IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHCR 20

S 843 of 2013
HC/SUM 3684 of 2017

Between

Invest-Ho Properties Pte Ltd

… Plaintiff / Respondent

And

(1) Karuppiah Tanapalan
(2) Vimala Devi d/o Selvadurai

… Defendants / Applicants

JUDGMENT

[Civil Procedure – Pleadings – Striking Out]
[Legal Profession – Disciplinary Procedures]

Version No 1: 27 Oct 2020 (22:40 hrs)

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Invest-Ho Properties Pte Ltd
v
Karuppiah Tanapalan and another

[2017] SGHCR 20

High Court — Suit No 843 of 2013 (Summons No 3684 of 2017)
Justin Yeo AR
12 October 2017, 22 November 2017

22 November 2017 Judgment reserved.

Justin Yeo AR:

1 Party A was the intended purchaser of a piece of property owned by Parties B and C. Lawyer X acted for all of them in the conveyancing transaction. Subsequently, Parties B and C alleged that the transaction was a loan rather than a genuine sale and purchase of property, and sought to unravel the transaction. Party A commenced Suit A in the High Court, seeking an order against Parties B and C for specific performance of the transaction.

2 Parties B and C thereafter lodged a complaint, against Lawyer X, with the Law Society of Singapore ("the Law Society"). Disciplinary proceedings were commenced against Lawyer X for tendering advice despite knowing or having reasonable grounds to believe that the advice was to advance an illegal transaction, and for failing to report the transaction despite knowing or having reasonable grounds to suspect that it involved criminal conduct.

3 The disciplinary proceedings against Lawyer X were eventually brought before the Court of Three Judges. The Court of Three Judges found that the transaction was to advance an illegal purpose, and that Lawyer X should have been aware of this in the light of the highly unusual circumstances surrounding the transaction. It therefore held that the charges against Lawyer X were made out.

4 With the benefit of the decision of the Court of Three Judges, Parties B and C brought an application to strike out Suit A, on the grounds that it was scandalous, frivolous or vexatious, or alternatively, an abuse of the process of the court. Should Party A be allowed to continue with Suit A, and try to convince the High Court that the findings of the Court of Three Judges were incorrect?

Background Facts

5 Mr Karuppiah Tanapalan and Ms Vimala Devi d/o Selvadurai ("the Defendants") were the owners of the property at Block 297 Bedok South Avenue 3 #01-04 ("the Property"). Invest-Ho Properties Pte Ltd ("the Plaintiff") was an intended purchaser of the Property. Ms Leong Pek Gan ("Ms Leong"), an advocate and solicitor of over 30 years' standing, was instructed to act for the parties on what appeared to be the sale and purchase of the Property. The parties entered into an Option to Purchase the Property at the sum of $651,000 and an option fee of $250,000 ("the Agreement"). The Defendants also granted a power of attorney ("the Power of Attorney") to the Plaintiff's Director, Mr Ho Soo Fong ("Mr Ho"), authorising and empowering him to sign all documents relating to the sale of the Property.

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6 On 1 February 2013, the Defendants discharged Ms Leong from acting as their solicitor. On 8 February 2013, the Defendants wrote to the Plaintiff to state that the Agreement was tainted with illegality, and that they would be aborting the sale and forfeiting the $250,000 option fee. On 19 February 2013, a deed revoking the Power of Attorney was filed in the High Court.

7 On 12 November 2013, the Plaintiff commenced the present suit, Suit No 843 of 2013 ("Suit 843"), for specific performance of the sale and purchase of the Property pursuant to the Agreement. The parties reached a settlement in Suit 843 and recorded a consent judgment ("the Consent Judgment") before Aedit Abdullah JC (as his Honour then was) on 10 December 2014. The Defendants subsequently attempted to set aside the Consent Judgment, but did not succeed in doing so.

8 The Defendants subsequently lodged a complaint against Ms Leong, *inter alia* for aiding and abetting an alleged unlicensed moneylending transaction. Following the complaint, the Law Society brought four charges against Ms Leong, of which the following two are particularly relevant for present purposes:

(a) tendering advice despite knowing or having reasonable grounds to believe that the advice was to advance the illegal purpose of unlicensed moneylending in contravention of the Moneylenders Act (Cap 188, 2010 Rev Ed) ("the MLA"); and

(b) failing to report the transaction despite knowing or having reasonable grounds to suspect that it involved criminal conduct under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap 65A, 2000 Rev Ed).

