinshaw ("D&B"). [note: 59] D&B said in the letter that it acted for the plaintiff's parents and brother as majority owners of the Property and asserted that the plaintiff had occupied the Property as a licensee since 1966. On behalf of its clients, D&B demanded that the plaintiff vacate the Property by 30 September 1979 and threatened to commence legal proceedings against him for possession and for rent if he did not comply. The plaintiff wrote back to D&B on 23 August 1979 pointing out that D&B's clients were his parents and brother and asking "why they would wish [him], the youngest in the family, to vacate the [Property]". [note: 60] When he did not receive a reply, the plaintiff sent a reminder to D&B on 7 September 1979. [note: 61] There was no response to that either. The plaintiff did not vacate the property. No legal proceedings against him followed as threatened in D&B's letter.

47 On 15 March 1980, the plaintiff received another letter before action, this time from Drew & Napier ("D&N"). [note: 62] D&N too said that it acted for the plaintiff's parents and brother. D&N said that it was instructed to commence proceedings against the plaintiff for an order for sale of the Property, for the equal division of the proceeds of sale amongst the co-owners and to recover rent from the plaintiff for his occupation of the Property. Curiously, D&N alleged that the plaintiff's liability for rent ran from *1974* rather than from *1966*, when he went into residence at the Property. The plaintiff ignored D&N's letter. He did not vacate the Property and did not agree to a sale of it. [note: 63] No legal proceedings against him followed as threatened in D&N's letter.

48 Neither the plaintiff's parents nor his brother ever made any further threats to dispossess the plaintiff and his family from the Property. [note: 64]

The father's and the mother's 1980 wills

49 On 15 April 1980, the father and the mother executed a will each. At that time, they lived with the brother and Mdm Tan Bee Hoon, his wife. Each will appointed the brother and his wife as co-executors. The brother witnessed both wills together with the lawyer who drafted them.

50 The father's will [note: 65] devised his one-fifth share in the Property to one of the brother's sons, Mr Guo Charng Haw. The mother's will [note: 66] devised her one-fifth share in the Property to another of the brother's sons, Mr Guo Charng Rang. The plaintiff knew none of this at the time.

The bank recalls the overdraft

51 By the end of 1980, neither the brother nor the plaintiff had been servicing the overdraft account for some time. On 29 November 1980, the bank's solicitors wrote to the plaintiff and his brother demanding repayment within 14 days of $46,608.71, being the full amount then outstanding on the overdraft, plus accrued interest up to the date of payment. [note: 67]

52 The plaintiff instructed Allen & Gledhill ("A&G") to demand of the brother that he, and not the plaintiff, should repay the bank in full. The brother refused. A&G then advised the plaintiff to satisfy the bank's demand in full in the first instance and then separately to seek recovery from the brother.

53 Accordingly, on 17 January 1981, the plaintiff paid in full the then outstanding sum of $47,850 to the bank. [note: 68] As a result, he secured from the bank a total discharge of the bank's mortgage over the Property [note: 69] and the bank released to him the original certificate of title to it. [note: 70] He tried to register the instrument recording the total discharge of mortgage with his signature alone on behalf of the mortgagors, *i.e.* without the remaining four mortgagor's signatures. [note: 71] But the Land Titles Registry rejected the instrument. As a result, the bank's mortgage continues to be registered against the Property to this day even though there is no dispute that its security interest ended when the plaintiff redeemed the Property in 1981.

54 The plaintiff never in fact sought to recover the sum of $47,850 or any part of it from the brother. [note: 72]

The mother acknowledges the plaintiff's interest in writing

55 On 9 June 1981, the plaintiff visited his mother with his wife, Mdm Tan Suan Poh. The mother was then living at the sister's house. The plaintiff prepared two documents for his mother to sign and took them with him on this visit. One of the documents was an acknowledgment that the mother held her one-fifth share in the Property on trust for the plaintiff. It read: [note: 73]

> I Mdm. HENG SAI KEE… mother of Mr JAMES QUEK HUNG HEONG, return herewith, without duress, the 1/5 share (one-fifth share) of the property known as 8-A Coronation Road, Singapore 1026 Lot 512 Mukim II *held by me in trust* for Mr. JAMES QUEK HUNG HEONG residing at 8-A, Coronation Road, Singapore 1026.
>
> [emphasis added]

The mother signed this acknowledgment in the presence of the plaintiff and his wife, and they both signed as witnesses. The sister declined to sign as a witness. [note: 74] The second document was a letter from the mother to D&N discharging D&N from acting further for the mother. The mother signed both the acknowledgment and the discharge letter with a circle. [note: 75] All of the defendants object to the authenticity of the acknowledgment. The father's and the mother's estate object to the authenticity of the discharge letter but the brother's estate does not. [note: 76]

56 The plaintiff asked the sister to sign an acknowledgment similar to the mother's, recording that the sister held her one-fifth share of the Property on trust for him. The sister declined to do so but asked the plaintiff instead to draw up a formal transfer document for her to sign. [note: 77] The plaintiff did not, in the event, prepare a transfer document for the sister to sign. [note: 78] He also did not follow up on his mother's acknowledgment by getting her actually to transfer her one-fifth interest in the Property to him. [note: 79]

The mother's 1981 will

57 On 23 June 1981, the plaintiff took the mother to a lawyer's office to draw up a will. In that will, the mother appointed the plaintiff as the sole executor of her estate and devised her one-fifth share in the Property to the plaintiff absolutely. The plaintiff still knew nothing about the mother's earlier will dated 15 April 1980 (see [49] above).

The father and mother pass away

58 On 8 November 1981, the father passed away. A petition for probate of his will was filed on 26 February 1982 but probate was extracted only on 28 April 1994. [note: 80] The estate duty certificate listed the father's one-fifth share in the Property as an estate asset and valued it for estate duty. [note: 81]

59 On 20 November 1986, the mother passed away. The petition for probate of the mother's 1980 will was filed on 13 March 1990 and probate was extracted on 10 December 1990. [note: 82] The estate duty certificate [note: 83] listed the mother's one-fifth share in the property as an estate asset, albeit one which was by that time exempt from estate duty.

Plaintiff adjudicated bankrupt in 1987

60 On 27 February 1987, the plaintiff was adjudicated bankrupt for a relatively small sum of $16,365.08. [note: 84] He remained a bankrupt for 11 years until he was discharged on 2 November 1998 by certificate of the Official Assignee. [note: 85]

The brother passes away

61 On 7 January 2006, the brother passed away. In his will, the brother asked his executor to sell his one-fifth share in the Property and divide the net sale proceeds equally amongst his six children.

The plaintiff commences litigation

62 On 15 August 2011, the plaintiff's then solicitors wrote to Mdm Tan Bee Hoon asserting beneficial ownership of the entirety of the Property and inviting Mdm Tan Bee Hoon, as the father's sole surviving executrix, to transfer the father's legal interest in the Property to the plaintiff. [note: 86] She did not do so. The plaintiff therefore commenced S722 on 14 October 2011.

63 At that time, the plaintiff still knew nothing about the mother's 1980 will (see [49] above). He believed that he did not need to join the mother's estate as a defendant in S722 because he intended to rely on the mother's acknowledgment (see [55] above) and her will executed in 1981 (see [57] above) to secure a transfer to him of her one-fifth legal interest in the Property. It was only after he commenced S722 that the plaintiff learned that his mother had executed a will in 1980, that probate had been granted in respect of it and that that will dealt with her interest in the Property as though she owned it absolutely. He therefore commenced S24 against his mother's estate [note: 87] on 11 January 2012. Whatever the strict legal position may be as a result of the mother's 1980 will having been proved and her 1981 will (see [57] above) being unproved, the plaintiff relies on the 1981 will and her acknowledgment in writing in 1981 (see [55] above) as evidence that his mother always saw the benefit of her one-fifth share in the Property as belonging to the plaintiff.

