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

[2024] SGHC 45

Originating Application No 1021 of 2023

In the matter of Section 73C of the Supreme Court of Judicature Act 1969

Between

Loke Wei Sue

… *Applicant*

And

Paul Jeyasingham Edwards

… *Respondent*

GROUNDS OF DECISION

[Courts and Jurisdiction — Vexatious litigants — Litigant persistently re-litigating final and unappealable decisions — Whether to grant extended civil restraint order — Section 73C Supreme Court of Judicature Act]

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Loke Wei Sue
v
Paul Jeyasingham Edwards

[2024] SGHC 45

General Division of the High Court — Originating Application No 1021 of 2023
Valerie Thean J
22 November 2023, 11 January 2024

20 February 2024

Valerie Thean J:

Introduction

1 Access to justice, a fundamental requirement of the rule of law, relies upon the well-husbanded use of limited resources. Litigants who persistently pursue vexatious claims do so at a cost to other litigants and members of society. Section 73C of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) ("SCJA") came into effect on 1 January 2019, as part of a broader civil restraint order regime that was introduced, through the Supreme Court of Judicature (Amendment No 2) Act 2018 (Act 46 of 2018), to grant the courts greater flexibility to deal with vexatious litigants (see Singapore Parl Debates; Vol 94, Sitting No 84; [2 October 2018]).

2 Under this civil restraint order regime, our courts are empowered to make three different types of orders to address varying degrees of vexatious

conduct: (a) the limited civil restraint order under s 73B of the SCJA; (b) the extended civil restraint order ("ECRO") under s 73C of the SCJA; and (c) the general civil restraint order under s 73D of the SCJA.

3 In the present case, the respondent, Mr Paul Jeyasingham Edwards ("Mr Edwards"), was formerly a tenant of the applicant, Ms Loke Wei Sue ("Ms Loke"), at 5A Ontario Avenue #03-02 The Windsor Singapore 576194 ("the Property"). In the course of litigation that first arose out of Mr Edwards' failure to pay rent, Ms Loke sought, pursuant to s 73C of the SCJA, to restrain Mr Edwards from commencing any action or application involving, relating to, or touching upon Mr Edwards' previous tenancy of the Property and the various suits that have arisen therefrom, for a period of two years.[1] For reasons that follow, I granted Ms Loke the order on 11 January 2024.

Facts

Initial tenancy dispute between the parties

4 Ms Loke is the owner of the Property, which had been rented to Mr Edwards since approximately 2013.[2] They entered into a written tenancy agreement on 15 May 2017, with rent fixed at $3,800 per month.[3] The parties had varying accounts of what happened next. Ms Loke contended that the 2017 tenancy agreement was only for a term of 12 months, and expired on 14 June 2018 when Mr Edwards failed to give written notice for the extension of the lease.[4] Mr Edwards took the position that he gave the required written notice to

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1 Ms Loke's Written Submissions (5 January 2024) ("AWS2"), at paras 76(a)–76(b).

2 Ms Loke's First Affidavit (6 October 2023) ("AA1"), at para 17(b). Mr Edwards' written submissions (14 November 2023) ("RWS1"), at para 2.

3 AA1, at para 17(d). RWS1, at paras 2.2 and 2.4.

4 AA1, at paras 17(d)–17(e).

extend the 2017 tenancy agreement, and that the agreement was valid until 14 May 2024 unless further extended in writing.[5] Ms Loke stated that she continued to rent the Property to Mr Edwards even after the expiry of the 2017 tenancy agreement as a tenant at will.[6]

5 On 15 December 2020, Mr Edwards defaulted on his payment of rent.[7] Ms Loke's solicitors issued a letter of demand against Mr Edwards on 4 January 2021 for the payment of outstanding rent.[8] Mr Edwards replied on 9 January 2021 with a text message stating that Ms Loke had previously accepted an agreement for the deferred payment of outstanding rent.[9] Ms Loke contended that Mr Edwards failed to settle the rent arrears, and that he gave a new promise to begin paying the outstanding rent by the end of February 2021.[10]

6 On 20 March 2021, Ms Loke issued a notice of repossession and termination of the tenancy because Mr Edwards did not keep to his promise to begin payment of the outstanding rent by the end of February 2021.[11] Ms Loke also stated that she told Mr Edwards that she would not entertain any further proposals for the deferred payment of outstanding rent.[12] When Mr Edwards contacted Ms Loke on 21 March 2021, Ms Loke told him to contact her agent.[13]

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5 Mr Edwards' Written Submissions (4 January 2024) ("RWS2"), at para 3.

6 AA1, at para 17(e).

7 AA1, at para 17(f).

8 Ms Loke's Second Affidavit (28 December 2023) ("AA2"), at para 6. RWS1, at para 3.1.

9 RWS1, at para 3.1. AA2, at para 6.

10 AA2, at para 7.

11 AA1, at para 17(g). AA2, at para 8.

12 AA2, at para 8.

13 RWS1, at para 3.3. AA2, at para 9.

On 30 March 2021, Mr Edwards sent a text message to Ms Loke's agent which stated that the tenancy agreement would terminate on 15 May 2021.[14] Mr Edwards argued, and this was denied by Ms Loke, that this message was only sent because Ms Loke's agent requested that the tenancy agreement be terminated so that a new tenancy agreement could be implemented.[15] Ms Loke sent, on 13 April 2021, a reminder about the Notice to Quit, making clear that termination would be on 15 May 2021 and no extension would be granted.[16] This was reiterated by Ms Loke's agent to Mr Edwards in a text message on 21 April 2021.[17]

7 This was the context for a series of protracted lawsuits between the parties. For ease of explanation, I group the proceedings into five main categories below:

(a) OSS 94 and SUM 3103;

(b) DC 1662 and its related applications;

(c) DC 146 and its related applications;

(d) OC 311 and its related applications; and

(e) HC/B 1325 and committal proceedings.

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14 AA2, at para 3. RWS1, at para 3.4

15 RWS1, at para 3.4.

16 AA1, at p 135. See also AWS2, at para 18.

17 AA1, at p 139. See also AWS2, at para 19.

OSS 94 and SUM 3103

8 On 11 June 2021, Ms Loke commenced DC/OSS 94/2021 ("OSS 94") *ex parte* to seek leave to levy a writ of distress against Mr Edwards.[18] In her supporting affidavit, Ms Loke averred that Mr Edwards had sent her a text message on 30 March stating that he would terminate the tenancy on 15 May 2021.[19] OSS 94 was granted on 1 July 2021.[20] Ms Loke filed for a writ of distress, DC/WD 8/2021 ("WD 8"), on 7 July 2021.[21]

9 Mr Edwards then filed DC/SUM 3103/2021 ("SUM 3103") on 2 August 2021 to set aside OSS 94.[22] The main thrust of Mr Edwards' argument was that Ms Loke had failed to make full and frank disclosure in her supporting affidavit for OSS 94.[23] Specifically, Mr Edwards alleged that Ms Loke failed to disclose the following: (a) an agreement to defer the payment of outstanding rent; and (b) the fact that Mr Edwards had only sent the text message on 30 March 2021 because Ms Loke's agent told him that he had to do so before a new 6 month tenancy agreement could be granted ("the Fraud Argument").[24] SUM 3103 was dismissed by District Judge Kow Keng Siong ("DJ Kow") on 31 August 2021.[25] Mr Edwards did not appeal against DJ Kow's decision.[26]

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18 AA1, at paras 6(1) and 19. See also AA2, Tab 1, at p 31.