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9 A Disciplinary Tribunal was appointed under s 90 of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("the LPA"). As provided for in s 90 of the LPA, each Disciplinary Tribunal shall be appointed by the Chief Justice, and shall comprise a president (being an advocate and solicitor who is a Senior Counsel, or who has at any time held office as a Judge or Judicial Commissioner of the Supreme Court) and an advocate and solicitor of not less than 12 years' standing.

10 In the course of the proceedings before the Disciplinary Tribunal, Ms Leong called Mr Ho as her witness (*The Law Society of Singapore v Leong Pek Gan* [2015] SGDT 4 ("*Leong Pek Gan (DT)*") at [62]). Mr Ho disagreed that the Agreement and Power of Attorney were being used in an illegal moneylending transaction, and explained the commercial and other considerations for the unusual terms in the documents (*Leong Pek Gan (DT)* at [63]). Mr Ho was questioned by counsel for the Law Society on these issues, and was found to be unable to offer credible explanations (*Leong Pek Gan (DT)* at [64]). The Disciplinary Tribunal concluded that Ms Leong was "blissfully oblivious to the suspicious nature of the entire transaction", and therefore determined that cause of sufficient gravity existed under s 83(2)(*b*) and (*h*) of the LPA (*Leong Pek Gan (DT)* at [67] and [86]).

11 On 20 October 2015, the Law Society informed the Defendants of the developments in the disciplinary proceedings, and indicated that it would be making an application to the Court of Three Judges to decide on the appropriate sanction against Ms Leong.

12 Based on the report of the Disciplinary Tribunal, the Defendants took out an application to stay the execution of the Consent Judgment pending the

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outcome of the hearing before the Court of Three Judges. The parties agreed that enforcement would be held in abeyance pending the decision of the Court of Three Judges.

13 On 19 August 2016, the Court of Three Judges rendered its decision in *Law Society of Singapore v Leong Pek Gan* [2016] 5 SLR 1091 ("*Leong Pek Gan*"). In relation to the two charges mentioned at [8] above, the Court of Three Judges held that the Law Society had to prove, *inter alia*, that the transaction involved an illegal purpose, namely, unlicensed moneylending in contravention of the MLA (*Leong Pek Gan* at [58]). This, in turn, raised the following two sub-issues (*Leong Pek Gan* at [59]):

(a) whether there was a loan in the first place (or, in other words, whether the Agreement was *in substance* a loan); and

(b) whether Mr Ho and the Plaintiff were carrying on a business of moneylending.

14 The Court of Three Judges proceeded to analyse each of these sub-issues, surveying the applicable law and principles relevant to each inquiry, as well as the evidence adduced in the proceedings.

(a) On the first sub-issue, the Court of Three Judges found that five aspects of the transaction were highly unusual and cast serious doubts on the genuineness of the transaction (*Leong Pek Gan* at [62]). The Court of Three Judges considered Mr Ho's evidence in coming to this conclusion, and reproduced a passage from the cross-examination of Mr Ho (*Leong Pek Gan* at [66]):

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> … *Ho's evidence* that the entire sum of $19,750 was meant as commission for Mr Sara for introducing him, through Rajan, to the Property *is rather contrived*. … *Ho could not explain this discrepancy* in the amount of commission that was allegedly paid to Mr Sara, apart from saying that perhaps, his (Ho's) nephew, who had cashed in the cheque, had taken $50. In addition, *Ho had no good explanation* as to why it was necessary for the Vendors to pay Mr Sara's commission through him, as evidenced by the following exchange:
>
> Q Mr Ho, you can tell them, 'This is your commission that you owe Mr Sara. You pay him directly. Don't waste my time.' Correct? You could have told them this, right?
>
> A Yes, the reason why---the reason because this Sara don't want to see him. Er, see---see these family people. I don't know what happened. This one, I don't know. If---if she [ie, the Complainant] want to see them early, she can---er, sorry. He can direct introduce, but he get another person to introduce. That are the reason. And even, they want cash, you know? I said, 'I got the cheque.' She said, 'Don't want, you go and get ca---cash for me.' So I have to get my nephew. Er, the cheque they give it to my nephew. I ask my nephew, 'Go and collect it.'
>
> [emphasis added]

The Court of Three Judges concluded that the form of the transaction was merely a *façade* to disguise what was, in substance, a loan (*Leong Pek Gan* at [69]).

