IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2022] SGHC 133

Admission of Advocates and Solicitors No 35 of 2022
Summons No 1625 of 2022
Summons No 1664 of 2022

In the matter of Section 12 of the Legal Profession Act 1966

And

In the matter of Rule 25 of the Legal Profession (Admission) Rules 2011

And

In the matter of TAY QUAN LI, LEON

Tay Quan Li Leon

… *Applicant*

GROUNDS OF DECISION

[Civil Procedure — Inherent powers — Sealing order]
[Legal Profession — Admission]

Re Tay Quan Li Leon

[2022] SGHC 133

General Division of the High Court — Admission of Advocates and Solicitors No 35 of 2022 (Summonses No 1625 and 1664 of 2022)
Sundaresh Menon CJ
11 May 2022

6 June 2022

Sundaresh Menon CJ:

Introduction

1 Lawyers are called to be ministers in the temple of justice. Because of this defining feature of what it means to be a lawyer, requirements such as fulfilling the requisite course of study or passing the prescribed examinations are necessary, but ultimately *insufficient* conditions to warrant admission to the Bar. Beyond these technical requirements, there is the overarching question of character. Specifically, where one manifests a real deficit in the crucial attributes of honesty and integrity, one cannot be trusted to duly serve as an officer of the court aiding in the administration of justice.

2 Tay Quan Li Leon ("Leon" or the "Applicant") is a young man who completed his studies as a lawyer, and in common with so many others, he set about the process of getting professionally qualified and applied to be admitted as an Advocate and Solicitor of the Supreme Court. Leon, unfortunately, failed

to appreciate that this was a process that entailed something more than passing the prescribed examinations. When he sat for the examinations for the Part B course of the Singapore Bar (the "Part B Exams") in 2020 (the "2020 Part B Exams"), he cheated. When he was subsequently confronted by the Dean of the Singapore Institute of Legal Education ("SILE") over his suspected cheating, he lied. He was eventually disciplined by the SILE and was required to sit for the examinations again, which he did and successfully passed. He then applied to be admitted to the Bar, but in that process, he displayed a certain economy in the disclosures he made in connection with what had transpired. Matters took on a life of their own when it became public that at least 11 candidates had cheated in some way in the 2020 Part B Exams. There was widespread news coverage and expressions of public outrage. Leon took legal advice and decided to withdraw his application for admission. He also applied to have the court papers sealed. After hearing the parties, I disallowed his application to seal the papers and to have his name redacted, but I allowed him to withdraw his application to be admitted to the Bar, subject to certain undertakings, which he gave me in open court.

3 I gave brief oral grounds for my decision at the conclusion of the hearing of these applications. In this judgment, I provide the fuller grounds of my decision.

Background

4 Due to the COVID-19 pandemic, the 2020 Part B Exams, which took place from 24 November to 3 December 2020, were held remotely. The SILE which administers the Part B Exams, subsequently determined that at least 11 students who sat for the 2020 Part B Exams had cheated. Those students re-took and passed the Part B Exams in 2021 and then applied to be admitted to the Bar.

Leon was one of the 11 students. He filed his application to be admitted as an Advocate and Solicitor of the Supreme Court on 14 February 2022, and the first supporting affidavit on 22 March 2022, by way of AAS 35 of 2022 (the "Admission Application").

5 The applications of the first six applicants, not including Leon, were heard by another High Court Judge (the "Judge"). As it transpired, one of the first six applicants, Kuek Yi Ting Lynn ("Ms Kuek"), had colluded with Leon and cheated in the 2020 Part B Exams. The Attorney-General (the "AG") objected to each of the first six applicants being admitted, on the basis that their misconduct in relation to the 2020 Part B Exams indicated a character issue that suggested that they were not fit and proper persons to be admitted as Advocates and Solicitors of the Supreme Court of Singapore. The six applicants did not seriously contest the adjournments requested by the AG. But there remained a question as to what should be done in respect of their applications. In *Re CTA and other matters* [2022] SGHC 87 (the "First Judgment") issued on 18 April 2022, the Judge accepted the suggestion advanced by the AG for Ms Kuek's application to be adjourned for 12 months (and for the applications of each of the other five applicants to be adjourned for six months). This difference arose from the fact that the circumstances surrounding Ms Kuek's misconduct were different to those affecting the applications of the other five applicants. The Judge, of his own accord, also directed that the file be sealed, with the names of the six applicants redacted, evidently on the premise that this would promote their rehabilitation. The AG subsequently objected to the sealing and redaction, and sought and was granted leave to tender further arguments. After hearing the parties – and it may be noted that the applicants did not seriously contest the AG's position – the Judge rescinded his sealing and redaction order in *Re*

Monisha Devaraj and other matters [2022] SGHC 93, on 27 April 2022 (the "Second Judgment").