64 Relying on the foregoing facts, the plaintiff seeks the following substantive relief against the defendants in both S722 and S24:

(a) A declaration that each defendant holds his or her one-fifth share in the Property on trust for the plaintiff; and

(b) An order that each defendant transfer his or her one-fifth share in the Property to the plaintiff.

The plaintiff's case

65 Counsel for the plaintiff, Mr Chen, submits on these facts that each defendant holds only the bare legal title to a one-fifth share in the Property, with the plaintiff being the owner in equity of the entire beneficial interest in the Property on one of three possible bases. All three bases spring from and depend entirely on the family arrangement arrived at in the family meeting convened by the father in 1966 (see [20] above).

66 First, Mr Chen argues that this family arrangement gave rise to a resulting trust in the plaintiff's favour. Although it was the Company who paid the purchase price to the vendor, Mr Chen submits on the facts that it was the plaintiff who ultimately paid the purchase price through repayment of the loan pursuant to the family arrangement (see [29] to [42] above). Therefore, he argues, the entire beneficial interest in the Property results to the plaintiff.

67 Alternatively, Mr Chen argues that his client is the owner in equity of the entire beneficial interest in the Property by virtue of a common intention constructive trust. He contends that:

(a) the family arrangement arrived at in 1966 established a common intention that the plaintiff was to be the owner of the entire beneficial interest in the Property even though it was to be registered in the names of all five family members;

(b) to his detriment, the plaintiff fulfilled his part under that family arrangement by repaying the loan in full; and

(c) it is therefore inequitable for the defendants now to deny that the plaintiff is the beneficial owner of the entire Property.

68 In the further alternative, Mr Chen relies on the doctrine of proprietary estoppel to argue that the defendants are estopped by the family arrangement and the plaintiff's detrimental reliance on it from denying now that he is the sole beneficial owner of the Property.

69 Finally, Mr Chen deals with an issue which both defendants raise as barring the plaintiff's claim: the doctrine of laches. Mr Chen submits that his client's claim is not barred by laches. He relies on the fact that, notwithstanding the letter from D&B in 1979 and from D&N in 1980, none of the other registered owners took any legal action against the plaintiff to vindicate their claimed beneficial interest in the Property during the 47 years he has occupied the Property. As against the mother's estate, Mr Chen further argues that she acknowledged in writing in 1981 (see [55] above) that she held her one-fifth share on trust for the plaintiff. He argues that the defendants have suffered no prejudice from his client's delay in commencing proceedings: granting the relief sought would simply vest in the plaintiff legal title to property that has always been entirely his beneficially.

The defendants' case

70 As I have mentioned above, the defendants' witnesses were unable to speak from personal knowledge to large parts of the plaintiff's evidence. Nevertheless, the defendants denied the following four key aspects of the plaintiff's case:

(a) The events leading up to the purchase of the Property and, in particular, whether there was a family arrangement as alleged by the plaintiff;

(b) The plaintiff's characterisation of his payments to the father, the brother and the Company as repayments of a loan;

(c) Even if there was a loan, the plaintiff's allegation that he has repaid the loan in full; and

(d) The authenticity of the mother's 1981 acknowledgment.

71 I deal with each in turn.

The family arrangement

72 Mdm Tan Bee Hoon denies the existence of any arrangement between family members as alleged by the plaintiff and set out at [20] above. In particular, she denies: (i) that it was the plaintiff's idea to purchase the Property; (ii) that he bought it for himself; and (iii) that the father agreed to lend him money to purchase it. It is undisputed that the family was living in separate locations in 1966. [note: 88] According to Mdm Tan Bee Hoon, it was because of this that the father wanted to purchase a single property large enough for the entire family to live together. He did not discuss this intention with the rest of the family. [note: 89] It was to fulfil this intention that the father eventually purchased the Property. His accountant advised him that he should not register the Property in the name of the Company in order to keep it out of the reach of his Company's creditors. That is the reason the father registered the Property in the names of all five family members. Despite this, however, the father regarded himself as its "100 per cent owner". [note: 90]

Characterisation of the plaintiff's payments

73 Mdm Tan Bee Hoon accepts that the plaintiff made the payments to the father and the brother in 1967 (see [29] above) but denies his characterisation of these payments as repayments of a loan or in any other way being referable to the purchase of the Property.

74 Mdm Tan Bee Hoon also denies that the plaintiff and the brother opened the overdraft account as a substitute for the plaintiff's immediate repayment of the balance of his alleged indebtedness to the Company in November 1968 (see [34]-[35] above). Instead, she contends that the overdraft was taken to finance the plaintiff's and the brother's share trading activities.

75 Finally, Mdm Tan Bee Hoon's evidence was that it was the father, the brother and the Company – and not the plaintiff – who serviced the overdraft until 1979 when they deliberately ceased to do so (see [75] above).

Authenticity of the mother's acknowledgment

76 The defendants dispute strenuously the authenticity of the mother's 1981 acknowledgement. They point to the fact that what is purported to be the mother's signature on it is simply a crude hand-drawn circle and not the usual way in which she executed documents: by signing her name in

manuscript Chinese characters or, at the very least, by affixing a thumbprint.

Other minor disputes

77 The defendants also dispute other minor aspects of the plaintiffs' case:

(a) Mdm Tan Bee Hoon denies the plaintiff's allegation that it was the brother who was the driving force behind D&B's and D&N's letters before action threatening to dispossess the plaintiff (see [46]-[47] above). She testified that the father and mother were living at the Property at the time of the letters before action and the plaintiff had asked them to move out. This upset the father and led him to instruct the two law firms to send these letters.

(b) Mdm Tan Bee Hoon denies the plaintiff's allegation that the Property was purchased as the plaintiff's matrimonial home.

(c) Mdm Tan Bee Hoon denies the authenticity of the mother's letter to D&N (see [55] above).

78 None of these minor disputes of fact were material to the determination of the plaintiff's claim and I need say no more about them.

The defendants' case on the law

79 Even though the defendants emphasised different aspects in cross-examining the plaintiff and his wife and in submissions, the defendants mount what is essentially a common defence. In brief, the defendant's case is that the plaintiff's case on any of its three alternative bases (see [3] above) fails because:

(a) There was no family arrangement;

(b) The plaintiff's payments to the father, the brother and the Company from 1966 to 1976 were not repayments of a purchase-money loan;

(c) Even if those payments were repayments of a purchase-money loan, there is no evidence that any such loan was repaid in full. In particular, there is no evidence that the plaintiff completed repayment of the $50,000 tranche repayable to the Company.

80 Finally, the defendants argue that the plaintiff's claim is barred by laches: it would be unjust for the Court to grant to the plaintiff the relief which he seeks because of the plaintiff's inordinate and inexcusable delay in bringing these proceedings. He waited to commence these proceedings until every witness who could have contradicted his case with direct evidence from their personal knowledge of the material facts has died.