19 AA2, Tab 1, at p 34 at para 7.

20 AA2, at para 15. AA2, Tab 1, at p 53.

21 AA2, at para 15. AA2, Tab 1, at p 56.

22 AA1 at para 21. AA1, Tab 7, at p 96.

23 AA2, Tab 2, at pp 61C–61E. AA1 at para 21. AA1, Tab 7, at p 98.

24 AA2, Tab 2, at pp 61 and 63–64. See also AA1, Tab 7, at p 105.

25 AA2, at para 23. AA1, Tab 7, at p 145.

26 AA1, at para 23.

DC 1662 and related applications

10 On 10 August 2021, Ms Loke commenced DC/DC 1662/2021 ("DC 1662") against Mr Edwards seeking to recover possession of the Property, rent arrears, and double rent from 15 May 2021.[27]

11 On 9 September 2021, Mr Edwards filed DC/SUM 3720/2021 ("SUM 3720") for a stay of execution of OSS 94 until DC 1662 was heard.[28] SUM 3720 was dismissed on 30 September 2021.[29]

12 On 20 September 2021, Ms Loke filed DC/SUM 3736/2021 ("SUM 3736") for summary judgment of DC 1662.[30] In the course of SUM 3736, Mr Edwards argued that his 30 March 2021 text message was not meant to be a termination of his tenancy.[31] The court found against him, and that Ms Loke had a *prima facie* case for judgment,[32] whereas Mr Edwards did not have an arguable defence. His only pleaded defence was a bare denial, and only pleaded defences could be considered by the court.[33] Summary judgment was granted on 22 December 2021.[34]

13 On 27 September 2021, Mr Edwards filed two applications. The first, DC/SUM 3869/2021 ("SUM 3869"), was an application to set aside OSS 94

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27 AA1, at para 31. AA1, Tab 9, at pp 160 and 164.

28 AA1, at para 25. AA1, Tab 8, at p 147.

29 AA1, at para 26. AA1, Tab 8, at p 158.

30 AA1, at para 32.

31 AA2, Tab 9, at p 117E.

32 AA2, Tab 9, at pp 133–134.

33 AA2, Tab 9, at p 134D.

34 AA1, at para 33. See also RWS1, at para 3.10.

until 30 November 2021.[35] The second application was DC/SUM 3868/2021 ("SUM 3868"), which sought to set aside DC 1662 until 30 November 2021.[36] Both SUM 3868 and SUM 3869 were dismissed on 28 October 2021.[37]

14 Mr Edwards filed DC/SUM 3325/2021 ("SUM 3325") on 27 August 2021 for a stay of execution of DC 1662 until SUM 3103 was disposed of.[38] SUM 3325 was dismissed on 31 August 2021, which was the same day that SUM 3103 was dismissed.[39]

15 On 3 January 2022, Mr Edwards filed DC/RA 1/2022 ("RA 1") to appeal against the summary judgment granted in SUM 3736.[40] RA 1 was dismissed on 28 January 2022.[41] In upholding the lower court's decision, District Judge Lee Lit Cheng ("DJ Lee") affirmed that Ms Loke had a *prima facie* case for judgment as Mr Edwards had continued to occupy the Property despite not paying rent.[42] DJ Lee also affirmed the lower court's finding that Mr Edwards' text message on 30 March 2021 amounted to a termination of the tenancy.[43] Further, Mr Edwards did not have a *bona fide* defence as none of the defences he relied on were pleaded, and there were no good reasons for the court to consider defences that were not pleaded.[44]

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35 AA1, at para 28. See also AA2, Tab 5, at p 83.

36 AA1, at para 34. See also AA1, Tab 10, at p 223.

37 AA1, at paras 29 and 35. AA2, Tab 6, at p 87. AA1, Tab 10, at p 233.

38 AA1, at para 58.

39 Ms Loke's Written Submissions (14 November 2023) ("AWS1"), at para 6.

40 AWS1, at para 16. AA1, Tab 15, at p 362.

41 AA1, at para 45. AA1, Tab 15, at p 364.

42 AA1, Tab 1, at p 39 at para 18.

43 AA1, Tab 1, at p 40 at para 18(d).

44 AA1, Tab 1, at pp 40–42 at paras 21–24.

16 Shortly after Mr Edwards filed RA1, he filed DC/SUM 151/2022 ("SUM 151") on 10 January 2022 to stay the execution of the summary judgment obtained in SUM 3736 until RA 1 was heard.[45] SUM 151 was dismissed on 8 February 2022.[46]

17 Mr Edwards then filed HC/RAS 5/2022 ("RAS 5") on 7 February 2022 to appeal against the decision in RA 1.[47] Notably, Mr Edwards appointed solicitors to represent him in RAS 5.[48] Mr Edwards withdrew RAS 5 on 11 April 2022, during the hearing of RAS 5.[49]

18 Mr Edwards filed DC/SUM 495/2022 ("SUM 495") on 11 February 2022 to stay the enforcement of the summary judgment obtained in SUM 3736 until 15 May 2022.[50] Ms Loke contended that SUM 495 was in essence an application to stay proceedings in DC 1662 until RAS 5 was determined.[51] Mr Edwards gave the following reasons for seeking a stay: (a) he did not have sufficient funds to satisfy the judgment and would subsequently come into more funds; (b) separate proceedings in DC/DC 146/2022 ("DC 146") were commenced, which might justify holding matters untilDC 146 was resolved; (c) there was a pending appeal against the summary judgment; and (d) he had

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45 AA1, at paras 39–40. AA1, Tab 11, at p 235.

46 AA1, at para 41. AA1, Tab 11, at p 238.

47 AA1, at para 48. AA1, Tab 13, at p 262.

48 AA1, at para 48.

49 AA1, at para 54. AA1, Tab 13, at p 264.

50 AA1, at paras 49–50. AA1, Tab 15, at p 359.

51 AA1, at para 50.

written to Ms Loke to "hold matters" until 15 May 2022.[52] SUM 495 was dismissed on 14 March 2022.[53]

DC 146 and related applications

19 Mr Edwards commenced DC 146 against Ms Loke on 19 January 2022.[54] Mr Edwards had three main heads of claim: (a) he argued that Ms Loke had breached a purported verbal agreement for the conditional sale of the Property to Mr Edwards ("the Conditional Sale Agreement") by attempting to repossess the Property; (b) that Ms Loke had wilfully misrepresented Mr Edwards' text messages during the proceedings in OSS 94 and DC 1662; and (c) that Ms Loke was negligent in conducting OSS 94 and DC 1662, which caused Mr Edwards monetary loss and a loss of productivity.[55]

20 On 9 March 2022, Ms Loke filed DC/SUM 853/2022 ("SUM 853") to strike out DC 146.[56] SUM 853 was granted on 6 October 2022 and DC 146 was struck out.[57] The reasoning of the court was as follows. Firstly, the claim for a purported breach of the Conditional Sale Agreement was an abuse of process as it would fall within the extended doctrine of *res judicata*.[58] Mr Edwards should have pleaded the Conditional Sale Agreement claim in earlier proceedings, such as in DC 1662 or SUM 3103.[59] Secondly, the claim for misrepresentation was

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52 AA1, Tab 12, at p 253.