6 Leon's Admission Application was scheduled to be heard in the following month, on 11 May 2022. On 22 April 2022, which was after the release of the First Judgment, Leon applied in HC/SUM 1625/2022 for permission to withdraw his application for admission (the "Withdrawal Application"). On 28 April 2022, shortly after the Second Judgment was released, the Applicant sought a sealing and redaction order in the Admission Application by way of HC/SUM 1664/2022 (the "Sealing Order Application"). The AG objected to both the Withdrawal Application and the Sealing Order Application.

The Applicant's conduct

7 The AG's objection to the applications arose out of the Applicant's conduct not only *during* but also *after* the 2020 Part B Exams. I have already outlined the fact of Leon's cheating in the 2020 Part B Exams. After the 2020 Part B Exams and while the Applicant was undergoing training with a law firm, he was asked to meet the Dean of the SILE and to provide the SILE with a copy of the notes that he had used to study for the 2020 Part B Exams and to which he may have referred during the said examinations. The meeting took place on 15 February 2021, during which the Applicant was shown his answer scripts, alongside Ms Kuek's answer scripts. When asked to explain the patent similarities in their scripts, the Applicant claimed that they had spent a significant amount of time studying together, and had prepared study notes together, which they intended to use when taking the examinations. Referring to such study notes would have been permissible since the examinations were held on an open-book basis. He also claimed that he and Ms Kuek had prepared

some materials together, which were intended to be used as prepared answers that they could copy and paste during the 2020 Part B Exams. As a result, he claimed that they would likely end up with similar or even identical answers. After the meeting, on the same day, the SILE sent the Applicant a side-by-side comparison of his and Ms Kuek's answer scripts, copies of the examination papers and a copy of the Examination Rules, and informed the Applicant to reply with his written representations if he wished to do so.

8 The Applicant replied on 16 February 2021 stating that his examination answers were based on his study notes, which were based on "past year papers", "practice sessions", and "pre-written paragraphs collated from seniors". He also claimed that some of his answers to the SILE's questions at their meeting the day before "may not be fully accurate" since the 2020 Part B Exams had taken place a few months ago.

9 On 19 February 2021, the SILE informed the Applicant that many of the files he had submitted to the SILE on 15 February 2021 as his purported study notes were in PDF format and dated 15 February 2021 (which was *after* the 2020 Part B Exams). The SILE said this suggested that the files had been created on 15 February 2021 itself and led the SILE to "strongly question" whether those were the documents to which the Applicant had referred during the 2020 Part B Exams. In addition, the SILE noted that a number of the files he had submitted "may be corrupted and [could not] be opened". The SILE requested the Applicant to send the SILE "the actual files that [he] would have consulted during the examinations", specifying that it expected to "see the source documents which would be in a format other than PDF (e.g. Word), with the document information (e.g. dates of creation, authors etc.) intact". The Applicant complied with the request. Having reviewed the relevant materials, the Director of the Part B Course thought there was reason to believe that the

Applicant had cheated and/or facilitated the cheating of another student in the 2020 Part B Exams, and reported this to the Student Disciplinary Committee ("SDC") on 2 March 2021, pursuant to rules 10(2)(*a*), (*c*) and (*e*) of the Legal Profession (Admission) Rules 2011 (the "Admission Rules").