Analysis of key disputes of fact

The witnesses

81 Before moving on to analyse the factual disputes, I make three preliminary observations about the evidence before me.

The wife was an unsatisfactory witness

82 First, I found the plaintiff's wife Mdm Tan Suan Poh an inherently unreliable witness. Her

evidence was crucial as to the authenticity of the mother's 1981 acknowledgment because she supposedly witnessed the mother signing it with a circle. Her affidavit of evidence in chief was relatively brief, comprising six pages and two exhibits. Nevertheless, she seemed completely unfamiliar with its contents. In fact, during cross-examination, she expressed surprise that a particular document was even exhibited to the affidavit. [note: 91]

83 Further, the plaintiff's wife's responses to relatively straightforward questions were at times highly evasive. One example was when she was asked by Mr Loo whether drawing a circle for a signature could easily give rise to subsequent dispute about the authenticity of a signature: [note: 92]

> Q: Do you agree with me that drawing a circle can give rise to doubt [that] the person was not Heng Sai Kee?
>
> A. I disagree with you.
>
> …
>
> COURT: Sorry, Mr Loo. Madam Tan, you say you disagree?
>
> A: I disagree with him. He say cannot draw a circle.
>
> COURT: That is not what Mr Loo said. If … if you have an important document and someone signs with a circle, can that cause problems later on if you are not around?
>
> A: It can cause problems or not?
>
> COURT: Yes.
>
> A: I don't think so, your Honour.
>
> COURT: So this particular letter, 9 June 1981, you were there and your husband was there.
>
> A: Yes.
>
> …
>
> COURT: You are saying [that] for you there is no doubt because you saw her sign and you know it is her signature.
>
> A: Yes.
>
> COURT: But what if somebody who was not there sees the document?
>
> A: I don't know because -- this is the first time I see her signing, your Honour, so I thought it was her signature, and then she wants it -- she draw her signature. So I say it was all right.

Her answers in relation to whether there was a difference between living in a house and owning a house were also confused and incoherent. [note: 93] I initially thought that the difficulty might lie with her command of language. However, my assessment of her demeanour drove me to the conclusion that she understood perfectly what was being asked of her and was disingenuous in her response. On that basis, I give little weight to any of her evidence.

The principal witnesses were testifying from reconstructed memories

84 My second observation on the evidence relates to the quality of the oral evidence at trial.

Given that all the key events of this case occurred almost 40 years ago, given the amount of money at stake and given the historical animosity between the parties evident at trial, it is not surprising that the two main witnesses – the plaintiff and Mdm Tan Bee Hoon – gave widely diverging accounts of these events. Both main witnesses claimed to recollect significant aspects of their evidence from personal knowledge. In my view, both the plaintiff's and Mdm Tan Bee Hoon's "recollections" are largely reconstructions of events based on the documentary evidence rather than evidence given from a true memory of those events formed contemporaneously, retained over the years and recalled in the witness box. Neither of them gave evidence that was entirely satisfactory nor credible.

85 By contrast, the documentary evidence that was still available, though not complete, was surprisingly comprehensive and of surprisingly high quality. As such, in arriving at my findings on the balance of probabilities, I am slow to accept the truthfulness of either party's account unless it is supported – directly or circumstantially – by documentary evidence or the undisputed facts.

No evidence from the sister

86 My final observation on the evidence is that the sister did not testify. According to the plaintiff, he asked his sister if she was willing to testify but she refused because she was of poor health and did not want to get involved in a lawsuit. [note: 94] He explained that he did not want to use a subpoena to compel her to testify because he wished to respect her decision. I was invited to draw an adverse inference against the plaintiff from the sister's absence. I decline to do that. But the fact remains that the sister was not available to corroborate the plaintiff's version of the events. This did not make it any easier for him to discharge his burden of proof (see *Lim Weipin and another v Lim Boh Chuan and others* [2010] 3 SLR 423).

87 I could not rely on the sister's decision to consent to judgment against her in S722 as indirect corroboration of the plaintiff's case. Without her direct testimony to explain her decision, the mere fact that she chose not to contest the plaintiff's claim against her was ambiguous. It could have been because she accepted the truthfulness of his case. But it could just as easily have been because she was, as the plaintiff said, in poor health and did not want to get drawn into litigation. Or it could have been because she wished to make a gift to the plaintiff of her interest in the Property or because she viewed the Property as belonging only to the male members of the family. Without her direct evidence, I have no basis for choosing between any of these explanations and cannot attach any weight to her decision to consent to judgment in favour of the plaintiff.

Existence of the family arrangement

88 The defendants submit that there was no family arrangement as alleged or at all for the following reasons:

(a) There was no documentary evidence showing that any family arrangement had been arrived at;

(b) It was odd that the family arrangement did not deal at all with the situation where the plaintiff failed to repay the loan;

(c) The plaintiff's pleadings were inconsistent with his own evidence on critical details of the family arrangement; and

(d) The Company's accounts, which the plaintiff relied upon as being accurate, do not show that the plaintiff owed the Company a debt of $50,000 (or its residue after part-payments) in

1966/1967.

89 For the reasons which follow, I do not attach much weight to the first and second factors but find the third and fourth compelling, when coupled with other circumstances.

Lack of documentary evidence not a significant factor

90 It is true that the only evidence which the plaintiff has of the family arrangement described at [20] above is his own oral evidence. He has no documentary evidence of the arrangement. Indeed, he cannot point to a single document in the evidence before me which, in itself, allows me even to draw an *inference* that this arrangement existed.

91 Having said that, I do not attach much weight to the lack of documentary evidence in itself in assessing the veracity of his evidence. It is not unusual for arrangements between family members not to be documented. That is true – it may even be especially true – when those arrangements concern money or property rights, always a sensitive subject-matter. Arrangements of this nature are arrived at in an informal context between individuals of different generations, united by their close and unique relationship as family members and subject to the inevitable deference which younger members accord to older members. It is typical that family members will not feel the same desire or need to document their rights and interests that strangers would. Even if they were to feel the same desire or need to do so, it is also typical that they would feel inhibited in acting upon it. That would have been even more true of the more patriarchal families of 1966 than it is of today's more egalitarian families.

What was to happen if the plaintiff did not make the payments?

92 According to the plaintiff, the key terms of the arrangement with his family are those set out at [20] above. The plaintiff accepts that the father did not discuss what would happen if the plaintiff failed to pay $50,000 to the Company, $10,000 to the father and $6,000 to the brother as directed by the father and that the arrangement therefore makes no provision for that contingency. The defendants submit that this omission undermines the plaintiff's evidence as to the existence of the family arrangement. I do not accept this submission for the same reasons set out at [91] above. It seems to me that the same factors which lead family members either not to think about documenting their arrangements or to be reluctant to insist on doing so apply equally to explain why arrangements between family members are not as comprehensive as agreements between strangers and may fail to deal with every contingency.

93 What is significant, however, is that the plaintiff accepted in cross-examination that if he failed to make the payments as directed by his father, it would have been understood that the other four family members would *not* transfer their interest to the plaintiff. [note: 95] That must be the natural consequence of the arrangement postulated by the plaintiff. This concession will have significance when I come to apply the law.

Internal inconsistencies in the plaintiff's case

94 More significant to me are two fundamental internal inconsistencies in the plaintiff's case. First, the plaintiff changed his position on the chronology of several key aspects of his case in the course of these proceedings. The plaintiff's case initially in his pleadings and particulars was that he found the Property, decided to purchase it and agreed to his father's offer of financing all in or around August 1966, with the family meeting and arrangement following soon after but also in or around August 1966. [note: 96] After the plaintiff took these positions in his pleadings, Mdm Tan Bee Hoon

disclosed her documents on 18 May 2012. [note: 97] These documents showed that the family members had committed themselves to purchasing the Property *before* August 1966, on 1 July 1966 (see [24] above).