(b) On the second sub-issue, the Court of Three Judges considered the law relating to the business of moneylending, and observed that what constitutes the "business" of moneylending is "*heavily dependent on the facts and context* before the court concerned" (emphasis added) (*Leong Pek Gan* at [76]). After examining the evidence, the Court of Three Judges observed:

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> 82 … In our view, **Ho/[the Plaintiff] have *not* rebutted the presumption** on a balance of probabilities. Indeed, had it been necessary, we would **have been prepared to find that the Transaction fell foul of the MLA *even if* the presumption under s 3 did *not* apply**.
>
> 83 The loan transaction between Ho/[the Plaintiff] and the Vendors was not an isolated one, and **we are satisfied that there was system and continuity in the way in which Ho/[the Plaintiff] went about their moneylending**. In this regard, we draw attention to another transaction that was raised in the course of the proceedings. **Ho admitted** to having entered into an option to purchase a flat at Chai Chee owned by one Chua and his wife … **According to Ho**, Chua required a high option fee as he owed money to loan sharks …
>
> 84 **We find it extremely difficult to believe that Ho was simply a good Samaritan** who was willing to assist in resolving the financial problems of others by offering them a high option fee for the purchase of their property. **We are compelled to conclude, instead, that his practice is entirely consistent with that of a moneylender, and that there was system and continuity in the manner in which he/[the Plaintiff] entered into loan transactions.** In addition, **we find that the conduct of Ho/[the Plaintiff] evinced a willingness to lend to all and sundry who were, from their point of view, eligible.**
>
> [emphasis in italics in original; emphasis added in bold]

As such, the Court of Three Judges found that Mr Ho and the Plaintiff were in a business of moneylending.

15 As both sub-issues were made out, the Court of Three Judges found that the transaction involved unlicensed moneylending (*Leong Pek Gan* at [85]).

16 It bears emphasis that the Court of Three Judges stated that "[m]any, if not all" of its findings were premised on *objective* facts, as contained in the Agreement and the Power of Attorney (*Leong Pek Gan* at [98]). Indeed, while Ms Leong sought to undermine the Defendants' credibility by highlighting

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inconsistencies in their evidence, the Court of Three Judges did not see it necessary to delve further into this, precisely because it was satisfied that its findings were premised on *objective* facts (*Leong Pek Gan* at [98]).

17 In the circumstances, the Court of Three Judges was satisfied that due cause for disciplinary action against Ms Leong had been shown and that the charges against her had been proved *beyond reasonable doubt* (*Leong Pek Gan* at [99]). The Court of Three Judges thereafter imposed upon her a term of suspension of two-and-a-half years (*Law Society of Singapore v Leong Pek Gan* [2016] 5 SLR 1131 at [19]).

18 Subsequent to *Leong Pek Gan*, the Defendants sought leave from Aedit Abdullah JC for further arguments regarding the Consent Judgment. On 3 May 2017, they succeeded in setting aside the Consent Judgment. In brief oral grounds, Aedit Abdullah JC stated as follows:

> I am satisfied that even if issue or cause of action estoppel applied here [*viz,* in relation to the issue of whether Aedit Abdullah JC was *functus* in relation to further arguments to set aside the Consent Judgment], that guidance of our Court on res judicata does not contemplate a situation such as the present, *where a clear and definite finding of a court provides the basis for impugning the basis of the earlier order that I had made*. …
>
> I must emphasise that my finding at the original hearing to overturn the consent judgment was on the basis of what the Defendants brought into court there. The decision of the three judge court thus supplied what the Defendant originally lacked, and *I could not ignore the findings of that court.*
>
> …
>
> *In the light of the findings of the court of three judges, I am satisfied that s 14(2) [of the MLA] would have rendered the contract unenforceable*, as it was found to be a loan and the Court of 3 judges indicated that it would have been prepared to find that the transaction fell foul of the MLA; and accordingly, that *the basis of the consent order was a contract that was found*

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> *to have been rendered illegal and unenforceable by law*, and that it should be set aside for that reason.
>
> [emphasis added]

19 No appeal was brought against the setting aside of the Consent Judgment.

The Application

20 Subsequent to the setting aside of the Consent Judgment, the Defendants brought the present application to strike out the Plaintiff's Statement of Claim in Suit 843, on the grounds that it is:

(a) scandalous, frivolous or vexatious under O 18 r 19(1)(*b*) of the Rules of Court (Cap 322, R 5, 2014 Rev Ed) ("Rules of Court"); or

(b) alternatively, an abuse of the process of the court under O 18 r 19(1)(*d*) of the Rules of Court.