10 The SDC then conducted its inquiry. The SDC reviewed the scripts of the Applicant and Ms Kuek in relation to all six subjects that were tested at the 2020 Part B Exams. The SDC also sought the views of the subject coordinators of the six subjects, and considered the representations made by the Applicant during the interview on 15 February 2021, as well as his written representations in his e-mail to SILE dated 16 February 2021 and the study notes he had submitted on 15 and 19 February 2021. While the SDC inquiry was ongoing, the Applicant was told to be forthcoming about any knowledge or information that would assist the investigation. He did not come forward with further explanations. In relation to Leon, the SDC gave him the benefit of the doubt for three of the six subjects but rejected his explanations for the other three subjects. The SDC concluded that some of the errors in the answer scripts, in particular, the application of the law to the fact patterns raised in the examination questions and the summaries of the facts that were reflected in the answer scripts submitted by Leon and by Ms Kuek, were such that these could not have been prepared in advance. Accordingly, the SDC concluded that Leon had cheated in these three subjects, and arising from this finding, it also concluded that he had acted fraudulently or dishonestly in his dealings with the SILE. After concluding its inquiry, on 8 April 2021, the SDC gave notice pursuant to r 11(1)(*a*) of the Admission Rules inviting Leon to show cause in writing within 21 days from the date of the letter, as to why he should not be dealt with by the Board of Directors of the SILE under r 12 of the Admission Rules, pursuant to which the Board of Directors may take certain actions,

including the imposition of sanctions, on a student of the Part B Course. Leon did not attempt to show cause. According to the explanation he subsequently furnished, he said he respected the decision of the SDC and did not wish to challenge it. The SILE then issued a notice dated 22 June 2021 under r 12(5) of the Admission Rules, stating that the Board of Directors of the SILE had decided to refuse to issue to the Applicant the certificate referred to in r 25(4)(*a*) of the Admission Rules, which was a necessary pre-requisite for a candidate to be considered for admission to the Bar, until Leon had attended and passed the Part B Exams in 2021 (the "SILE Notice"). Leon subsequently sat for the Part B Exams in 2021 and passed all the subjects.

Procedural history of the Admission Application

11 Having passed the Part B Exams in 2021, Leon then took steps to make the present Admission Application on 14 February 2022. *Prior to filing* the supporting affidavit accompanying the Admission Application, he wrote to the SILE on 22 and 28 February 2022, and inquired as to what further details he needed to furnish in the affidavit for admission concerning the circumstances surrounding the cheating incident. He specifically asked what further details he needed to declare, besides disclosing the existence of the SILE Notice. He was told in response that aside from the SILE Notice, he should "provide sufficient information to enable all parties concerned to understand the matter". In the affidavit dated 22 March 2022 accompanying his Admission Application, however, Leon did not disclose the cheating incident and only mentioned that he had been issued the SILE Notice. These papers were served on the relevant stakeholders, namely, the AG, the Law Society and the SILE (collectively, the "Stakeholders").

12 Upon receiving Leon's first affidavit, the AG sought further details as to why the SILE Notice had been issued. In response, Leon filed his first supplementary affidavit on 8 April 2022. In it, he explained that the SILE Notice had been issued because the Director of the Part B Course had reported to the SDC that "there was reason to believe that there was collaboration with another student of the Part B Course, based on similarities in answer scripts for certain subjects". Nothing further was disclosed as to what the SDC said or what it had found or recommended. Nor was any report of the SDC, or for that matter, any other document exhibited.

13 On 14 April 2022, the AG wrote to Leon, requesting that further particulars be provided as to the findings of the SDC. On 22 April 2022, Leon filed his second supplementary affidavit, which eventually disclosed the findings of the SDC as well as the correspondence surrounding the SDC inquiry. He also revealed that he had struggled with a mental health issue over the preceding two years and that he had to contend with some personal family issues. He apologised for the lack of particulars and disclosures in the previous affidavits, and stated that he had "wrongly thought" that disclosing the SILE Notice would suffice for the purposes of the affidavit, since it described the *outcome* of the disciplinary proceedings.

14 I digress to observe that at the hearing before me, I inquired about the certificates of good conduct that had been issued by the solicitor who supervised Leon's training as well as by two character referees in support of the Admission Application. I asked whether Leon had disclosed the facts and circumstances pertaining to the cheating incident to his supervising solicitor or to his character referees. Through counsel, he informed me that he had not disclosed this to his supervising solicitor but that he had conveyed the relevant facts to his character referees. Later in the course of the hearing, after a short break, I was informed

by Leon's counsel, Ms Luo Ling Ling ("Ms Luo"), that acting on his instructions during the break, she had called the supervising solicitor to disclose the relevant facts.