53 AA1, at para 51. AA1, Tab 15, at p 361.

54 AA1, at para 43. RWS1, at para 3.11. AA1, Tab 14, at p 267.

55 AA1, Tab 14, at pp 269–270.

56 AA2, at para 44. AA1, Tab 16, at p 383.

57 AA2, at para 45. AA1, Tab 2, at p 45.

58 AA1, Tab 2, at pp 55–56 at paras 44–47.

59 AA1, Tab 2, at p 55 at paras 44–45.

not a reasonable cause of action because a misrepresentation to the *court* was not in itself a cause of action between the *parties*.[60] Lastly, the negligence claim was not a reasonable cause of action as Mr Edwards had not substantiated any of the elements of the tort of negligence with material facts.[61]

21 On 10 March 2022, Mr Edwards filed DC/SUM 849/2022 ("SUM 849").[62] In the application, Mr Edwards sought an interim injunction to restrain Ms Loke from continuing proceedings in DC 1662 or sub-cases thereunder until DC 146 was determined.[63] SUM 849 was dismissed on 13 May 2022.[64]

OC 311 and related applications

22 Mr Edwards commenced DC/OC 311/2022 ("OC 311") against Ms Loke on 7 July 2022.[65] The main thrust of OC 311 was that Ms Loke had made false statements and failed to make full and frank disclosure in her supporting affidavit in OSS 94.[66] Accordingly, Mr Edwards sought for the following reliefs: (a) that the supporting affidavit in OSS 94 be "struck-off"; (b) damages of $180,810; and (c) that the orders of court in OSS 94 and DC 1662 and their sub-cases be set aside until the supporting affidavit for OSS 94 was rectified.[67]

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60 AA1, Tab 2, at p 48 at paras 18–19.

61 AA1, Tab 2, at p 49 at para 21.

62 AA1, at para 62. AA1, Tab 15, at p 312.

63 AA1, Tab 15, at p 315.

64 AA1, at para 65. AA1, Tab 15, at p 381.

65 AA1, Tab 17, at p 769. AA2, at para 46. See also RWS1, at para 3.13.

66 AA1, Tab 17, at pp 771–773.

67 AA1, Tab 17, at p 773.

23 On 22 September 2022, Ms Loke filed DC/SUM 2992/2022 ("SUM 2992") to strike out OC 311.[68] SUM 2992 was granted on 10 November 2022, and OC 311 was struck out for disclosing no reasonable cause of action.[69] In particular, the court was "unable to discern the existence of a tort or any other cause of action in the [statement of claim]".[70] The closest possible tort, the tort of deceit or fraudulent misrepresentation, would have required the plaintiff to have acted on the misrepresentation.[71] Accordingly, it was held that a misrepresentation to the *court* would not be a cause of action between the *parties*.[72] The court also stated in *obiter* that the claim could also be struck out for: (a) amounting to an abuse of process of the court, as it was a backdoor attempt to challenge the outcome of OSS 94 and DC 1662; and (b) legal unsustainability.[73] The court also stated that it was not apparent how Ms Loke could rely on the doctrine of *res judicata*, action estoppel, or issue estoppel as grounds for *striking out,* as she did not show how they could be subsumed under the relevant heads of O 9 r 16(1) of the Rules of Court 2021.[74]

24 Mr Edwards filed DC/RA 82/2022 ("RA 82") on 22 November 2022, which was an appeal against the decision in SUM 2992.[75] The main points raised by Mr Edwards on appeal were the following: (a) that Ms Loke had lied in her supporting affidavit for OSS 94; (b) that he could not have brought the issue up

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68 AA1, Tab 18, at p 799.

69 AA1, at para 79. See also RWS1, at para 4.1. AA1, Tab 18, at p 1490.

70 AA1, Tab 3, at p 71.

71 AA1, Tab 3, at p 71.

72 AA1, Tab 3, at p 71.

73 AA1, Tab 3, at p 72.

74 AA1, Tab 3, at p 73.

75 AA1, at para 81. See also AA2, Tab 15, at p 221 at para 3.

under OSS 94 since it was heard *ex parte*; and (c) that the Fraud Argument was not resolved in any of the other hearings.[76] In dismissing the appeal, the court held that: (a) filing an affidavit without full and frank disclosure would not automatically give rise to a cause of action between the parties; (b) that Mr Edwards could have appealed against the result of OSS 94 or taken steps to set it aside, and that he *had* taken steps to set it aside in SUM 3103; and (c) that any challenge to the affidavit should have been done under OSS 94 or an appeal in DC 1662.[77] RA 82 was dismissed on 29 September 2023.[78]

HC/B 1325 and committal proceedings

25 On 26 May 2022, Ms Loke commenced HC/B 1325/2022 ("HC/B 1325") for a bankruptcy order against Mr Edwards.[79] Ms Loke contended that the purpose of Mr Edwards' many applications under OSS 94, OC 311, and DC 1662 was to stave off the bankruptcy proceedings for as long as possible.[80]

26 Mr Edwards alleged that Ms Loke "filed committal proceedings" against him in DC/SUM 251/2022 ("SUM 251") on 7 February 2022.[81] Ms Loke's affidavits do not refer to SUM 251. Mr Edwards did not append the relevant summons in his affidavits.

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76 AA2, Tab 14, at pp 227–228.

77 AA2, Tab 14, at pp 229–230.

78 AA1, at para 81. See also RWS1, at para 4.3. AA2, Tab 14, at p 231.

79 AA1, at para 6(5).

80 AA1, at para 83.

81 Mr Edwards' Affidavit (6 December 2023) ("RA"), at para 3.14.

27 Mr Edwards averred that Ms Loke filed DC/SUM 511/2022 ("SUM 511") on 10 February 2022, which was an action for "contempt of court".[82] Ms Loke alleged that SUM 511 was an application to commence committal proceedings against Mr Edwards.[83] SUM 511 was instituted as RA 1 had been dismissed and Mr Edwards had not delivered vacant possession of the Property to Ms Loke.[84] Mr Edwards alleged that SUM 511 was withdrawn by Ms Loke at an unspecified date.[85] Mr Edwards vacated the Property on 5 August 2022.[86]

The present application and recent developments

28 On 6 October 2023, Ms Loke applied to restrain Mr Edwards from commencing any action or application involving, relating to, or touching upon the following matters for a period of two years: (a) Mr Edwards' previous tenancy of 5A Ontario Avenue #03-02 The Windsor Singapore 576194; (b) DC/OC 311/2022; (c) DC/DC 146/2022; (d) DC/DC 1662/2021; and (e) DC/OSS 94/2021.[87]

29 Prior to Ms Loke's application being heard, Mr Edwards commenced a new action, DC/OC 1751/2023 ("OC 1751"), against Ms Loke on 20 November 2023.[88] Despite the pending application, OC 1751 was a claim against Ms Loke

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82 RA, at para 3.14.