95 For reasons I deal with below, the plaintiff's claim for a resulting trust cannot succeed if the family arrangement took place *after* the purchase of the Property. Predictably, in his affidavit of evidence in chief filed after Mdm Tan Bee Hoon's disclosure, the plaintiff asserted that it was in *May 1966* that he had decided to purchase the Property and agreed to his father's proposal to finance its purchase [note: 98] and that the family meeting and arrangement followed in late May or early June 1966. [note: 99] In cross-examination, when the plaintiff realised that his pleadings and his evidence in chief were patently inconsistent on this point, he gave yet a different account. This account involved *five* oral discussions between the father and the plaintiff about a loan, starting from early 1966 with an in-principle agreement on the loan even before May 1966, with the final agreement in August 1966 when the father told the plaintiff to whom the plaintiff was to repay the purchase price of the Property and in what amounts.

96 The second internal inconsistency in the plaintiff's case is the quantum of the alleged loan. In the plaintiff's particulars dated 19 January 2012, the plaintiff expressly denied that the Company paid the entire purchase price for the Property and asserted instead that *he* "paid a sum of $1,150 (as the initial option fee for the purchase of the Property) to [the Company] (for payment to the vendor of the Property)". [note: 100] In other words, the plaintiff pleaded that he had paid $1,150 to the Vendor through the Company as a separate initial payment out of his own funds, entirely outside the loan arrangement. As a result, the plaintiff pleaded that he had borrowed only $48,850 from the Company. The documents disclosed later by Mdm Tan Bee Hoon contradicted the plaintiff's pleaded case in three ways:

(a) they showed that the Company had indeed paid the entire purchase price of the Property including transaction costs and incidentals (see [26] above);

(b) they showed that it was the Company – and not the plaintiff – who paid the entire initial payment for the purchase of the Property under the preliminary agreement (see [24] above); and

(c) they showed that the initial payment to the Vendor was $500 and not $1,150 (see [24] above).

97 The plaintiff then changed his position in his affidavit of evidence in chief and testified that he had instead borrowed a total of $50,000 from the Company, claiming that $1,150 was his initial repayment of the loan to the Company and not a separate payment out of his own funds to the vendor. This version of the events was consistent with Mdm Tan Bee Hoon's disclosed documents but was completely inconsistent with his own pleaded case. When challenged about the inconsistency between his pleaded case that the initial payment was $1,150 and the documentary evidence that it was in fact $500, he denied the inconsistencies and contended that by the term "initial option fee" in his pleadings, he was referring to his first initial repayment to the Company for the loan: [note: 101]

A: Can I explain, your Honour, to the court, the difference between these two numbers, please?

COURT: First, Mr Quek, do you accept there is a difference?

A: Yes, there's a difference, yes.

COURT: Mr Hee?

Q: Then please explain.

A: The initial option fee 500 was the correct initial fee as I paid down for the purchase of the property. Now, this 1,150 was my initial payment to Chin Thye Chiang, my first payment to Chin Thye Chiang. I told my lawyer that this is the initial payment I make to Chin Thye Chiang, my first payment to Chin Thye Chiang, to CTC.

Q: Is that your explanation? Is that all?

A: It is not an option fee in that sense but it is a payment to Chin Thye Chiang as my first payment to Chin Thye Chiang.

98 Further, when challenged about the inconsistency between his pleaded case that he had only borrowed $48,850 and his evidence in chief where he stated that he had borrowed $50,000, he insisted the two figures were consistent: [note: 102]

Q: [Reading from the plaintiff's particulars dated 11 January 2012 at answer 1(a)]: "The purchase price of the Property was 66k. The Plaintiff paid $1,150… to Chin Thye Chiang… As for the remaining purchase price, it was finance[d] through a loan of $48,850 from Chin Thye Chiang."

Looking at this answer… and compare with paragraph 52 of your AEIC [where the plaintiff states that he took a loan of $50,000 from Chin Thye Chiang], if you compare these two… do you not agree the amounts are different?

A: At different points of time it is different because the balance of the loan will keep on reducing as we go forward in my repayment of the total loan.

Q: That is not my question. Compare these two, the amounts are different. Do you not agree?

A: It was $50,000 in August, but when come October, after you deduct $1,150, it becomes $48,850 in October. So it is a different phase of the period.

99 The inconsistencies I have highlighted in [94] and [96] are not, in themselves, surprising. It would be more surprising to me if the plaintiff had – without reference to any transactional documents – been able to remember perfectly at the very outset of these proceedings the detailed chronology and contents of every one of his discussions with his father and of the mechanics of the purchase of the Property almost 50 years ago in 1966. The plaintiff could have forthrightly accepted in cross-examination that these were indeed inconsistencies in his case and that he had changed his position because of Mdm Tan Bee Hoon's documents. If he had done that and simply offered the lapse of time and the lack of access to those documents at the time he pleaded his case as the reason for the change of position, I would have been inclined to attach some weight to his explanation and attach significantly less weight to the inconsistencies. But as is apparent from the above, the plaintiff's approach was to deny the inconsistencies and to offer reasons – reasons which I found less than credible – why his own evidence was in fact consistent with his pleaded case. All of this led me to believe that the plaintiff had in fact tailored his evidence in chief on these key aspects of his case to conform with Mdm Tan Bee Hoon's documents rather than with the truth.

No record of the $50,000 loan in the Company's accounts

100 I also attach weight to the fact that there is no trace in the Company's accounts produced by Mdm Tan Bee Hoon of any loan of $50,000 to the plaintiff. As I have mentioned (at [17]), these accounts covered the period from 1 January 1968 to 31 July 1970. They record meticulously the sums which each male family member withdrew from the Company and paid into the Company during this period, accounting for sums as small as $3.30. Both the plaintiff and the defendants accept the accuracy of these accounts. [note: 103] The plaintiff's case is that by 1 January 1968, he had repaid to the Company only $3,280 out of the $50,000 loan (see [30]). That would mean that the plaintiff's running account as at 1 January 1968 should show a *debit balance* in the Company's favour of $46,720 (being $50,000 - $3,280). Instead, the running account shows a *credit balance* in favour of the plaintiff of $3,698.90. This, to me, indicates strongly that there was in fact no loan from the Company to the plaintiff and, in turn, no family arrangement of which that loan was a part, as the plaintiff claims.

Subsequent actions inconsistent with any family arrangement

101 If the plaintiff's evidence is to be believed, he had fulfilled all the terms of the family arrangement at the very latest by 1972. [note: 104] From that point on, according to him, he was entitled to a transfer of the four remaining one-fifth shares in the Property. Yet the legal title to the Property continued to reflect the five family members holding the Property jointly as tenants in common in equal shares. On his own case, therefore, the plaintiff must accept that the *status quo* was to his prejudice as long ago as 1972. He had a clear financial interest in altering the *status quo* from that date. Yet, the plaintiff took no steps to vindicate his alleged entitlement to the remaining four-fifths of the Property until 2011. It might be said that confrontation is always the option of last resort between family members. But familial inhibitions weakened long before 2011. On the plaintiff's own case:

(a) Contrary to the family arrangement, the brother refused to transfer his one-fifth share to the plaintiff in 1973 until the plaintiff repaid the entire amount then due on the overdraft. [note: 105] That must have been a betrayal of trust which left little family relationship for a non-confrontational approach to salvage. Yet the plaintiff took no action.

(b) Even if a residual fraternal relationship played a role in the plaintiff's decision not to be confrontational in 1973, [note: 106] it was common ground that that relationship irretrievably ruptured in 1979. [note: 107] In that year, the brother made two police reports against the plaintiff, one alleging physical assault. [note: 108] The Company also published notices in the Chinese and English press [note: 109] that the plaintiff was no longer authorised to represent the Company or to collect money on its behalf. Yet, the plaintiff took no action.