Withdrawal and Sealing Order Applications

15 On 20 April 2022, shortly after the release of the First Judgment and just prior to the filing of his second supplementary affidavit, Leon wrote to the Stakeholders to notify them of his intention to withdraw the Admission Application. He also sought their consent to his proposed course of action. In his Withdrawal Application, which was filed thereafter, Leon stated that he had failed to display the requisite values of honesty and integrity, and that he was not a fit and proper person to be admitted to the Bar. At about the same time, he also wrote to the Supreme Court Registry, requesting that his personal particulars including his name be redacted so that it would not be accessible through an e-Litigation search. This had been done for the first six applicants following the First Judgment. Leon then filed the Sealing Order Application on 28 April 2022, which the AG and the Law Society objected to. The primary ground advanced for this was first, that there was no public interest in the Applicant's identity since he was *withdrawing* his Admission Application; and second, the Applicant asserted that he suffered from a mental health condition which he claimed had been exacerbated by his anxiety over the public exposure of the First Judgment and the public outcry and reactions, especially on social media. He adduced a medical memo prepared by Professor Kua Ee Heok of the National University of Singapore ("Professor Kua"), who opined that the disclosure of Leon's name "could" trigger a severe psychiatric reaction. I directed the Registry to redact and seal the file until such time as I had heard the parties and ruled on the Sealing Order Application.

Issues

16 There were two issues before me: (a) whether the Sealing Order Application should be granted, such that the case file would be sealed, and Leon's name would be redacted from the papers; and (b) whether Leon should succeed in the Withdrawal Application. The AG objected to both applications, and asked that the court should in due course hear and dismiss the Admission Application. The Law Society objected to the Sealing Order Application but took no position on the Withdrawal Application. The SILE took no position before me. I heard the Sealing Order Application in private and dismissed it, and then heard the Withdrawal Application in open court.

Sealing Order Application

Applicable law

17 I first explain my reasons for dismissing the Sealing Order Application. The starting point in this inquiry was that the grant of a sealing and redaction order is, as a general rule, a departure from the principle of open justice; it is an *exception* and *not the norm*. The principle of open justice is a hallowed principle that is fundamental to the integrity of the justice system. As I explained in *Chua Yi Jin Colin v Public Prosecutor* [2021] SGHC 290 ("*Colin Chua*") at [34], the principle rests on important considerations of public policy that justice must not only be done but must also be seen to be done. Open court proceedings protect public confidence in the judicial system and guard against judicial arbitrariness. The open justice principle is especially important where, as is the case here, the proceedings concern the legal profession; admissions to the Bar are matters of public interest, given the role of the legal profession in upholding the justice system: see for instance, *Iskandar bin Rahmat v Law Society of Singapore* [2020] SGHC 40 at [90].

18 The principle of open justice is also reflected in s 8(1) of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) ("SCJA"), which provides:

> **8**.—(1) The place in which any court is held for the purpose of trying any cause or matter, civil or criminal, is deemed an open and public court to which the public generally may have access.

19 It follows that any derogation from this principle must be grounded in statute or in the court's inherent powers to do what is *necessary* in order to serve the ends of justice. Some statutes confer on the court the power and, at times, the duty to order hearings to be heard in private. This is contemplated in s 8(2) of the SCJA, which provides that the court has the power to hear any matter in private where it is "expedient in the interests of justice, public safety, public security or propriety, the national interest or national security of Singapore, or for other sufficient reason to do so". In criminal proceedings, the common thread that underlies the statutory grounds for derogating from the principle of open justice is the need to protect vulnerable persons such as victims and children implicated in the proceedings. The names of complainants or any alleged victims of sexual offences or child abuse offences are to be redacted under s 425A of the Criminal Procedure Code 2010 (2020 Rev Ed), so that victims may not be identified by media or other persons before their case goes to court, and may be protected from any intimidation by suspects: *Singapore Parliamentary Debates, Official Report* (19 March 2018), vol 94. Similarly, the names of children or young persons involved in proceedings under the Children and Young Persons Act 1993 (2020 Rev Ed) ("CYPA"), or any particulars that may lead to identification of such children and young persons may not be published or broadcast under s 112 of the CYPA.

20 Confidentiality is also important for proceedings before the Family Justice Court. Under s 10(1) of the Family Justice Act 2014 (2020 Rev Ed)

("FJA"), all matters and proceedings in a Family Justice Court must be heard in private, unless the court orders otherwise. A Family Justice Court may also issue a gag order or redaction order under s 10(4) of the FJA. The rationale behind having such proceedings conducted in private is primarily to protect children, and avoid the "specific direct negative impact on a large number of children" if the full entrails of family disputes were to be exposed in public (see *Singapore Parliamentary Debates, Official Report* (4 August 2014), vol 92).