Parties' Arguments

21 Plaintiff's counsel argued that the application should be dismissed for the following reasons:

(a) First, it was not a "plain and obvious" case that the Agreement was tainted with illegality. Although the Court of Three Judges had made certain findings in this regard, the issues before the Court of Three Judges centred on Ms Leong's misconduct as a solicitor. The issue of whether the Agreement was tainted with illegality could not have been properly ventilated. Instead, a full trial is needed to determine the issues raised in the Statement of Claim.

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(b) Second, while the High Court can take cognisance of the findings of the Court of Three Judges, these findings do not bind the High Court and can be departed from. This is because the Court of Three Judges is a specially constituted court to oversee disciplinary proceedings, and is not the High Court (citing *Re Nalpon Zero Geraldo Mario* [2013] 3 SLR 258 ("*Nalpon Zero*") at [50]).

(c) Third, and related to both points above, it cannot be said that the issues in the Statement of Claim are *res judicata* on the basis of issue estoppel, because:

(i) There is no identity of subject matter between *Leong Pek Gan,* being disciplinary proceedings against Ms Leong, and the present suit, being civil proceedings against the Defendants.

(ii) The parties in *Leong Pek Gan*, being the Law Society and Ms Leong, were different from the parties in the present suit, being the Plaintiff and the Defendants.

(iii) *Leong Pek Gan* was not a final and conclusive judgment on the legality of the Agreement.

22 Plaintiff's counsel sought the opportunity to tender further written submissions relating to the nature of the findings made by the Court of Three Judges. I granted both sets of counsel the opportunity to do so. In his further submissions, Plaintiff's counsel buttressed his second and third arguments by citing *Howe v Institute of Chartered Accountants of Ontario* [1994] OJ No 2907 ("*Howe*"). In *Howe*, the Ontario District Court was faced with an accountant's application to stay a disciplinary hearing pending the final disposition of a

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related civil action. The court dismissed the application, but made the following observations:

> Although the decision of the Discipline Committee on the charges against the applicant would *no doubt be granted some deference in the civil actions, and might be of considerable persuasive value in those actions, it would not be binding in the civil actions*, because the plaintiffs in the civil actions will not have been parties to the disciplinary proceedings. Issue estoppel only arises where the parties in the subsequent proceedings, or their privies, were parties or privies to the earlier proceedings. … The plaintiffs in the civil actions would not be prevented from attacking a decision of the Discipline Committee exonerating the applicant, *nor would the applicant be prevented from challenging in the civil actions an adverse decision by the Discipline Committee*. [emphasis added]

23 Defendant's counsel raised four arguments:

(a) First, that the illegality of the Agreement was clear from the published findings of the Court of Three Judges in *Leong Pek Gan*.

(b) Second, that it was clear from the reasons given in setting aside the Consent Judgment, that Aedit Abdullah JC had acknowledged that the Agreement was illegal and therefore unenforceable under the law (see [18] above).

(c) Third, Mr Ho had given evidence in the disciplinary proceedings, and the decision in *Leong Pek Gan* was based on such evidence.

(d) Fourth, the Plaintiff had not stated in its affidavits that the findings in *Leong Pek Gan* were erroneous.

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Abuse of Process – O 18 r 19(1)(*d*) of the Rules of Court

24 The arguments before me predominantly focused on whether the claim should be struck out as an abuse of process of the court under O 18 r 19(1)(*d*) of the Rules of Court.

The Law

25 Counsel on both sides crossed swords on the issue of whether the present suit is *res judicata* on the basis of issue estoppel. In this regard, the principles relating to issue estoppel are well established and need only be briefly mentioned. In essence, four requirements must be met in order to establish issue estoppel (see *Wing Joo Loong Ginseng Hong (Singapore) Co Pte Ltd v Qinghai Xinyuan Foreign Trade Co Ltd and another and another appeal* [2009] 2 SLR(R) 814 at [165] and *Lee Tat Development Pte Ltd v Management Corporation of Strata Title Plan No 301* [2005] 3 SLR(R) 157 at [14]):

(a) First, there must be a final and conclusive judgment on the merits of the issue which is said to be subject to estoppel.

(b) Second, the judgment must be by a court of competent jurisdiction.