(c) D&B's letter dated 14 August 1979 (see [46] above) followed these incidents and threatened to dispossess the plaintiff. [note: 110] The claims in D&B's letter entirely contradicted any arrangement under which the plaintiff was by 1979 entitled to the entirety of the beneficial interest in the Property. It would have been natural for the plaintiff now to rely on those facts in rejecting D&B's demands. There was no reason in 1979 for him to be inhibited in doing so because there was no fraternal relationship left to preserve. But the plaintiff did not do that. Instead, he side-stepped D&B's demand by asking for the reason behind it. [note: 111] A few weeks later, he sent a two-line reminder. [note: 112] When no reply was forthcoming, he was content to let the *status quo* continue.

(d) When D&N revived the attempt to dispossess the plaintiff on 15 March 1980 (see [47] above), the claims in D&N's letter were again entirely inconsistent with what the plaintiff says was the true position. [note: 113] Again, it would have been natural for the plaintiff to respond, rejecting those claims and putting forward his case as he sets it out in these proceedings. He did not do that. Instead, again he was content to let the *status quo* continue.

(e) The bank recalled the overdraft and threatened to force-sell the Property at the end of 1980 [note: 114] (see [51] to [54]). That meant, on the plaintiff's case, that the Property was at risk of being force-sold to pay a debt which was the sole responsibility of the brother even though the plaintiff was then the sole beneficial owner of the Property. It would have been natural for the plaintiff then to have asserted that fact through his then solicitors, A&G. The plaintiff in fact testified that he did instruct A&G that he was the sole beneficial owner of the Property and that he wanted to enforce his rights against the other legal owners. In spite of this, the only point asserted by A&G to the brother's solicitors in correspondence [note: 115] was that it was the brother and not the plaintiff who was responsible for the entire balance on the overdraft account. I find the plaintiff's evidence difficult to accept: a law firm whose client had given it the instructions that the plaintiff claims he gave A&G would not have written in the limited way that A&G did.

(f) The plaintiff was adjudicated bankrupt on 27 February 1987 by Associated Asian Securities Pte Ltd for a relatively small debt of $16,365.08 arising from share trading. He remained a bankrupt for 11 years until he was discharged from bankruptcy by certificate of the Official Assignee on 2 November 1998. [note: 116] Again, if there was indeed a family arrangement reached in 1966 pursuant to which the plaintiff had become the sole beneficial owner of the Property by 1973 at the latest, it would be natural to expect the plaintiff to attempt to vindicate his property rights in an effort to stave off the bankruptcy or to secure his earlier discharge.

(g) The father died in 1981 (see [58] above). The mother died in 1986 (see [59] above). Once they had passed away, there was no longer any reason for the plaintiff's respect for his parents to inhibit him in commencing action.

(h) The plaintiff discovered in 1982 that the father had devised his share in the Property in a manner inconsistent with the family arrangement. Yet again, the plaintiff did nothing to assert his alleged rights over the Property under the family arrangement. [note: 117]

Documents which the plaintiff relies on do not support his case

102 The plaintiff relies on two documents as supporting his case as to the existence of the family arrangement: the 1981 acknowledgment and the mother's 1981 will. I did not give much weight to these documents because they were not contemporaneous with the events in 1966 which surrounded the alleged family arrangement and because they came into existence *after* disputes had arisen about the ultimate beneficial ownership of the Property.

103 In addition, I had grave doubts about the authenticity of the 1981 acknowledgment. First, Mdm Tan Bee Hoon produced multiple documents which the mother had signed either using her handwritten signature in Chinese characters or her right thumbprint. The mother executed the 1981 Will using her right thumbprint. This was shortly after the date of the 1981 Acknowledgment. The only two documents in evidence which the mother had signed with a circle were the 1981 Acknowledgment and the D&N Discharge Letter. Both of these documents were prepared by the plaintiff and presented to his mother to sign. Both of these documents were self-serving documents, drafted to bolster the

plaintiff's case at a time when disputes had already arisen. Second, not only was the credibility of the plaintiff's wife questionable (see [82] above), her evidence flatly contradicted the plaintiff's pleadings. In his Further and Better Particulars dated 9 December 2011, the plaintiff stated that the sister, her husband, his wife and he were present when the mother signed the 1981 Acknowledgement. [note: 118] Yet, according to the wife, only she and the plaintiff were present. [note: 119]

104 Finally, the plaintiff suggests that his parents' separate 1980 wills do not reflect their true testamentary intentions. In both wills, the Property is misdescribed in two respects. First, the address is given as 8 Coronation Road rather than 8A Coronation Road. Second, the Property is described as being leasehold when in fact it is a freehold property. The plaintiff suggests that these are errors his father would have been expected to note and correct before he and the mother signed their wills. The plaintiff invites me to infer from the failure to do so that his parents did not sign their wills willingly and deliberately left the errors uncorrected to make their gifts to their grandchildren void. [note: 120]

105 There was nothing to the plaintiff's suggestion. I reject it. The lot number of the Property is correctly set out in both of the 1980 Wills (*i.e.* Lot No. 512 Mukim II) and is the same lot number referred to in the mother's 1981 acknowledgement prepared by the plaintiff (see [55] above). The misdescription of the tenure of the Property and its street address was to my mind an inconsequential error that had no bearing on his parents' true testamentary intention or on this case.

106 In the premises, I find that the family arrangement as described by the plaintiff did not exist.

The plaintiff's payments before 8 November 1968

107 It is undisputed that by 8 November 1968, the plaintiff had paid the brother $6,150 and the father $10,000. It is also undisputed that by 8 November 1968, the plaintiff had a credit balance on his running account with the Company of $13,529.49. [note: 121] As stated above, the real dispute is whether the plaintiff was correct to characterise these sums as repayments of the purchase price loan for the Property. Mr Chen stressed that the coincidence between (a) the amount which the plaintiff had estimated paying the Company prior to obtaining the overdraft (*ie* $13,000) and (b) the total amount he had paid the Company by 8 November 1986 based on the Company Accounts (*ie* $13,529.49) was "not something that can be orchestrated".

108 I was initially struck by this congruence because the first defendant was unable to offer any alternative explanation for these payments. But I am satisfied that the congruence is not significant. If all of these payments were in truth repayments of the loan, it is strange that the plaintiff did not keep a written record of how much he had paid during this period. The Company's accounts up to 8 November 1968 reveal that the plaintiff's transactions with the Company consisted of many deposits *and withdrawals* of *various amounts*. In fact, it was the net amount of these deposits and withdrawals that added up to $13,529.49 (see [32] above). It further revealed that the plaintiff was not making payments to the Company of an identical sum on a regular basis. This made the plaintiff's version of events implausible: if the Company's accounts did not reflect the loan, it was unclear to me how the plaintiff could have known at any given time how much more money he owed the Company without keeping his own written records or without ensuring that he made regular and identical payments.

109 Given that (a) the Company was a family company, (b) the brother and father also maintained running accounts with the Company which disclosed similar patterns of credits and debits, [note: 122] and (c) the plaintiff acknowledged that some of the debits may have reflected payments made on his

behalf such as the payment of petrol when he used the Company's car, [note: 123] it was entirely plausible that the male members of the family borrowed money from the Company for their own personal use from time to time. I was therefore not satisfied that the plaintiff was correct to categorise the net balance of these credits and debits in his running account as repayments of the loan to the Company.

The purpose of the overdraft

110 As I have mentioned, the plaintiff claimed that the overdraft was established for the Company's purposes (see [33] above) whereas Mdm Tan Bee Hoon contended that it was set up for the personal share trading of the plaintiff and the brother (see [74] above). On the balance of probabilities, I accept Mdm Tan Bee Hoon's account.