21 Another example of a statutory basis for derogation from the open justice principle is for purely commercial arbitral proceedings, as provided under s 57 of the Arbitration Act 2001 (2020 Rev Ed) and s 23 of the International Arbitration Act 1994 (2020 Rev Ed) ("IAA"). This accords with parties' expectations when they have agreed to arbitrate their disputes that the proceedings would be confidential. It is not disputed that none of the above statutory grounds are applicable here. But they are non-exhaustive illustrations of the exceptional circumstances where the court is permitted to derogate from the principle of open justice and illuminate the sort of considerations that would warrant such a derogation.

22 Another basis on which the court may grant a sealing and redaction order is the court's inherent powers to regulate its own process to serve the ends of justice. That the court has such inherent powers is also reflected in O 92 r 4 of the Rules of Court (2014 Rev Ed) (the "ROC"), which states as follows:

> **Inherent powers of Court (O. 92, r. 4)**
>
> **4.** For the avoidance of doubt it is hereby declared that nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to make any order as may be necessary to

> prevent injustice or to prevent an abuse of the process of the Court.

23 This power stems from the court's role as an adjudicating organ of the legal system, and allows the court to make the appropriate orders to achieve the ends of justice. Where the ends of justice so require, the court may seal and redact a case file as a part of its procedural powers. This was done in *BBW v BBX and others* [2016] 5 SLR 755 ("*BBW*"), where the court exercised its inherent powers in granting a sealing and redaction order, because it was satisfied that the evidence adduced in that suit might compromise the confidentiality of a related arbitration between the plaintiff and a non-party to the suit. Although the plaintiff applying for the order there could not rely on s 23 of the IAA, as the suit was not considered a proceeding brought specifically under the IAA (at [18]), the court found that it had the inherent procedural powers to order sealing and redaction. Given the public policy of keeping arbitrations private, as reflected in the statutory provisions and the purport of the IAA (at [33]), and given the overlap in the facts of the suit and those in the arbitration (at [36]), there was a strong countervailing basis for granting of a sealing order so as not to jeopardise the confidentiality of the arbitration (at [37]).

24 As can be seen from *BBW*, the ambit of the court's inherent powers in sealing and redacting a case file may also be guided by how Parliament has provided for statutory derogations. In exercising its discretion, the court may have regard to the factors for consideration mentioned in s 8(2) of the SCJA referred to above at [18] in relation to hearing matters in private, such as the interests of public safety and national security. But it bears emphasis that because of the importance of open justice, derogation from it is only permitted

sparingly on grounds that are correspondingly strong to outweigh the principle of open justice in that case.

25 However, the AG seemed to go somewhat further and suggested that there was no basis at law to keep the identity of an adult *wrongdoer* confidential, save for certain express statutory grounds, which are never designed to protect the wrongdoer but rather to protect vulnerable witnesses or victims; or which may be justified by reasons of national security or other such considerations implicating the public interest. I did not think the court's discretion when exercising its inherent powers is always and necessarily so constrained. As much as the court's discretion is guided by what Parliament has provided, it is certainly not confined to such statutory provisions. In my judgment, where there is credible evidence that the publication of the name of a litigant would pose *imminent* risks or danger to that litigant, or if the sealing and redaction order was necessary in order to spare the litigant from an imminent harm, the court must be able to exercise its discretion to permit redaction. It cannot be in the interest of justice to insist on the principle of open justice, when doing so would result in grave and disproportionate harm, even to an alleged offender or wrongdoer. In considering the exercise of such discretion, the court will have regard to all the circumstances, including whether such harm is self-induced or the likely consequence of the acts of others, or of some illness or underlying condition. The analysis will ultimately turn on the facts and whether the countervailing interests outweigh the pre-dominant interest in open justice.

My decision

26 In that light, I turn to the facts of this case, where two principal grounds were advanced by the Applicant but neither of which carried any weight. I have set these out above at [15]: (a) that he was seeking to *withdraw* his Admission

Application and therefore the public had no interest in knowing either his name or the circumstances of his Admission Application as well as its subsequent withdrawal; and (b) that the medical memo that was put forward by Professor Kua suggested the possibility of grave harm to the Applicant if the Sealing Order Application were to be denied. The Applicant did not make a serious attempt to suggest that there was any applicable statutory ground for the sealing order in his case, which plainly entailed matters of personal concern rather than of public interest. Instead, he sought to rest his case on the inherent powers of the court.