83 AA1, at para 58.

84 AWS1, at para 22.

85 RA, at para 3.14.

86 RA, at para 3.14.8.

87 Ms Loke's Originating Application (6 October 2023), at para 2.1.

88 RA, at para 3.19.

for losses incurred due to her purported misrepresentation in her supporting affidavit in OSS 94.[89]

30 When the application came on for hearing on 22 November 2023, Mr Edwards had not filed any affidavits but instead made many factual allegations by way of submissions. An opportunity was given to him to file an affidavit, and for Ms Loke to reply. Ms Loke subsequently requested for the ECRO to cover, in addition to the items listed in her application, the following additional proceedings: (a) DC/WD 8/2021; (b) OC 1751/2023; and (c) any enforcement proceedings, including bankruptcy proceedings, already commenced or to be commenced by the applicant in respect of the summary judgment obtained against the respondent in DC/DC 1662/2021.[90]

The parties' cases

The applicant

31 Ms Loke contended that the requirements of s 73C of the SCJA were fulfilled as Mr Edwards had "persistently commenced actions or applications that [were] totally without merit".[91] In this regard, she relied on 12 unsuccessful actions or applications by Mr Edwards:[92]

(a) SUM 3103;

(b) SUM 3720;

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89 AA2, Tab 15, at p 236 at para 7.

90 AWS2, at para 76(a).

91 AWS1, at paras 4–5.

92 AWS2, at para 75, Table B.

(c) SUM 3869;

(d) SUM 3868;

(e) RA 1;

(f) SUM 151;

(g) SUM 495;

(h) RAS 5;

(i) DC 146;

(j) SUM 849;

(k) OC 311; and

(l) RA 82.

32 Ms Loke argued that Mr Edwards had "persistently" commenced actions or applications against her. In this regard, she submitted that there was no quantitative requirement before the court could find that a litigant had persistently commenced actions or applications – there simply needed to have been more than one unmeritorious application or action.[93] Ms Loke further submitted that a litigant's appeal and other interlocutory applications should be counted separately from the underlying action or application.[94] She was of the view that Mr Edwards had "persistently" commenced actions or applications because he initiated 12 unsuccessful applications and two actions that were

[93] AWS1, at paras 44–45.

[94] AWS1, at para 47. AWS2, at para 5.

summarily struck out.[95] I will deal with each action and application in turn below.

The respondent

33 Mr Edwards argued:

(a) That he was not a vexatious litigant as Ms Loke had filed more actions and applications than him. In this regard, Mr Edwards relied on the fact that Ms Loke filed nine new applications, whereas he had only filed three applications (DC 146, OC 311, and OC 1751).[96]

(b) That Ms Loke had frivolously and prematurely filed committal proceedings against him, which was evident from the fact that Ms Loke withdrew her committal application.[97]

(c) That his application in SUM 1718 for a stay of execution for the writ of possession was granted.[98]

(d) That the summary judgment granted in SUM 3736 did not determine the issue of whether Ms Loke made a fraudulent misrepresentation in her supporting affidavit for OSS 94.[99]

(e) That DC 146 was only struck out because it was a "misfiling".[100]

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95 AWS1, at para 47.

96 RA, at para 4.5.

97 RA, at para 4.3.

98 RA, at para 4.4.

99 RWS1, at para 3.10.

100 RWS1, at para 3.11.

(f) That although OC 311 was struck out, it was not struck out for being *res judicata*.[101] Further, Mr Edwards emphasised that OC 311 was not *dismissed* and was instead "only struck off because there was no reasonable cause of action".[102]

(g) That while RA 82 was struck out for not disclosing a reasonable cause of action, the issue of Ms Loke's purported fraudulent misrepresentation in her supporting affidavit for OSS 94 was still undetermined in a court of law.[103]

(h) That the issue of Ms Loke's fraudulent misrepresentation in her supporting affidavit for OSS 94 was never adjudicated upon by any court.[104]

(i) That OC 1751 had a reasonable cause of action as it was a claim to reinstate the 2017 tenancy agreement.[105]

My decision to grant the ECRO

The legal context

34 The rationale of the civil restraint order regime, as explained by the then-Senior Minister of State for Law, was to enhance the court's flexibility in dealing with vexatious litigants, by complementing existing powers in s 74 of

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101 RWS1, at para 4.2.

102 RWS2, at para 4.

103 RWS1, at paras 4.3–4.4.

104 RWS1, at para 5.6.

105 RWS2, at para 5.

the SCJA (see Singapore Parl Debates; Vol 94, Sitting No 84; [2 October 2018] (Edwin Tong Chun Fai, Senior Minister of State for Law):

> The current approach [under s 74] is limited in two ways. First, the court and the affected party have no power to act on their own to apply under section 74 regardless of the degree of vexatious conduct, the impact it may have had on the affected party, as the application must be made by the Attorney-General. Second, section 74 carries with it severe consequences and may not be appropriate or properly calibrated to meet, the mischief in question in all cases.
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> …
>
> I would preface my response by reminding Members that the power to control vexatious proceedings is already present. What is being sought to be introduced in these amendments are broadly two things: one, a gradated approach so that it is not a "one-size-fits-all" approach in section 74 of the SCJA as it is presently so; and second, it is to allow for parties aside from the Attorney-General to also make their application.
>
> …
>
> The policy intention behind these amendments is, as I mentioned earlier, to allow the courts to have, and to be able to take, a more nuanced approach in terms of the orders that they make in managing the different levels of culpability of the vexatious litigants. And this allows the judges to have more regard to the individual circumstances of each case and to make those distinctions.
>
> …
>
> The new civil restraint orders seek to complement, but not replace, the current powers conferred on the courts by section 74.

35 Since the introduction of s 73C of the SCJA in 2019, there have been two published decisions which have concerned the grant of an ECRO: *Joseph Clement Louis Arokiasamy v Singapore Airlines Ltd and another matter* [2020] 5 SLR 869 ("*Arokiasamy*") and *The National University of Singapore v Ten Leu Jiun Jeanne-Marie* [2023] SGHC 191 ("*Jeanne-Marie*").

36 Section 73C(1) provides as follows:

> **73C.**—(1) A court may, if satisfied that a party has persistently commenced actions or made applications that are totally without merit, make an extended civil restraint order against the party.

37 The section thus requires the following two elements to be established before the court may grant an ECRO: (a) that the respondent "persistently commenced actions or made applications"; and (b) that such actions or applications were "totally without merit". After having heard arguments from the parties, I was of the view that both elements were established on the facts.