111 The plaintiff pointed to the total of $38,700 withdrawn from the overdraft account and deposited in the bank account of the Company over the course of four years (between 3 February 1969 and 1 March 1973). [note: 124] This, he argued, showed a direct link between the Company and the overdraft account. In my view, this glossed over the fact that the majority of the 253 cheques drawn on the overdraft account (mostly by the brother) were drawn in favour of share brokers. The plaintiff acknowledged that he knew all along that the brother was drawing on the overdraft account to fund his personal trading in shares but did not once confront the brother about this. I inferred from this that the overdraft account was indeed opened to finance the plaintiff's and his brother's personal share trading. On this finding, the fact that the plaintiff eventually repaid the indebtedness on this account to secure the total discharge the mortgage was of little significance to the issues in this case. His payment was not referable to the acquisition of the Property in 1966 but to freeing his residence from an encumbrance.

Repayments of the overdraft

112 The plaintiff has serious evidential difficulties in establishing his claim that he was solely responsible for repaying the overdraft. In relation to the payments made between November 1968 and November 1970 (see [38] above), I do not accept the plaintiff's claim that the deposit slips (which revealed that three cheques totalling $2,200 were paid into the overdraft account) evidence payments *by him*. The deposit slips do not indicate that these cheques were the *plaintiff's* cheques. All that is indicated is that the cheques were drawn on an account with HSBC. The plaintiff relies on the fact that he had an account with HSBC to say that these HSBC cheques came from his account. But the plaintiff offered no evidence other than his bare assertion that he was the only one in the family with an HSBC account at that time. Further, these deposit slips disclose on their face that these deposits were "received for the credit of [the brother]".

113 It was also clear that the plaintiff was cherry picking figures from the Company's accounts to support his case. On the one hand, in order to show that he had repaid $13,529.49 to reduce his debt to the Company as at 8 November 1968, he was content to take into account *both* the credits *and* the debits in his running account with the Company. On the other hand, when it came to calculating his repayments to the Company between 9 November 1968 and 31 July 1970, he simply added up the credits in his running account and disregarded entirely the debits, claiming now that these debits are unreliable. I saw no reason to believe that the debits recorded in the Company's accounts between 9 November 1968 and 31 July 1970 were in any way less reliable than those recorded up to 9 November 1968.

114 If the debits in the company's accounts during this period are included, the calculation shows that the net amount which the plaintiff paid to the Company during this period was a mere $25.39.

This is a far cry from the $23,244.39 which he derived for the same period by ignoring the debits (see [38] above). The result is that the entire basis falls away from the plaintiff's claim that he continued paying an average of $900 per month between 30 December 1970 and 30 December 1972 and between 1973 and 1976 (see [40] and [42] above). The $900 per month figure itself is an estimate based on the plaintiff's computation of the average paid between November 1968 and 31 November 1970. I therefore accept the defendants' submission that even if there was a family arrangement and even if the plaintiff's payments are correctly characterised as repayments of a loan, there is no evidence that the plaintiff completed repayment of the $50,000 tranche repayable to the Company.

The plaintiff fails on each of the three bases

The law

115 I start my analysis with the legal title to the Property. In the present case, the parties held legal title to the Property as tenants in common in equal shares. The presumption is that the owner or owners of the legal estate in land are absolutely entitled to every incident of ownership of that land to the extent reflected in the legal title. At this point of the inquiry, there is no equitable interest to speak of. Equitable interests are not immanent in property and do not, without more, exist in parallel with a legal interest: *Westdeutsche Landesbank Girozentrale v Islington London Borough Council* [1996] 1 AC 669 ("*Westdeutsche Landesbank*") at 706. An equitable interest in property comes into existence only when one of a limited number of sets of events takes place to which equity attaches legal significance.

116 The three sets of legal events which can give rise to an equitable interest on which the plaintiff relies are the purchase money resulting trust, the common intention constructive trust and a proprietary estoppel. Because my ultimate decision in this case turns on the facts, it is not necessary for me to consider in detail the intricate contours and controversies in these three areas of the law.

There was no resulting trust

117 I accept that a purchase money resulting trust can arise in favour of A where A, on the basis of an agreement with B made *at the time property is purchased*, contributes to the repayment of a loan taken out to finance the purchase of that property (*Cowcher v Cowcher* [1972] 1 WLR 425 at 431). However, for the reasons I have set out above, I am not satisfied that the plaintiff and his family reached any family arrangement as he alleges at any point in time, whether before or after the Property was acquired. The plaintiff's resulting trust claim must necessarily fail.

118 Even if I had found that the family arrangement existed, a major obstacle to the plaintiff's resulting trust claim is the fact that a resulting trust arises (and the quantification of each party's beneficial interest is determined) at the point where the property is acquired (*Lau Siew Kim v Yeo Guan Chye Terence and another* [2008] 2 SLR(R) 108 at [112]). But under the plaintiff's alleged family arrangement, the other family members were obliged to recognise his beneficial interest only *upon the full repayment* of the alleged purchase-price loan. In this sense, the family arrangement in itself could not have brought into existence any proprietary right vested in the plaintiff. Instead, the true nature of the family arrangement alleged by the plaintiff was an interest-free loan to the plaintiff secured by a quasi-security interest in the Property. Put another way, the plaintiff's account of the family arrangement demonstrated a clear intention for the other family members to own their share of the Property both legally and beneficially at the time the Property was acquired, with that ownership to persist if the plaintiff failed to repay the loan. On the plaintiff's own case, there can have been no presumption of a resulting trust: the family clearly intended no separation of the beneficial interest in the Property from legal title to the Property at the time the Property was purchased.

119 This intent of the family members is also evidenced by the 1980 wills of the parents and the brother. Under those wills, each of them sought to devise their own one-fifth share in the Property separately, on the basis that they owned it outright. It is also implicit in the D&N letter of 15 March 1980 to the plaintiff which stated:

> We act for Quek Cher Choi, Madam Heng Sai Kee and Quek Hann Song.
>
> We have been instructed to institute proceedings against you in respect of 8-A Coronation Road for the following reliefs:-
>
> (a) For the Court to order a sale of the land and for the net proceeds thereafter to be *divided equally between the co-owners*.
>
> …
>
> [emphasis added]

120 For completeness, I should mention that although the entire purchase price of the Property was effectively provided by the Company, it was nobody's case that the family members held the Property was held on resulting trust for the Company. In any event, I was satisfied that any presumption of a resulting trust in favour of the Company is rebutted. The Company has never laid claim to the Property. It was clearly the Company's intent – as represented by the intent of the father as its controlling mind and will in 1966 – that the Property was to belong to the family and not to it.

There was no constructive trust

121 My factual findings mean that the plaintiff's case for a common intention constructive trust must also fail. The only basis put forward for a common intention between the family members is the family arrangement. I have found that there was no such family arrangement. Therefore, there was never a common intention between the family members that they would have beneficial interests in the Property which differed from their legal interests. On the contrary, I am of the view that it was the common intention of the parties that each family member was to own outright an equal share of the Property. It is significant, to my mind, that they took the conveyance of the Property at law not as joint tenants but as tenants in common in equal shares. In the absence of any legally significant event sufficient to create an equitable interest in favour of the plaintiff, he is left to his rights at law. Those rights are limited to a one-fifth interest in the Property.

No proprietary estoppel arises

122 In light of my findings that the family arrangement described by the plaintiff did not exist, I am also satisfied that the plaintiff's claim in proprietary estoppel must fail: there was no family arrangement and so no basis for the plaintiff to be encouraged to believe that he had some right or interest in the Property. No equity arose in his favour.