27 As to the first point, I did not accept that the principle of open justice either did not apply or could readily be derogated from if a litigant, who had himself invoked the justice system, subsequently sought to withdraw from it. It simply did not follow that because the Applicant no longer wished to pursue the relief he was initially seeking, the principle of open justice did not apply or applied with limited force. Indeed, in this case, the Withdrawal Application was itself contested and there was no reason to think that that did not give rise to matters of public interest.

28 Indeed, it seems to me that this judgment which arises out of that application does deal with questions of public interest, that pertain to the character that is required of a candidate for admission to the Bar. Specifically, what is the analytical framework that should govern the court when it determines how it should address the problem of candidates for admission to the Bar, who have conducted themselves *prior* to such admission, in a way that raises concerns as to their character, honesty or integrity? I was therefore satisfied that there was no substance at all in the first ground.

29 Turning to the second ground, Professor Kua's memo fell far short of meeting the threshold that would be required in order to justify any departure from the principle of open justice. In a sparse memo that was not longer than half a page, Professor Kua asserted that the Applicant suffered from symptoms of anxiety and depression, and that the publication of his name *could* trigger a severe depression. To begin with, Professor Kua's memo did not meet the criteria expected of a forensic psychiatric report. Our courts have emphasised time and again that an expert report, including a psychiatric report, is worth nothing if it provides conclusions without presenting the underlying evidence and the analytical process by which and the reasons upon which these conclusions are reached: see for example, *Miya Manik v Public Prosecutor and another matter* [2021] 2 SLR 1169 at [50]–[52].

30 There was no reasoning or analysis to speak of in Professor Kua's memo. But even if I were to accept his conclusions at face value, those conclusions in the memo were at best tentative. It certainly did not go so far as to say that publication of the Applicant's name in this case *would* aggravate the Applicant's pre-existing mental condition. Nor was there any reasoning to explain, or diagnostic criteria by which to distinguish between, the pre-existing disorder and its potential aggravation. The report was also largely based on the Applicant's self-reported symptoms that he had not been able to sleep or concentrate and was "extremely agitated and fearful" of the consequences should his name be released to the press. There was also nothing to suggest that there had been any attempt to verify the severity of the Applicant's self-reported symptoms. I have already stated that if the inherent powers of the court are invoked, it can only be to avert *an imminent and credible threat of real harm to a litigant*. Professor Kua's memo did not come close to making good such a

conclusion in terms or in a manner that a court could accept so as to justify the exercise of its inherent powers to depart from the principle of open justice.

31 Counsel for the Applicant, Ms Luo, sought in the alternative a partial sealing order, such that the information in the court papers relating to Leon's mental health issues, which would include Professor Kua's memo, be redacted. I declined to grant this because the Sealing Order Application rested entirely on Professor Kua's memo. It was untenable for the Applicant to put that forward as the central pillar of his application and then having failed in the application, to have it sealed and redacted. As counsel for the AG noted, this request placed me in an impossible position of having to explain my reasons for declining to accord weight to Professor Kua's memo, without being able to refer to it. In the circumstances, I could not and did not grant the partial sealing order.

Withdrawal Application

32 I turn to the Withdrawal Application. It was not disputed that the Applicant was not a fit and proper person to be admitted to the Singapore Bar. The Applicant admitted as much in his second supplementary affidavit, and Ms Luo said much the same in open court. Similarly, the AG and the Law Society took the same position. The SILE had issued the Applicant a certificate under r 25(4)(*a*) of the Admission Rules, certifying that he had satisfactorily completed the course of instruction and passed the Part B Exams, but this did not mean that they had certified that the Applicant was a fit and proper person for admission.

33 I agreed with all the parties that the Applicant was not, at this time, a fit and proper person for admission. This was so on account of (a) his cheating in the 2020 Part B Exams; (b) the way he conducted himself in the immediate aftermath of that when he was confronted by the Dean of the SILE, and

presented a false account of what had transpired; and (c) the unsatisfactory way in which he made partial and selective disclosures of the relevant facts as a part of his Admission Application, despite having sought prior guidance from the SILE as to what he needed to disclose. In this regard, it was not to be overlooked that after investigating the matter, the SDC had found that he had acted fraudulently and dishonestly in his dealings with the SILE.