38 As the first requirement is dependent upon the second, I first consider how an application or action could be viewed as "totally without merit". In *Arokiasamy*, the High Court held that the various applications were barred by *res judicata*, based on a statutory provision that was wholly inapplicable, were wholly misconceived, or time-barred: see *Arokiasamy* (at [10]–[32]). In *Jeanne-Marie* (at [57]), an action or application was considered to be totally without merit if the court which heard that action or application considered the matter to be totally without merit. Examples were listed (at [58]): where it was clear from the court's reasoning that the application was bound to fail, or where an action was struck out for a lack of factual basis or was *res judicata*.

39 This is consistent with the manner in which our courts have exercised its inherent power to grant civil restraint orders prior to the enactment of s 73C of the SCJA. In *Cheong Wei Chang v Lee Hsien Loong* [2019] 3 SLR 326 ("*Cheong*") and *Chua Choon Lim Robert v MN Swami and others* [2000] 2 SLR(R) 589 ("*Robert Chua*"), the High Court considered whether a litigant's prior actions were struck out for being vexatious, an abuse of process, or not disclosing a reasonable cause of action.

40 In *Robert Chua*, the court upheld a civil restraint order that had been granted pursuant to the exercise of the court's inherent powers. This was because the court needed to prevent the plaintiff from instituting new proceedings "alleging and raising repeatedly the same material issues", which would constitute "vexatious conduct and an abuse of the process of court" (*Robert Chua* at [64]). Notably, the plaintiff's prior claim against the sixth and seventh defendants had been struck out for being an abuse of process as it was barred by issue estoppel (*Robert Chua* at [37]). This was because the plaintiff's allegations were substantially the same as the allegations he made in a previous suit against the defendants, which had been dismissed.

41 In *Cheong*, Mr Cheong's first action had been struck out for not disclosing a reasonable cause of action. His subsequent action was also struck out for: (a) not disclosing a reasonable cause of action; (b) being vexatious; (c) prejudicing the fair trial of the action; and (d) being an abuse of process, as it was barred by cause of action estoppel (*Cheong* at [18]–[26]). Mr Cheong was unable to understand that his claims were vexatious and futile (*Cheong* at [73]). *Cheong* was filed prior to the enactment of s 73C of the SCJA and recognised that the exercise of the court's inherent powers may no longer be necessary after the section came into operation (at [77]).

42 In this context, and for clarity, I mention that some of Ms Loke's submissions relied merely on the fact that the relevant applications had been dismissed. *Robert Chua*, *Cheong*, *Ariokasamy* and *Jeanne-Marie* show that this is not sufficient. The statute enjoins that the application or action must be determined to be "totally without merit". In such cases, the lack of merit must be clear from the facts, arguments, judgment or grounds of decision. Where a matter has been struck out or dismissed for disclosing no reasonable cause of action, it would be plain that a prior court of competent jurisdiction had decided

the matter to be wholly without merit. This was the basis on which I approached the various actions and applications.

43 Returning to the first requirement of persistence, I note that *Ariokasamy* concerned four incidents, and *Jeanne-Marie*, five. In this context, I accepted Ms Loke's submission that vexatious *interlocutory* applications may be counted as an "application" for the purposes of s 73C of the SCJA. The words of the section allow this interpretation, and such an approach would be consistent with the underlying legislative object of the ECRO regime to restrict vexatious litigation: see [34] above.

44 In the present case, I was of the view that at least ten of Mr Edwards' actions or applications were "totally without merit". These included: (a) RA 1; (b) DC 146; (c) OC 311; (d) RA 82; (e) SUM 3869; (f) SUM 3720; (g) SUM 3868; (h) SUM 151; (i) SUM 495; and (j) SUM 849.

RA 1, DC 146, OC 311, and RA 82

45 I deal first with RA 1, DC 146, OC 311, and RA 82. These actions and applications touched on the substance of the initial tenancy dispute between the parties: (a) RA 1 was Mr Edwards' appeal against the summary judgment against him in SUM 3736; (b) DC 146 and OC 311 were actions commenced by Mr Edwards against Ms Loke; and (c) RA 82 was Mr Edwards' appeal against the striking out of his claim in OC 311.

(1) RA 1

46 RA 1 was Mr Edwards' appeal against the summary judgment obtained against him in SUM 3736.[106] At the hearing of SUM 3736, the deputy registrar had pointed out that his Defence filed was a bare denial, he had not raised any arguable defences; and further, none of the arguments he raised had been pleaded.[107] Despite this, Mr Edwards failed to amend his Defence. Again, in RA 1, Mr Edwards sought to rely on the following defences: (a) that there was a valid tenancy agreement until 15 May 2022; and (b) that he did not terminate the tenancy agreement via his text message on 30 March 2021.[108] In addition, he raised, by written submission for the first time, without any supporting evidence in affidavit, that the Property was sold to Ms Loke's father on the condition that Mr Edwards could stay in the Property for as long as he wanted by paying Ms Loke rent of $3800 per month, or that he could buy back the Property at an agreed price.[109] In dismissing RA 1, DJ Lee held that Mr Edwards could not rely on those defences as they were not pleaded.[110] Further, there were no exceptional circumstances which allowed the court to consider defences that were not pleaded.[111]

47 I was of the view that RA 1 was totally without merit. Aside from the issue of pleadings, the affidavits did not reveal any arguable defence. First, it was not disputed that Mr Edwards had not paid rent after 15 December 2020 and was in repudiatory breach of the tenancy. Ms Loke was entitled to terminate

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106 AA1, Tab 15, at p 362.

107 AA2, Tab 9, at pp 133–134.

108 AA1, Tab 1, at p 41 at para 23.

109 AA1, Tab 1, at p 41 at para 23(c).

110 AA1, Tab 1, at pp 41–42 at para 24.

111 AA1, Tab 1, at pp 41–42 at para 24.

the tenancy on that basis, and on 20 March 2021, Ms Loke *did* terminate the tenancy by issuing a notice of termination. Mr Edwards sent a text message on 30 March 2021 with his intention to terminate on 15 May 2021, but his intention was irrelevant. Ms Loke had issued the Notice of Repossession and Termination on 20 March 2021. Notwithstanding her entitlement under the Notice, Ms Loke followed on with a letter on 13 April 2021 making clear that termination would be on 15 May 2021. While Mr Edwards disputed his text message of 30 March, Ms Loke had in any event followed on to make clear that termination would be on 15 May 2021. Secondly, Mr Edwards' argument at the summary judgment proceedings that the tenancy was valid until May 2022 was a bare assertion (before me, he made the bare assertion in his 4 January 2024 written submissions that the tenancy was valid until May 2024). Thirdly, even if there was a conditional sale of the Property by Mr Edwards, that did not provide a defence to Ms Loke's claim for repossession. The first purported condition was that Mr Edwards could continue to live in the Property *if he continued to pay rent*. He clearly defaulted on this obligation. The second purported condition was that the Property could be sold back to Mr Edwards at an agreed price. Mr Edwards did not need to be in possession of the Property to purchase it from Ms Loke.

