IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2021] SGCA 66

Civil Appeal No 206 of 2020

Between

Ranjit Singh s/o Ramdarsh Singh
(suing as co-executor of the estate of
Ramdarsh Singh s/o Danukdhari Singh @
Ram Darash Singh, deceased, and as a
beneficiary of the estate)

… *Appellant*

And

Harisankar Singh
(sued as co-executor of the estate of
Ramdarsh Singh s/o Danukdhari Singh @
Ram Darash Singh, deceased, and in his
personal capacity)

… *Respondent*

In the matter of HC/Suit No 1005 of 2019

Between

Ranjit Singh s/o Ramdarsh Singh
(suing as co-executor of the estate of
Ramdarsh Singh s/o Danukdhari Singh @
Ram Darash Singh, deceased, and as a
beneficiary of the estate)

… *Plaintiff*

And

Harisankar Singh

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(sued as co-executor of the estate of
Ramdarsh Singh s/o Danukdhari Singh @
Ram Darash Singh, deceased, and in his
personal capacity)

… *Defendant*

EX TEMPORE **JUDGMENT**

[Family Law] — [Advancement] — [Presumption]

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Ranjit Singh s/o Ramdarsh Singh (suing as co-executor of the estate of Ramdarsh Singh s/o Danukdhari Singh (alias Ram Darash Singh), deceased and as a beneficiary of the estate)
v
Harisankar Singh (sued as co-executor of the estate of Ramdarsh Singh s/o Danukdhari Singh (alias Ram Darash Singh), deceased and in his personal capacity)

[2021] SGCA 66

Court of Appeal — Civil Appeal No 206 of 2020
Andrew Phang Boon Leong JCA, Tay Yong Kwang JCA and Steven Chong JCA
29 June 2021

29 June 2021

Andrew Phang Boon Leong JCA (delivering the judgment of the court *ex tempore*):

1 This is an appeal against the decision of the High Court judge ("the Judge") in *Ranjit Singh s/o Ramdarsh Singh v Harisankar Singh* [2020] SGHC 243 ("the Judgment"). The Appellant ("Ranjit") and the Respondent ("Hari") are brothers and the co-executors of their father's estate ("the Testator"). The only dispute in these proceedings is whether a half share of No 85 Syed Alwi Road ("the Half Share" and "the Property", respectively) belongs to the Testator's estate or belongs beneficially to Hari. Ranjit says it belongs to the Testator's estate while Hari claims it is his.

2 From a legal perspective, this appeal focuses on the presumption of advancement. Both brothers accept that (a) the Half Share is in Hari's name, (b) the presumption of resulting trust arose since their father paid the full purchase price of the Half Share, and (c) the presumption of advancement displaced the presumption of resulting trust by dint of the relationship between Hari and the person who paid for the Half Share (*ie*, a father-son relationship). Where they disagree is whether the presumption of advancement has been rebutted. The Judge held that the presumption of advancement remained unrebutted and ultimately affirmed Hari's beneficial interest in the Half Share.

3 The Judge's analysis proceeded on two fronts. First, he examined the nature and state of the relationship between Hari and his father at that time of the purchase of the Half Share before concluding that the presumption of advancement was strong. The Judge then found that the presumption of advancement was unrebutted because the circumstances did not suggest that the father had intended to retain the beneficial interest in the Half Share.

4 Having carefully considered the parties written as well as oral submissions, we see no reason to depart from the reasoning and findings of the Judge. He had undertaken a detailed analysis of the relevant evidence as well as testimony in arriving at his decision. We agree with his reasoning and decision, and will therefore focus only on what seem to be to us to be the strongest arguments in Ranjit's favour.

