

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 30

Originating Summons (Probate) No 11 of 2023

Between

XBW

... Plaintiff

And

(1) XBX

(2) XBY

... Defendants

JUDGMENT

[Probate and Administration — Special and limited grants of administration
— Administration]

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XBW
v
XBX and another

[2024] SGHCF 30

General Division of the High Court (Family Division) — Originating
Summons (Probate) No 11 of 2023

Choo Han Teck J

28 August 2024

30 August 2024

Judgment reserved.

Choo Han Teck J:

1 The Deceased died on 5 May 2023 at the age of 76. She was the widow of SAB who died in 2017, also at the age of 76. The plaintiff in HCF/OSP 11/2023 (“OSP 11”) is their son. The Deceased had seven siblings, two of whom are the first defendant and second defendant in OSP 11. The plaintiff applied in FC/P 3914/2023 for the grant of Letters of Administration in the estate of the Deceased. The first defendant lodged a caveat against the plaintiff’s application in HCF/CAVP 16/2023.

2 The defendants claim to be the executrices in the will executed by the Deceased in 2004, but they have not been able to find the original will. They instructed their solicitors to file a probate action on 28 November 2023 in HCF/S 9/2023 to propound the lost will. That action is being contested by the

plaintiff who is seeking an order that the will be declared destroyed with the intention of revoking it.

3 In the meantime, the plaintiff applies by OSP 11, under s 20 of the Probate and Administration Act 1934 (“PAA”), for an interim order for the grant of Letters of Administration to the plaintiff over the movable properties of the Deceased. The movable properties include two bank accounts in the joint names of the Deceased and IG and RG, two of the Deceased’s siblings who are not parties to any of the present actions concerning the Deceased’s estate.

4 The parties reached an agreement on 8 February 2024 to appoint an independent interim administrator pending the trial of HCF/S 9/2023. The assistant registrar directed the plaintiff to send a copy of a Deed of Settlement and Draft Consent Order to the defendants. The plaintiff did so on 19 February 2024. However, the defendants resisted the terms of the appointment of the independent interim administrator and asked for a hearing date for OSP 11.

5 Before me, counsel for the defendants, Ms Aw, submitted that a grant of administration pending determination of a probate claim, known as a grant *pendente lite* in law, is discretionary and not given merely because of pending litigation. In any event, she submits that the plaintiff being a party to suit HCF/S 9/2023 is not an appropriate person to whom interim Letters of Administration ought to be granted.

6 Furthermore, Ms Aw submitted that two of the accounts of the Deceased are accounts in joint names with IG and RG respectively, and therefore there is no need to recover the money in those accounts for the estate. Finally, Ms Aw

contends that there is no need for the plaintiff to claim any practical day-to-day management of the three immovable properties owned by the Deceased.

7 Mr Vijayendran SC, counsel for the plaintiff, submitted that RG had conceded to receiving monies belonging to the estate and that is good enough reason to appoint an interim administrator to administer the movables of the estate. He argues that the rental income from the immovable properties ought to be preserved. Both sets of counsel agree that an interim administrator has no power to distribute the assets of the estate.

8 At the hearing before me, Ms Aw explained that the defendants did not formalise the agreement to appoint an independent administrator because the plaintiff had tried to expand the powers to be granted to the interim administrator so as to enable him to administer not just the movables but the immovable assets of the estate. She said that the defendants felt that the plaintiff's change of plans was an act of bad faith and as a result, the defendants are unable to trust him.

9 Section 20 PAA provides as follows:

20. Pending any probate action, letters of administration may be granted to such person as the court may appoint, limited so that the administrator shall not be empowered to distribute the estate, and shall be subject to such control by, and direction of, the court as the court thinks fit.

10 I am of the view that an interim independent administrator should be appointed. At this early stage, it appears possible on the evidence that the second defendant may have had taken \$500,000 from the estate for undisclosed reasons (although I make no final finding of fact on this). I also note the uncertainty of

the existence of the alleged will of 2004, the substantial money in four bank accounts in the name of the Deceased, and the ongoing actions. I think it prudent to appoint an interim administrator to maintain the status quo and to ensure that in the meantime, the movables of the estate are not moved to where they should not be. I accept that given the ongoing actions, neither the plaintiff nor the defendants ought to be the interim administrator. They are to appoint an independent one in terms of the agreement reached by the parties earlier.

11 Although an interim administrator has no interests in the joint accounts of a testator, there are moneys in the bank accounts in the Deceased's sole name. The application in OSP 11 prays for an order to appoint an interim administrator over the movable assets of the Deceased. There is therefore no question of him interfering in the immovable properties. There is also a prayer that the administrator keeps a proper account of the money in the Deceased's bank accounts. That should adequately preserve the money pending the outcome of HCF/S 9/2023. I am of the opinion that the agreement reached between the parties but was not formalised represented a fair and reasonable interim measure pending the resolution of HCF/S 9/2023. OSP 11 is a fair representation of that agreement and addresses the apprehensions of the defendants in that it relates only to the movable assets of the Deceased, including incoming rentals, but not the disposition or management of the immovable properties themselves.

12 Counsel on both sides filed exemplary submissions (25 pages for the plaintiff and 14 for the defendants) that were not only clear and to the point, but also well structured.

13 For the above reasons, I grant an order in terms of OSP 11 with costs to be borne by the estate.

Choo Han Teck
Judge of the High Court

Gregory Vijayendran SC, Tomoyuki Ban (Rajah & Tann Singapore LLP) (instructed), and Sara Ng Qian Hui, Darryl Lau and Lee Ee Yang (Covenant Chambers LLC) for the plaintiff;
Aw Wen Ni, Darius Tan and Vincent Ho Wei Jie (WongPartnership LLP) for the defendants.