(2) DC 146

48 DC 146 was an action by Mr Edwards against Ms Loke. Mr Edwards alleged the following: (a) that Ms Loke had wilfully misrepresented his text messages to the court in OSS 94; (b) that Ms Loke's negligence in OSS 94 and DC 1662 had caused him to suffer a loss of productivity and money; and (c) that by attempting to repossess the Property, Ms Loke had breached a condition of the sale of the Property, which was that Mr Edwards could reside at the Property for as long as he paid rent of $3800 monthly and that Mr Edwards could

repurchase the Property at a time of his choosing.[112] DC 146 was struck out in its entirety in SUM 853. In striking out DC 146, the court held that the first two claims disclosed no reasonable cause of action, while the last claim amounted to an abuse of process under the extended doctrine of *res judicata*.[113] Ms Loke relied on the fact that DC 146 was summarily struck out for not disclosing a reasonable cause of action and for offending the extended doctrine of *res judicata*.[114]

49 It is clear that the court which heard SUM 853 was of the view that DC 146 was totally without merit. Firstly, the court held that Mr Edwards' first claim did not amount to a cause of action since any purported misrepresentation by Ms Loke would have been to the *court*, and not to the plaintiff.[115] It did not disclose a reasonable cause of action as between Ms Loke and *Mr Edwards*. Secondly, the court held that Mr Edwards' claim in negligence was not substantiated with material facts.[116] In any event, the usual compensation for a party's poor conduct in a suit would be an award of costs.[117] Accordingly, the claim was struck out for not disclosing a reasonable cause of action. Thirdly, the court held that Mr Edwards' claim for a purported breach of contract was barred for being *res judicata* in the extended sense. This was because it ought to have been raised in earlier proceedings (such as SUM 3103), given its obvious relevance to the prior proceedings for a writ of distress or repossession

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112 AA1, Tab 2, at p 46 at para 6. See also AA1, Tab 14, at pp 269–270.

113 AA1, Tab 2, at pp 48–49 and 55–56 at paras 19, 21, and 47.

114 AWS2, at paras 53–55.

115 AA1, Tab 2, at p 48 at para 19.

116 AA1, Tab 2, at p 49 at para 21.

117 AA1, Tab 2, at p 49 at para 20.

of the Property. Accordingly, it was struck out for being an abuse of process of the court.

(3) OC 311

50 OC 311 was an action by Mr Edwards against Ms Loke. Mr Edwards alleged that Ms Loke had committed a tort against him by knowingly and wilfully by giving false statements under oath and without full and frank disclosure.[118] This was yet another reference to the Fraud Argument. OC 311 was struck out in SUM 2992 for not disclosing a reasonable cause of action. Notably, the court held that it was "unable to discern the existence of a tort or any other cause of action in the [statement of claim]".[119] This was because the closest possible tort, the tort of deceit, required *Mr Edwards* to have acted on the misrepresentation. In my view, the fact that OC 311 had been struck out for not disclosing a reasonable cause of action was sufficient for me to conclude that it was totally without merit.

51 I pause to note that Mr Edwards had previously raised the issue of Ms Loke's purported misrepresentations in SUM 3103.[120] The issue was already adjudicated upon in SUM 3103, where it was dismissed. Mr Edwards never appealed against the dismissal of SUM 3103. Accordingly, a court of competent jurisdiction had already determined that issue, and issue estoppel would apply to bar Mr Edwards from re-litigating the same issue in subsequent proceedings: *The Royal Bank of Scotland NV (formerly known as ABN Amro Bank NV) and others v TT International Ltd (nTan Corporate Advisory Pte Ltd and others,*

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118 AA1, Tab 3, at p 70E. AA1, Tab 17, at pp 771–773.

119 AA1, Tab 3, at p 71A.

120 AA2, Tab 2, at pp 61 and 63–64.

other parties) and another appeal [2015] 5 SLR 1104 ("*TT International*") (at [100]). Thus, Mr Edwards' claim would also have been barred by issue estoppel.

(4) RA 82

52 RA 82 was Mr Edwards' appeal against the decision to strike out OC 311 in SUM 2992. The main points raised by Mr Edwards on appeal were the following: (a) that Ms Loke had lied in her supporting affidavit for OSS 94; (b) that he could not have brought the issue up under OSS 94 since it was heard *ex parte*; and (c) that the Fraud Argument was not resolved in any of the other hearings.[121] In dismissing the appeal, the court noted that there was nothing pleaded in OC 311 which gave rise to any kind of tort.[122] Further, it was previously held in DC 146 that the purported misrepresentation could not amount to a cause of action. It would be an abuse of process for Mr Edwards to raise *essentially the same point* in a fresh action.[123] The court also opined that if there was a falsity in Ms Loke's affidavit for OSS 94, that it should have been addressed under OSS 94.[124] Indeed, the court noted that Mr Edwards *had* raised the issue in SUM 3103, which was an application to set aside OSS 94.[125] SUM 3103 was subsequently dismissed, and no appeal was lodged.

53 I was of the view that RA 82 was totally without merit. Mr Edwards' first argument that Ms Loke had lied in her affidavit for OSS 94 was a mere rehash of his argument in SUM 3103, which had already been adjudicated upon. As noted earlier (at [51]), this would be barred by *res judicata* in the sense of

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121 AA2, Tab 14, at pp 227–228.

122 AA2, Tab 14, at p 229 at para 20.

123 AA2, Tab 14, at p 230 at para 21(b).

124 AA2, Tab 14, at p 229 at para 21.

125 AA2, Tab 14, at p 229 at para 21.

issue estoppel. Secondly, although OSS 94 was initially determined *ex parte*, Mr Edwards filed SUM 3103 to set it aside, and the application was dismissed. Lastly, Mr Edwards' contention that the Fraud Argument was never resolved in other hearings is plainly false. Mr Edwards raised the Fraud Argument in SUM 3103.[126] This was rejected when SUM 3103 was dismissed. Three arguments raised in RA 82 were particularly unmeritorious: (a) that Deputy Registrar Jonathan Ng ("DR Ng"), in the court below, did not rely on the doctrine of *res judicata* in coming to his decision; (b) that DR Ng had erred in stating that Ms Loke had not benefitted even if she had lied in her affidavit; and (c) that the mere "opinions" of deputy registrars should not prevent OC 311 from going to trial.[127] District Judge Jill Tan ("DJ Tan") dismissed (a) and (b) after a perusal of the oral grounds of decision of DR Ng; and as DJ Tan noted,[128] the decisions of the deputy registrars mentioned by Mr Edwards were not mere opinions but reasoned and binding judicial decisions.

SUM 3869, SUM 3720, SUM 3868, SUM 151, SUM 495, and SUM 849

54 I now turn to SUM 3869, SUM 3720, SUM 3868, SUM 151, SUM 495, and SUM 849. These applications were mostly procedural in nature.