The doctrine of laches

123 My analysis above is sufficient to dispose of this case in favour of the defendants. Nonetheless, I move on to consider the issues of laches since extensive submissions were made on this issue by both sides.

124 The doctrine of laches was comprehensively analysed in *Re Estate of Tan Kow Quee (alias Tan Kow Kwee)* [2007] 2 SLR(R) 417 ("*Tan Kow Quee*"). Menon JC (as he then was) held (at [33]-[34]):

> 33 [The doctrine of laches reflects] a confluence of two factors: delay and the existence of circumstances that make it inequitable to enforce the claim. A claimant in equity is bound to pursue his claim without undue delay… The basis for the equitable intervention of the court is ultimately found in unconscionability. The following passage from the judgment in *Green v Gaul* at [42] is instructive:
>
> > The modern approach to the defences of laches, acquiescence and estoppel was considered by this Court in *Frawley v Neill* ([2002] CP Reports 20, but otherwise unreported, 1 March 1999)… After reviewing the earlier authorities… Aldous LJ (with whom the other members of the court agreed) said:
> >
> > > "In my view the more modern approach should not require an inquiry as to whether the circumstances can be fitted within the confines of a preconceived formula derived from earlier cases. *The inquiry should require a broad approach, directed to ascertaining whether it would in all the circumstances be unconscionable for a party to be permitted to assert his beneficial right.* No doubt the circumstances which gave rise to a particular result in the decided cases are relevant to the question whether or not it would be conscionable or unconscionable for the relief to be asserted, but each case has to be decided on its facts applying the broad approach."
>
> 34 In addition, I would refer to the following extracts from the judgment of Mummery LJ in *Patel v Shah*…
>
> > 30 I do not doubt that, in the general run of claims by a beneficiary against a trustee for the recovery of a beneficial interest in trust property, Mr Hodge's [counsel for the claimants] analysis is apposite. The key question is whether it applies to the trusts affecting the properties in this case, bearing in mind that these trusts arose, and are sought to be enforced, in a commercial context, not in the donative context of orthodox *inter vivos* and testamentary trusts, in which a beneficiary is not expected by anyone to do anything other than to receive the gift.
> >
> > ...
> >
> > 33 ... *In the case of an ordinary trust by way of gift to trustees for the benefit of the beneficiaries, where the beneficiary is not required or expected to do more than receive what has been given for his benefit, it will obviously be extremely rare for laches and delay on the part of the beneficiary to make it unconscionable for that beneficiary to assert his claim to the beneficiary interest*, or for the trustee to claim that he has been released from the equitable obligations that bind his conscience.
> >
> > 34 The general commercial setting of the particular facts of this case make it, in my view, a different kind of case from that of a beneficiary under a gift trust.
> >
> > [emphasis added]

125 In my view, the following factors are relevant on the question of laches:

(a) On the plaintiff's own case, he was in a position to commence action from 1973 onwards.

His evidence is that that is when he repaid the entire loan and the brother acted contrary to the family arrangement by not transferring his one-fifth share to the plaintiff. The delay of about 40 years is a long one.

(b) There were multiple occasions over the intervening 40 years where the plaintiff had both reason and opportunity to commence proceedings to assert his full beneficial ownership over the Property. I have listed them at [101] above, albeit in a different context. The plaintiff took none of those opportunities.

(c) The plaintiff's delay in commencing proceedings meant that all the important witnesses to the family meeting in 1966 had died by the time of the proceedings, save only for the plaintiff and the sister. The sister declined to contest the plaintiff's claim but also declined to explain to me why she took that position. Mdm Tan Bee Hoon and Mr Guo Charng How could not give direct evidence as to the family meeting in 1966 because neither had any personal knowledge of it.

(d) For all intents and purposes, the plaintiff has had exclusive possession of the Property for almost 50 years. None of the other members of the family commenced formal legal proceedings against the plaintiff in relation to the Property.

126 This was clearly not the case of a beneficiary seeking the recovery of trust property that was gifted to him where the beneficiary had nothing more to do than to receive the gift. If the plaintiff was right about the terms of the family arrangement, the conditionality of his right to be the sole beneficial owner of the Property made it more akin to a commercial transaction, albeit in a family context.

127 After considering the matter, I am satisfied it would have been unconscionable to allow the claimant to pursue his claim, even if I had been with him on the facts.

128 The length of the delay and of the plaintiff's inaction is clearly substantial. Under cross-examination, the plaintiff suggested that he initially wanted to assert his rights as the sole beneficial owner of the Property following the discharge of the mortgage in 1981 (see [101(e)] above). However, he said, A&G advised him that more evidence was required in order to mount a successful claim. [note: 125] It was for this reason that the plaintiff wrote (unsuccessfully) to HSBC for photocopies of cheques paid to the Company during the relevant periods. I infer from this that the plaintiff did not commence proceedings thereafter because he felt he did not have sufficient evidence to mount a successful claim. I do not believe the plaintiff's evidence that he did not commence action then because he wanted to avoid litigation against his own family members (see [101] above).

129 In terms of evidence, the only thing that changed since the plaintiff discharged the mortgage in 1981 is the death of the key witnesses. This has indeed greatly prejudiced the defendants in their ability to defend the claim. The plaintiff's delay has deprived the defendants of the direct evidence of the only other witnesses with personal knowledge of the circumstances in which the Property was purchased. The father, brother and mother would have been able to explain clearly and from personal knowledge the circumstances in which the Property was purchased, the significance of the documents which are now put before me, the purpose behind the plaintiffs' payments over the years as well, perhaps, as to produce other documents or give other evidence which are not before me but which would be probative of the issues at hand.

130 In *Williams v Greatrex* [1957] 1 WLR 31 ("*Williams*"), the purchaser entered into a written agreement with the vendor to purchase up to 34 plots of land. Under the agreement, once the purchaser paid a deposit in relation to any of the plots, he was entitled to enter upon the plot and

start building on it. The parties agreed that these plots would be formally conveyed only after the purchaser had paid the balance purchase money. The purchaser paid the deposit for two plots of land, entered into possession and started building works. Shortly after this, the vendor came by and ordered the purchaser off the land. The purchaser stopped building works partly due to this and partly due to his failure to obtain the necessary building licenses. There was no follow up by either party in relation to these two plots of land. About 10 years later, the purchaser commenced action for specific performance of the agreement to convey the two plots of land to him. This was precipitated by the sudden appearance of a third party who had entered into a contract of sale with the vendor for the two plots of land. The English Court of Appeal found that the purchaser had remained in possession of the two plots throughout (notwithstanding the ceasing of building work) and held that despite the long lapse in time, the purchaser was not barred by laches from seeking equitable relief.

131 The plaintiff argued that *Williams* qualified the doctrine of laches such that it would not apply in a situation where (a) a contract is substantially executed, (b) the claimant is in possession of the subject matter property and (c) the claimant has an equitable interest in this property.

132 I am not persuaded by this argument. In *Williams*, it was undisputed that there was a valid agreement between the parties and that the claimant had performed his side of the bargain. There was therefore no prejudice to the vendor in holding it to the bargain even though the claim was brought late. In the present dispute, issues of whether there was even a family arrangement let alone whether the plaintiff had performed or discharged his obligations thereunder were heavily disputed. At the risk of repetition, there was also substantial prejudice to the defendants as the non-availability of key witnesses hindered the defendants from properly defending the plaintiff's claims.

133 Finally, I do not think the plaintiff family's exclusive possession of the Property constituted acquiescence by the defendants of the plaintiff's delay. The plaintiff's exclusive possession of the Property is not inconsistent with the defendants' interest in the Property bearing in mind that only family members are involved.