34 It is an indispensable requirement that those who aspire to be part of the legal profession must demonstrate above all that they are persons of suitable character with the necessary qualities of honesty and integrity. The matters I have outlined showed that Leon had a deficit of such honesty and integrity. Ms Luo did try to explain that some of his actions, such as his partial disclosure of the facts, arose out of genuine ignorance of what was required. Based on the documents that were before me, and which I have set out above, in particular at [11]–[14], I cannot accept this submission. And the fact that Leon saw no difficulty in proceeding with his Admission Application when and in the manner he did, despite knowing all the facts, suggested at the very least that he had a considerable lack of insight into the gravity of his own deficiencies. In the circumstances, I found, and all parties agreed, that Leon's application for admission could not succeed at this time.

35 In these circumstances, the real question was what should then be done. Under O 21 r 3 of the ROC, in granting leave to discontinue an originating summons, the court has a broad discretion to grant leave on terms "it thinks just". This may include a term requiring an undertaking not to commence such proceedings for a stipulated period, and this was proposed by Ms Luo as appropriate in this case. She suggested a period of five years in this regard.

36 The AG, however, maintained that Leon should not be allowed to withdraw his Admission Application. Rather, the application should be presented in open court and the AG would then seek a finding of fact that Leon was not a fit and proper person and, on this basis, seek an order dismissing the Admission Application. The SILE took no position on this question. As far as the Law Society was concerned, it took the position that Leon should not be admitted until he showed himself to be a fit and proper person, but it was not opposed to his being allowed to withdraw his Admission Application. Its principal concern was to ensure that the Applicant not be admitted at this time. As far as Leon was concerned, as I have noted, he wanted to withdraw his Admission Application and was agreeable to terms being imposed as a condition for such withdrawal.

37 I found myself in agreement with the Law Society on this. In my judgment, while dismissing both the Withdrawal Application and indeed the Admission Application itself would be open to me, given that it was uncontroversial that Leon was not suitable to be admitted, I did not see that as the most constructive way to approach this matter. After all, as the parties all seemed to agree, dismissal of the present application would not prevent Mr Tay from making a fresh application for admission at another time when *he* considered he was ready to do so. Another option that was canvassed before me was to adjourn the matter. That might be a suitable option in some cases, but this was only sought by the AG, who suggested that the matter be adjourned indefinitely as an alternative to his primary position that the Admission Application be dismissed. I did not find this attractive for two reasons. First, it would leave open and unresolved a matter on which there was no real dispute, namely that the Admission Application should not proceed. Second, it would

also leave Leon's future wholly uncertain, and I did not think that was either fair or ultimately constructive.

38 In my judgment, the best way to deal with this matter was to permit Leon to withdraw the Admission Application, but subject to the imposition of suitable conditions. The imposition of such conditions was not with a view to punish him. The court's disciplinary jurisdiction, which it invokes to punish and regulate Advocates and Solicitors, is exercised only over those who have been admitted to the profession after having been called to the Bar. But the court also has jurisdiction over who can be admitted to the Bar. Here the court is concerned principally with the question of suitability which is determined principally by considerations of character and competence. By imposing suitable conditions, I could address these precise concerns. I could exclude Leon's ability to bring a fresh application for admission for a suitable minimum period of time. Such a minimum period would reflect what I regarded as appropriate to enable Leon to seek to rehabilitate himself and work out the character issues that have come to the fore. The length of that period would inevitably be influenced by the gravity of the character issues. At the same time, I could impose safeguards that would incentivise him to rehabilitate himself and ensure that he also addresses questions as to both character and competence. This would also provide the Stakeholders, and a subsequent court dealing with any application Leon may later bring, the tools with which to satisfy themselves that Leon has sufficiently rehabilitated himself.

39 The fact that Leon was not a fit and proper person at the time of the Admission Application did not mean that he would never be one. By allowing him to withdraw the Admission Application, I was inviting him to see this as the first step in his journey towards rehabilitation by publicly taking responsibility for his wrong, accepting that he was not a fit and proper person

for admission, and pledging to rehabilitate himself, by giving me two undertakings in suitable terms.