(c) Third, there must be identity of parties to the two proceedings being compared.

(d) Fourth, there must be identity of subject matter in the two actions. This means that (i) the prior determination must traverse the same ground as the subsequent proceeding; (ii) the prior determination must have been fundamental (*contra* merely collateral) to the prior

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decision; and (iii) the allegedly estopped issue must have been raised and argued.

26 While counsel focused on issue estoppel, it must be kept in mind that abuse of process involves *more* than simply the doctrine of *res judicata* and its constituent or related doctrines. For instance, a proceeding can be struck out on the basis of abuse of process, if it is manifestly groundless, or without foundation, or serves no useful purpose (see *Chee Siok Chin v Minister for Home Affairs* [2006] 1 SLR(R) 582 ("*Chee Siok Chin*") at [34]; *Bosch Corp (Japan) v Wiedson International (S) Pte Ltd and others and another suit* [2013] 2 SLR 700 ("*Bosch Corp*") at [31]).

Analysis and Decision

27 I agree with Plaintiff's counsel that issue estoppel does not apply in the present case, for two reasons.

(a) First, the parties in *Leong Pek Gan* were not identical to the parties in Suit 843. The Law Society and Ms Leong were the parties in the former, while the Plaintiff and the Defendants are the parties in the latter. As such, at least one of the fundamental requirements for issue estoppel – the requirement of identity of parties in both proceedings – would not be made out (see [25(c)] above). This was indeed also the conclusion of the court in the cited excerpt from *Howe* (see [22] above).

(b) Second, a decision of the Court of Three Judges is not a decision of the High Court. It is instead a decision of a specially constituted court exercising a unique disciplinary jurisdiction over advocates and

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solicitors and Legal Service Officers (*Nalpon Zero* at [50], [55], [67] and [69]). The Court of Three Judges has oversight of disciplinary proceedings and "falls outside of the normal court system of Singapore" (*Nalpon Zero* at [52]). While Judges of Appeal often sit to hear such disciplinary proceedings, the Court of Three Judges is *not* the Court of Appeal (*Nalpon Zero* at [52]).

28 I turn now to consider whether the Statement of Claim constitutes an abuse of process on the basis that it is manifestly groundless, or without foundation, or serves no useful purpose.

29 The fact that there is a decision of the Court of Three Judges touching on the issues in Suit 843 is not, in and of itself, dispositive of whether the Statement of Claim should be struck out. Instead, careful analysis of the decision of the Court of Three Judges is required, to understand the precise scope of the inquiry and findings made by the Court of Three Judges. In this regard, I make the following four observations regarding *Leong Pek Gan*:

(a) First, the Court of Three Judges had clearly descended to a fine level of detail in examining the facts and law concerning whether the Agreement was tainted with illegality (see a summary of the relevant parts of the decision at [13] to [16] above). Indeed, it emphasised that the Law Society was required to *prove* that the transaction involved an illegal purpose of unlicensed moneylending (*Leong Pek Gan* at [58]). This meant that the Law Society had to *prove*, on the basis of evidence received by the Disciplinary Tribunal (which included Mr Ho's evidence), both that the Agreement was a loan, and that the Plaintiff was carrying on a business of moneylending.

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(b) Second, and related to the first point above, it must be kept in mind that the standard of proof in disciplinary proceedings is *higher* than the standard of balance of probabilities as adopted in civil proceedings. Indeed, the applicable standard in disciplinary proceedings is the criminal standard of beyond reasonable doubt (*Leong Pek Gan* at [99]; and see, *eg*, *Law Society of Singapore v Wan Hui Hong James* [2013] 3 SLR 221 at [46]-[52], *Wong Keng Leong Rayney v Law Society of Singapore* [2007] 4 SLR(R) 377 at [38]). As such, the Law Society would have had to *prove* the issues to a higher level of certainty in *Leong Pek Gan*, than the Defendants would have had to do in raising the defence of illegality in Suit 843.

(c) Third, while the Law Society and Ms Leong were technically the parties to the disciplinary proceedings, Mr Ho and the Defendants were involved as witnesses. Mr Ho gave evidence and was cross-examined before the Disciplinary Tribunal (see, *eg*, *Leong Pek Gan* at [66] and *Leong Pek Gant (DT)* at [62] and [64]). Likewise, the 1st Defendant was the complainant in these proceedings, and the evidence of both Defendants was taken in the proceedings (see, *eg*, *Leong Pek Gan* at [91] and [98]).