Conclusion

134 For the reasons set out above, I dismiss the plaintiff's claim.

135 I will hear the parties on costs and on any consequential orders.

[note: 1] Agreed Bundle Volume 1 ("1AB") 510.

[note: 2] 1AB 151-154.

[note: 3] Statement of Claim, para 4; Defence, para 7; 1AB 512.

[note: 4] 1AB 187; 1AB 510.

[note: 5] 1AB 512-513.

[note: 6] 1AB 450-455.

[note: 7] 1AB 435-438.

[note: 8] 1AB 529-536.

[note: 9] ORC 5573/2011/Y.

[note: 10] Notes of Evidence ("NE") 8 February 2013 Page 51 Lines 6-8.

[note: 11] 1AB 149.

[note: 12] *Ibid.*

[note: 13] Tan Bee Hoon's Affidavit of Evidence in Chief Volume 1 ("TBH 1AEIC") para 16; NE 6 February 2013 Page 14 Lines 2-5.

[note: 14] TBH 1AEIC paras 15-16; Quek Hung Heong's Affidavit of Evidence in Chief Volume 1 ("QHH 1AEIC") para 12.

[note: 15] TBH 1AEIC paras 19-22; Reply at para 6; NE 6 February 2013 Page 13 Line 14.

[note: 16] QHH 1AEIC para 95.

[note: 17] TBH 1AEIC para 23.

[note: 18] Affidavit verifying 1st Defendant's List of Documents dated 17 August 2012 pp 7-8.

[note: 19] Agreed Bundle Volume 2 ("2AB") 624-702 (originals); 703-861 (translations).

[note: 20] NE 5 February 2013 Page 98 Line 15 – Page 100 Line 5; TBH 1AEIC paras 241–247.

[note: 21] QHH 1AEIC para 20.

[note: 22] QHH 1AEIC para 21.

[note: 23] QHH 1AEIC para 25.

[note: 24] QHH 1AEIC para 31.

[note: 25] QHH 1AEIC para 32.

[note: 26] QHH 1AEIC para 32.

[note: 27] NE 6 February 2013 Page 139 Line 11 – Page 140 Line 11.

[note: 28] 1AB 77.

[note: 29] 1AB 72.

[note: 30] 1AB 84.

[note: 31] 1AB 151.

[note: 32] 1AB 82; 1AB 88.

[note: 33] 1AB 113; 1AB 114.

[note: 34] 1AB 151.

[note: 35] See for example, 1AB 76.

[note: 36] See for example, 1AB 77.

[note: 37] 1AB 115; 1AB 125.

[note: 38] See for example 1AB 168 and 186.

[note: 39] 1AB 122.

[note: 40] QHH 1AEIC para 49.

[note: 41] QHH 1AEIC para 52.

[note: 42] QHH 1AEIC para 56.

[note: 43] Affidavit verifying 1st Defendant's List of Documents dated 17 August 2012 pp 7-8.

[note: 44] QHH 1AEIC para 59.

[note: 45] QHH 1AEIC para 61.

[note: 46] QHH 1AEIC para 61.

[note: 47] *Ibid.*

[note: 48] QHH 1AEIC p 149-151 (QHH-18).

[note: 49] 1AB 227.

[note: 50] QHH 1AEIC para 66.

[note: 51] QHH 1AEIC para 95.

[note: 52] QHH 1AEIC para 96.

[note: 53] QHH 1AEIC para 95.

[note: 54] QHH 1AEIC para 97.

[note: 55] QHH 1AEIC paras 87 and 97.

[note: 56] QHH 1AEIC para 67.

[note: 57] QHH 1AEIC para 11.

[note: 58] QHH 1AEIC para 102.

[note: 59] 1AB 353.

[note: 60] 1AB 356.

[note: 61] 1AB 361.

[note: 62] 1AB 368.

[note: 63] QHH 1AEIC para 109.

[note: 64] *Ibid.*

[note: 65] 1AB 407.

[note: 66] 1AB 369-370.

[note: 67] 1AB 375.

[note: 68] 1AB 380.

[note: 69] 1AB 381.

[note: 70] QHH 1AEIC para 116.

[note: 71] 1AB 381-385.

[note: 72] QHH 1AEIC para 117.

[note: 73] Plaintiff's Bundle of Documents ("PB") 16.

[note: 74] QHH 1AEIC para 121.

[note: 75] PB 17.

[note: 76] NE 4 February 2013 Page 5 Lines 13–18.

[note: 77] QHH 1AEIC para 122.

[note: 78] NE 6 February 2013 Page 83 Line 15 – Page 84 Line 10.

[note: 79] NE 6 February 2013 Page 38 Lines 8–11.

[note: 80] 1AB 450.

[note: 81] 1AB 452.

[note: 82] 1AB 435.

[note: 83] 1AB 436.

[note: 84] 3rd Defendant's Bundle of Documents at p 3.

[note: 85] QHH 1AEIC para 133 and QHH 2AEIC p 867 (QHH-40).

[note: 86] 1AB 521.

[note: 87] QHH 1AEIC para 139.

[note: 88] TBH 1AEIC at para 26; QHH 1AEIC at para 14.

[note: 89] NE 7 February 2013 Page 72 Line 18 – Page 73 Line 17.

[note: 90] NE 8 February 2013 Page 12 Line 25 – Page 13 Line 4.

[note: 91] NE 7 February 2013 Page 21 Line 20 – Page 22 Line 21.

[note: 92] NE 7 February 2013 Page 43 Line 7 – Page 44 Line 14.

[note: 93] NE 7 February 2013 Page 49 Line 9 - Page 51 Line 2.

[note: 94] QHH 1AEIC paras 150-151.

[note: 95] NE 6 February 2013 Page 140 lines 8-12.

[note: 96] Setting Down Bundle ("BP") 104 Ans 1(b).

[note: 97] Affidavit verifying 1st Defendant's List of Documents dated 18 May 2012 p 3.

[note: 98] QHH 1AEIC at paras 25- 30.

[note: 99] QHH 1AEIC at paras 25-30.

[note: 100] BP 111 Ans 1(a).

[note: 101] NE 4 February 2013 Page 32 Lines 5-20.

[note: 102] NE 5 February 2013 Page 49 Lines 3–18.

[note: 103] NE 5 February 2013 Page 98 Line 15 – Page 100 Line 5; TBH 1AEIC paras 241–247.

[note: 104] QHH 1AEIC paras 95-96.

[note: 105] NE 6 February 2013 Page 86 Lines 2-8.

[note: 106] NE 6 February 2013 Page 48 Lines 24-25.

[note: 107] QHH 1AEIC para102.

[note: 108] 1AB 338 and 348.

[note: 109] 1AB 339 - 1AB344.

[note: 110] 1AB 353.

[note: 111] 1AB 356.

[note: 112] 1AB 361.

[note: 113] 1AB 368.

[note: 114] 1AB 377–378.

[note: 115] 1AB 377.

[note: 116] 1AB 480.

[note: 117] QHH 1AEIC at para 131.

[note: 118] BP p 107 at 3(c).

[note: 119] Tan Suan Poh ("TSP") 1AEIC paras 15-17.

[note: 120] QHH 1AEIC para 129.

[note: 121] NE 5 February 2013 Page 131 Lines 6-13.

[note: 122] QHH 2 AEIC pp 684-757 (QHH-23).

[note: 123] QHH 1AEIC para 76.

[note: 124] QHH 1AEIC para 65.

[note: 125] NE 6 February 2013 Page 28 Line 21 – Page 30 Line 4.

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