(1) SUM 3869

55 SUM 3869 was Mr Edwards' application to set aside OSS 94 "until 30 November 2021".[129] At the hearing of SUM 3869, Mr Edwards' argument was

126 AA2, Tab 2, at pp 61 and 63–64.

127 AA2, Tab 14, at pp 227–228.

128 AA2, Tab 14, at p 231.

129 AA2, Tab 5, at p 83.

that OSS 94 should be set aside because it was granted *ex parte*.[130] In dismissing the application, the court noted that this was essentially the same argument that Mr Edwards had raised in SUM 3103 to set aside OSS 94.[131] SUM 3869 was framed as a setting aside of OSS 94, in a similar vein to SUM 3013, albeit limited to a specific date, 30 November 2021. Accordingly, SUM 3869 was totally without merit as issue estoppel applied and it was thus an abuse of process. Mr Edwards' argument had already been adjudicated upon in SUM 3103, where it was dismissed. He never appealed against the dismissal of SUM 3103.

56 Mr Edwards also contended in his supporting affidavit that OSS 94 had to be set aside because he needed more time to serve interrogatories, obtain particulars, and conduct discovery for DC 1662.[132] Another way to frame his summons would be to consider that Mr Edwards sought a stay of enforcement of OSS 94 and the writ of distress until 30 November 2021. In my view, the supporting affidavit disclosed no legal basis for seeking such a stay of enforcement. Execution of the writ of distress would not have, in any way, prejudiced Mr Edwards' ability to serve interrogatories and take other steps in DC 1662. A successful litigant is not deprived of the fruits of his litigation without good reason: *Lian Soon Construction Pte Ltd v Guan Qian Realty Pte Ltd* [1999] 1 SLR(R) 1053 ("*Lian Soon*") (at [14]). Accordingly, I was of the view that SUM 3869 was totally without merit.

130 AA2, Tab 7, at p 92C.

131 AA2, Tab 7, at p 93.

132 AA2, Tab 5, at p 85 at para 6.

(2) SUM 3720

57 SUM 3720 was Mr Edwards' application to stay OSS 94 until DC 1662 had been heard.[133] However, the originating summons did not disclose any grounds for seeking the stay: the relevant portion of the summons had been left blank by Mr Edwards.[134] Further, although Mr Edwards had filed two affidavits in support of his application, they did not assist him either. In the first affidavit dated 23 August 2021, Mr Edwards contended that he required a stay of proceedings in DC 1662 because SUM 3103 was still pending.[135] This was problematic for several reasons. Firstly, SUM 3103 had already been dismissed on 31 August 2021, *before* Mr Edwards filed SUM 3720 on 9 September 2021. Secondly, Mr Edwards' affidavit, which sought a stay of proceedings in *DC 1662*,[136] was inconsistent with his originating application, which sought a stay of *OSS 94* until DC 1662 had been heard.[137] Accordingly, I was of the view that Mr Edwards' originating summons and first affidavit disclosed no possible legal basis that could justify the stay of proceedings.

58 Mr Edwards' second affidavit, dated 2 August 2021, fared no better. The second affidavit appeared to be a duplicate of the affidavit that Mr Edwards had previously filed in SUM 3103.[138] Accordingly, it raised the same arguments that had already been adjudicated upon in SUM 3103, from which Mr Edwards had

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133 AA1, Tab 8, at p 147.

134 AA1, Tab 8, at p 147.

135 AA1, Tab 8, at p 157.

136 AA1, Tab 8, at p 157 at para 5.

137 AA1, Tab 8, at p 147.

138 AA1, Tab 8, at p 149. See also AA1, Tab 7, at p 98.

not appealed.[139] The arguments raised in Mr Edwards' second affidavit were thus barred by issue estoppel.

59 For these reasons, I found SUM 3720 to be totally without merit.

(3) SUM 3868

60 SUM 3868 was Mr Edwards' application to set aside DC 1662 until 30 November 2021.[140] In dismissing the application, the court noted that the judgment for DC 1662 had yet to be obtained, and thus there was *nothing* for the court to set aside.[141] This application was therefore totally without merit: the very subject matter of the application had yet to exist at the time it was heard.

(4) SUM 151

61 SUM 151 was Mr Edwards' application for a stay of execution of the summary judgment obtained in SUM 3736, pending the appeal in RA 1. Mr Edwards' sole ground for the application was that he was entitled to a stay of enforcement because he had appealed against the summary judgment.[142] An appeal does not ordinarily operate as a stay of execution unless there are special circumstances: *Lian Soon* (at [13]). Given that Mr Edwards did not allege that there were any special circumstances, I saw no legal basis on which his stay application could have succeeded. Accordingly, I was of the view that SUM 151 was totally without merit.

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139 AA1, Tab 8, at p 149.

140 AA1, Tab 10, at p 223.

141 AA2, Tab 7, at p 93.

142 AA1, Tab 11, at p 237.

(5) SUM 495

62 SUM 495 was Mr Edwards' application for a stay of execution of the summary judgment obtained in SUM 3736, pending an appeal to the General Division of the High Court in RAS 5. Mr Edwards gave the following reasons for seeking the stay: (a) he did not have sufficient funds to satisfy the judgment and would subsequently come into more funds; (b) separate proceedings were commenced in DC/DC 146/2020, which might justify "holding matters" until DC 146 was resolved; (c) there was a pending appeal against the summary judgment; and (d) he had written to Ms Loke to "hold matters" until 15 May 2022.[143]

63 I was of the view that Mr Edwards' arguments in SUM 495 disclosed no legal basis for a stay of enforcement. First, as the learned deputy registrar noted, Mr Edwards' allegations of impecuniosity were unsubstantiated and irrelevant to the issue of whether he could deliver *possession of the Property*.[144] Secondly, DC 146 was a separate matter and there was no reason that its result should influence the *execution* of the order in DC 1662.[145] There was no basis to suggest "holding matters" until DC 146 was resolved. The court does not generally deprive a successful litigant of the fruits of his litigation (*Lian Soon* at [14]). Thirdly, his reliance on the filing of RAS 5 was unfounded: the mere fact of an appeal does not operate as a stay of execution, special circumstances are required (*Lian Soon* at [13]).

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143 AA1, Tab 12, at p 253.

144 AA1, Tab 12, at pp 254C–255E.

145 AA1, Tab 12, at p 256A.

(6) SUM 849

64 SUM 849 was Mr Edwards' application for an interim injunction to restrain Ms Loke from continuing proceedings in DC 1662 or sub-cases thereunder until DC 146 was determined.[146] This was, in essence, an attempt to obtain a stay of enforcement of the summary judgment obtained under SUM 3736. Mr Edwards argued that the injunction was justified for the following reasons: (a) Ms Loke had not provided full and frank disclosure in her affidavit for OSS 94 and DC 1662; and (b) he had an ongoing claim against Ms Loke to purchase the Property.[147]

65 In my view, Mr Edwards' first argument was untenable. He had raised the full and frank disclosure argument in SUM 3103, where it was dismissed. He did not appeal against the decision in SUM 3103. Accordingly, he was barred from raising the same issue again in SUM 849 since the issue was *res judicata*: issue estoppel applied. Mr Edwards' second argument was equally unmeritorious. The crux of his argument was that the summary judgment should not be enforced since he had a concurrent suit against Ms Loke to purchase the Property from her. However, there was no reason why Mr Edwards could not subsequently purchase the Property after giving up possession of it. Accordingly, I was of the view that SUM 849 was totally without merit.