40 I therefore required that Leon undertake not to bring a fresh application for admission to the Bar in Singapore or elsewhere for a period of five years. By way of comparison and to put this in perspective, five years is the maximum period of suspension applicable to *punish* Advocates and Solicitors, who are not struck off the roll (see s 83 of the Legal Profession Act 1966 (2020 Rev Ed)). Given the issues Leon needed to work on, I considered that this would afford him a sufficient period within which he could show himself to be a fit and proper person. The second undertaking I required was that he would comply with any prevailing statutory or other requirements that the Stakeholders or the court may reasonably require in order to satisfy themselves that he is a fit and proper person for admission. Leon in open court undertook to abide by both these conditions, and by doing so, Leon had, in my view, taken that first step towards his rehabilitation, as mentioned at [39] above.

41 Finally, counsel for the AG, Mr Jeyendran Jeyapal ("Mr Jeyapal"), did suggest an even longer period for which Leon should be barred from applying for admission. He sought to analogise this situation with that of a solicitor who had been struck off the roll and suggested that a preclusion period of 10 or 12 years would be appropriate.

42 In my judgment, this was unsupportable for two reasons. Unlike a solicitor who may be *punished* for misconduct, Leon was not being punished. My order may have a punitive *effect* but that was not its object, and I was certainly not exercising a punitive jurisdiction. Leon is being subjected to a minimum period during which he agrees not to bring a fresh application for admission so as to allow him sufficient time to address and to demonstrate that

he has addressed the character issues that he faces today. Secondly, unlike disciplinary proceedings where the alleged wrongdoer has the assurance of due process and the opportunity to give evidence and to cross-examine witnesses, the process that was followed here was nothing like that. Matters of fact before me were decided based on documents, affidavits and submissions. I thought these differences were sufficiently material to justify my conclusion that there was no basis for equating the conditions that I imposed on Leon with the same kind of considerations that would apply in the context of disciplining an errant solicitor. Aside from this, it also seemed to me that the position presented by Mr Jeyapal reflected an unexplained departure from the position the AG had taken in relation to Ms Kuek's application, although I should be clear that the facts of the case were not before me, and that that matter has been adjourned and has not yet been concluded.

43 I therefore allowed Leon to withdraw his Admission Application subject to the following conditions:

(a) he undertakes not to bring a fresh application to be admitted as an Advocate and Solicitor in Singapore or in any other jurisdiction for a period of not less than five years from the date of my decision on 11 May 2022; and

(b) if and when the Applicant brings a fresh application for admission, he undertakes to satisfy any prevailing statutory or other reasonable requirements as may be imposed by the AG, the Law Society, the SILE and/or the court as to his fitness and suitability for admission, including with respect to his medical or any other issues.

44 I also directed that Leon pay the costs of the present applications to the other parties. I directed that the parties may write to me with their proposals on costs if they were unable to agree on the same within two weeks of the date of my order on 11 May 2022.

45 Finally, I record my suggestion to Leon that if he continues to aspire to membership of this noble profession, he should approach the Stakeholders for guidance as to the measures he could take that they would regard as appropriate to aid in his rehabilitation.

Conclusion

46 I close by observing that this case concerned a situation that was not neatly covered by the existing legislation. It may be the case that reform may be needed in the future. A central question in matters of admission is that of the character and suitability of the applicant. If issues arise which suggest a deficit in these respects, even if all the technical requirements as to competence appear to be met, the court should consider, as an alternative to dismissing the application for admission, either adjourning the matter for a period of time or allowing the withdrawal of the admission application on terms that would ensure that the court and the relevant Stakeholders can be satisfied that the person is a fit and proper person for admission. This is ultimately a question of principle and not one of sympathy; it is rooted in the consideration that those admitted to the Bar are persons who are not only qualified and competent but also of suitable character. In the final analysis, it is incumbent on the court and

the legal profession to always acknowledge and remember that we are subject to the highest ethical standards, lest the administration of justice be imperilled.

Sundaresh Menon
Chief Justice

Luo Ling Ling (Luo Ling Ling LLC) for the applicant;
Jeyendran s/o Jeyapal, Tongyi Tan and Lam Xiu Ping Vanessa (Attorney-General's Chambers) for the Attorney-General;
Kenneth Lim (Allen & Gledhill LLP), Davis Tan Yong Chuan (Rajah & Tann Singapore LLP) and Darryl Chew Zijie (Chia Wong Chambers LLC) for the Law Society of Singapore;
Chong Soon Yong Avery for the Singapore Institute of Legal Education.