(d) Fourth, Plaintiff's counsel had (rightly) conceded that in determining Suit 843, the High Court can take cognisance of the findings of the Court of Three Judges (see [21(b)] above). The court in *Howe* had likewise observed that the findings of a disciplinary committee would "no doubt be granted some deference in the civil actions", and "might be of considerable persuasive value in those actions" (see [22] above). In the context of the present application, the findings are those of a

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> specially constituted court comprising three Judges of Appeal, investigating the very same factual and legal issues that are the subject matter of Suit 843, with the benefit of evidence from the parties on the very same transaction, and determining the issues on a higher standard of proof.

30 While Plaintiff's counsel submitted that the Plaintiff should be given an opportunity to convince the High Court to depart from the findings in *Leong Pek Gan*, in view of the four observations above, I am not convinced that allowing the matter to proceed to trial on the same issues would serve any useful purpose. The conclusions reached in *Leong Pek Gan*, while arguably not technically binding on the High Court in Suit 843, would clearly be of immense persuasive value. This would also be consistent with the observations made by Aedit Abdullah JC when setting aside the Consent Judgment (see [18] above).

31 The Statement of Claim therefore amounts to an abuse of process, and I strike it out under O 18 r 19(1)(*d*) of the Rules of Court.

Scandalous, frivolous and vexatious – O 18 r 19(1)(*b*) of the Rules of Court

32 I turn next to consider whether the Statement of Claim should be struck out under O 18 r 19(1)(*b*) of the Rules of Court, on the basis that it is scandalous, frivolous and/or vexatious.

The Law

33 The law in relation to striking out under O 18 r 19(1)(*b*) of the Rules of Court is fairly settled. In *The Bunga Melati 5* [2012] 4 SLR 546 ("*The Bunga Melati 5*"), the Court of Appeal held (at [33]) that proceedings which are

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"frivolous or vexatious" are those which are "obviously or plainly unsustainable". In this regard, an action that is obviously or plainly unsustainable is one which is either (*The Bunga Melati 5* at [39]):

> (a) *legally* unsustainable, *viz*, where it is clear that even if a party were to succeed in proving all the facts he offers to prove, he will not be entitled to the remedy that he seeks; or
>
> (b) *factually* unsustainable*, viz*, where it possible to say with confidence before trial that the factual basis for the claim is fanciful because it is entirely without substance.

34 It has also been held by the High Court that proceedings are "frivolous" when they are deemed to waste the court's time, and are determined to be incapable of legally sustainable and reasoned argument (*Chee Siok Chin* at [33]; *Bosch Corp* at [23]). Proceedings are "vexatious" when they are shown, for instance, to be without foundation, or where they cannot possibly succeed (*Chee Siok Chin* at [33]; *Bosch Corp* at [23]).

Analysis and Decision

35 In order to determine whether the proceedings ought to be struck out under O 18 r 19(1)(*b*) of the Rules of Court, it is necessary to analyse how the Court of Three Judges reached its decision in *Leong Pek Gan.*

36 In this regard, the analysis in [29] above applies equally in the context of O 18 r 19(1)(*b*) of the Rules of Court. In my view, the decision of *Leong Pek Gan* would render the Statement of Claim frivolous and vexatious, both for being *legally* unsustainable as well as *factually* unsustainable.

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(a) Suit 843 is *legally* unsustainable because even if the Plaintiff were to succeed in proving all the facts pleaded in the Statement of Claim, one can say to a high level of certainty that – based on the findings in *Leong Pek Gan,* which were made on a higher standard of proof – the defence of illegality would be successfully made out in the present suit.

(b) Suit 843 is also *factually* unsustainable, as it is essentially the Plaintiff's attempt to prove factual matters that have been found in *Leong Pek Gan* to be entirely without substance.

37 I therefore strike out the Statement of Claim under O 18 r 19(1)(*b*) of the Rules of Court.

Conclusion

38 For the foregoing reasons, I strike out the Statement of Claim pursuant to O 18 r 19(1)(*b*) and (*d*) of the Rules of Court. I will hear parties on costs.

Justin Yeo
Assistant Registrar

Mr Irving Choh and Ms Melissa Kor (Optimus Chambers LLC)
for the Plaintiff;
Mr Vangadasalam Suriamurthi (V Suria & Co)
for the Defendant.

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