5 The first argument centres on the submission that the presumption of advancement had been weakened by the fact that Hari had two other brothers (we note, parenthetically, that the Testator did not make any provision for his daughters in his will). As has been observed in this court's decision in *Lau Siew*

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Kim v Yeo Guan Chye Terence and another [2008] 2 SLR(R) 108 at [68], the greater the number of children one has, the less likely it is that a transfer of property of substantial value to a single child without similar provision for the other children would be intended as a pure gift to that child. However, such a proposition is not one that is writ in stone and is certainly not one that is to applied in a literal and/or quantitative manner; indeed, the court concerned ought to consider the precise facts as well as context of the case before it. In the present case, Hari was the only one who was with the Testator throughout in Singapore. The eldest brother, Daya, who resided in Canada after having been sent there for medical studies, had lost touch with the family and had only reconnected intermittently with them (including the Testator) since 1983, although he appointed solicitors to hold a watching brief for him during the trial in the High Court (see the Judgment at [7]). Whilst Ranjit claims to have assisted the Testator with regard to the ancestral property in India, he was away in India for many years and only returned to Singapore approximately a dozen years after the Testator had paid for the Half Share of the Property that had been placed in Hari's name. Further, although the will treated all three brothers equally, as the Judge noted, it had been signed two years *before* the registration of the Half Share and that one possible interpretation was that the Testator had simply decided to provide for Hari apart from the will; in the Judge's view, Ranjit's reliance on the will was therefore not as probative of the Testator's intent as he had argued and, as just noted, could even point in the other direction (see the Judgment at [33]). At this juncture, it is also important to note that the oral testimony of the parties would have assisted the Judge in arriving at his decision as there was no clear documentary evidence that resolved this case one way or the other. In this regard, the Judge had determined that Hari's residence and contact with the Testator in Singapore was more than just a literal happenstance. On the contrary, he was of the view (with which we agree) that

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Hari was in a "unique position as the Testator's only son in Singapore" (see the Judgment at [33], as well as at [31]). As the Judge observed (at [86]):

> While [Hari] is one of three sons and one of six children, he was in the unique position of being the only son in Singapore living with and working for the Testator. He was, in that sense, also reliant on the Testator for his living, as he was not paid a regular salary but received money from the Testator periodically. There is nothing in evidence to suggest that the state of their relationship was bad in such a way that would weaken the presumption of advancement.

6 The second argument centres on the broad powers afforded by the Power of Attorney ("POA"), coupled with the Testator's retention of the Title Deeds and his heavy involvement in the purchase of the Half Share. The question is whether these facts raise the inference that the Testator had intended to retain beneficial ownership of the Half Share. As the Judge pertinently observed, control and beneficial ownership were not coterminous with each other. Put simply, the POA may have given the Testator great control over the Half Share but did not necessarily indicate an intention to retain the beneficial interest in the same. It also seems strange that if the Testator had indeed desired both control as well as beneficial ownership of the Half Share, he had not simply put the Half Share as well in his name in order to have total ownership over the Property (having furnished, as we have already noted, the full purchase price of the Half Share bearing in mind the fact that the Testator already owned the other half share). Whilst Ranjit claimed that the Testator had informed him that the reason why the Half Share was registered in Hari's name (then a young man) was so that the Testator could obtain bank loans in Hari's name to redevelop the Property, the Judge found, based on the evidence before him, that there was, in fact, no attempt to apply for a loan after the purchase of the Half Share and there had been no evidence at all that the Testator had ever redeveloped any of his properties or had any intention to redevelop the Property itself. In short, there

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was no good reason why the Testator would register the Half Share in Hari's name *if* indeed his intention was to retain the beneficial interest in the same.

7 In the circumstances, we dismiss the appeal. We affirm the costs order in the court below. In so far as this appeal is concerned, we award the Respondent party and party costs in the sum of $30,000 (all-in), to be borne equally by the estate and by the Appellant. However, the solicitor and client costs of the Appellant in his capacity as co-executor are to be borne by the Appellant and not by the estate. There will be the usual consequential orders.

Andrew Phang Boon Leong
Justice of the Court of Appeal

Tay Yong Kwang
Justice of the Court of Appeal

Steven Chong
Justice of the Court of Appeal

Ranvir Kumar Singh (UniLegal LLC) for the appellant;
Twang Kern Zern and Lam Jianhao Mark (Central Chambers Law Corporation) for the respondent.

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