SUM 3103 and RAS 5

66 Finally, there were two applications where I rejected Ms Loke's characterisation that the applications were wholly without merit. The first, SUM 3103, was Mr Edwards' application to set aside OSS 94 and the writ of distress.

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146 AA1, Tab 15, at p 315.

147 AA1, Tab 15, at p 314.

It was dismissed, but the dismissal could not, of itself, be sufficient, as I have pointed out (at [42]). There was no evidence that the application was bound to fail from the outset.

67 The second application, RAS 5, was an appeal by Mr Edwards against the decision in RA 1. The appeal was withdrawn by Mr Edwards' counsel on the day of the hearing. Ms Loke's argument was that the mere fact of withdrawal was sufficient to show that RAS 5 was totally without merit.[148] As with dismissal, the fact of withdrawal, without more, could not be sufficient. As there was no indication as to what Mr Edwards wished to raise on appeal, it would be speculative to conclude that it was totally without merit.

Persistent relitigation devoid of merit

68 It was clear from the ten applications, nevertheless, that the respondent had persistently commenced actions or applications that were totally without merit. In the span of slightly more than two years, Mr Edwards had repeatedly sought to relitigate the issue of Ms Loke's purported misrepresentation in OSS 94 by commencing various actions and applications against her. More concerningly, Mr Edwards showed no signs of stopping. Mr Edwards canvassed the issue of Ms Loke's purported misrepresentation in the present proceedings.[149] The same allegations resurfaced again in OC 1751, which was an action filed by Mr Edwards *while the current ECRO application was still pending*.[150] OC 1751 was yet another claim against Ms Loke for her purported misrepresentation in OSS 94.[151] It was equally unmeritorious. The issue of Ms

148 AWS2, at para 45.

149 RWS2, at paras 1.1–1.9 and 1.4.

150 RA, at para 3.19.

151 AA2, Tab 15, at pp 235–237.

Loke's purported misrepresentations were raised and dismissed in SUM 3103; issue estoppel applied.

69 The crux of the matter is that Mr Edwards had the opportunity to raise the purported misrepresentation in SUM 3103, which was his application to set aside the writ of distress, and he *did* raise the issue in SUM 3103.[152] His argument was rejected when DJ Kow dismissed SUM 3103. It is not open to Mr Edwards to subsequently insist on re-litigating the issue in multiple other proceedings. The public interest requires finality in litigation: *TT International* ([51] *supra*) (at [98]).

70 I deal briefly with other arguments raised by Mr Edwards. First, he argued that the ECRO should not be granted because he filed fewer applications than Ms Loke.[153] I disagreed. It was unnecessary to consider Ms Loke's prior actions and applications because the current proceedings concerned an application for an ECRO against Mr Edwards for *his* unmeritorious claims. In any event, I did not think that Ms Loke's applications were unmeritorious and repetitious. In so far as Mr Edwards relied on OSS 94 and DC 1662, I note that Ms Loke was successful in both proceedings. Ms Loke's committal proceeding and bankruptcy application against Mr Edwards were to recover possession of the Property and rent arrears that Ms Loke was entitled to under the summary judgment in SUM 3736. Even if there were errors in the committal proceeding that had to be rectified (as Mr Edwards suggests), Ms Loke had not persistently re-litigated the matter.

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152 AA2, Tab 2, at pp 61E and 63.

153 RA, at para 4.5.

71 Mr Edwards' second argument was that not all his actions or applications were totally without merit. He highlighted that his application for a stay of execution in SUM 1718 was granted.[154] This did not detract from the fact that I found *ten* of his actions and applications to be totally without merit. Even if some of his applications were not totally without merit, I was satisfied that an ECRO could be granted on the basis of the ten unmeritorious actions and applications. The matter had been, on the whole, litigated fully and repeatedly. There was no reason to expend limited public resources on the matter any longer.

72 Third, Mr Edwards argued that the issue of Ms Loke's purported fraudulent misrepresentation in OSS 94 had not been adjudicated upon by any court.[155] I was unable to agree. As noted earlier, this very issue had been raised by Mr Edwards in SUM 3103. It was rejected by the court when SUM 3103 was dismissed (see [69] above).

73 The fourth argument raised by Mr Edwards was that OC 311 and DC 146 were struck out for trivial reasons.[156] I rejected this. DC 146 was not struck out for being a "misfiling", as Mr Edwards contended, but instead for being *res judicata*, and failing to disclose a reasonable action for either misrepresentation or a claim in negligence. For OC 311, Mr Edwards' argument that OC 311 had "only" been struck out for not disclosing a reasonable cause of action did not assist him. A claim will only be struck out for not disclosing a reasonable cause of action if it does not disclose any question fit to be decided at trial; the mere fact that the case is weak is no ground for striking it out: *Gabriel Peter &*

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154 RA, at para 4.4.

155 RWS1, at paras 4.3–4.4 and 5.6.

156 RWS2, at para 4. RWS1, at para 3.11.

Partners (suing as a firm) v Wee Chong Jin and others [1997] 3 SLR(R) 649 (at [21]). Accordingly, the fact that OC 311 was struck out reflected that it was totally without merit.

74 During the second oral hearing before me, Mr Edwards argued that there was a purported agreement between him and Ms Loke for the deferred payment of outstanding rent on the basis of texts not yet exhibited in his affidavit. This was despite the fact that at the first hearing he was granted the opportunity to file an affidavit for the very purpose of adducing evidence as to any relevant factual matter. In any event, the same argument for an agreement to defer the payment of outstanding rent was raised by Mr Edwards in SUM 3103 and dismissed.[157]

Conclusion

75 Both elements in the ECRO inquiry were established on the facts before me. I was of the view that an ECRO in line with Form 100 should be granted for the maximum duration of two years. Accordingly, on 11 January 2024, I ordered as follows:

> (1) the Respondent be restrained from commencing any action or making any application in any Court concerning any matter involving, relating to, or touching upon his previous tenancy of 5A Ontario Avenue #03-02 The Windsor, Singapore 576194, or leading to any of the following proceedings, namely, (i) OSS 94/2021, (ii) WD 8/2021, (iii) DC 1662/2021, (iv) DC 146/2022, (v) OC 311/2022, (vi) OC 1751/2023, or (vii) any enforcement proceedings, including bankruptcy proceedings, already commenced or to be commenced by the Applicant in respect of the summary judgment obtained by the Applicant against the Respondent in DC 1662/2021, without the permission of the Court;

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157 AA2, Tab 2, at p 63B.

(2) the Respondent may apply to amend, vary or discharge this order, only if the Respondent has the permission of the Court to make the application;

(3) the order made herein is to remain in effect for two years from the date of the order herein; and

(4) the Respondent is to pay the Applicant costs fixed at $16,000 which includes disbursements for this application.

Valerie Thean
Judge of the High Court

Khan Nazim and Chua Ze Xuan (PDLegal LLC) for the applicant;
The respondent in person.
