

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2023] SGHCF 48

Suit No 3 of 2021

Between

WKK

... Plaintiff

And

WKL

... Defendant

AND

Between

WKL

... Plaintiff-in-Counterclaim

And

WKK

... Defendant-in-Counterclaim

FOUNDATIONS OF DECISION

[Succession and Wills – Alteration and erasure of wills]

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WKK
v
WKL

[2023] SGHCF 48

General Division of the High Court (Family Division)— Suit No 3 of 2021
Choo Han Teck J
12 October 2023

6 November 2023

Choo Han Teck J:

1 The plaintiff's claim in this action has been struck out for failing to set down for trial. There were two unsuccessful attempts by the plaintiff to have his claim reinstated, this trial thus proceeded only on the defendant's counterclaim. The plaintiff is the youngest child of the late SCH, the defendant is his older brother. They have a sister who is not a party to this action.

2 This was a dispute over the validity of two wills, both purportedly executed by SCH. SCH died in May 2020. The plaintiff claimed that SCH had executed a will on 28 September 2019 in which he appointed the plaintiff and defendant to be his executors and trustees of his will and estate. In this will, the plaintiff would have been the sole beneficiary of a flat (the "MT Flat"), as well as the motor vehicle (licence number SKZ xxxxG). Additionally, all the plaintiff's debts to his father are forgiven. In return for receiving the flat, the plaintiff has to pay the defendant and their sister \$300,000 through monthly

instalments over 20 years. As for the rest of SCH's assets, after accounting for funeral and religious expenses, they are for the three siblings in equal shares.

3 The defendant claimed that SCH suffered from Parkinson's disease since 2008, that his physical condition deteriorated gradually through the years, that he became "slow in movement and had tremors in his hands", and that his voice became "progressively softer and softer". According to the defendant, the plaintiff had difficulties hearing and understanding SCH, since November 2018. The defendant claimed that the only valid will was the one executed on 29 August 2016, under which will, the defendant would be the sole executor and trustee, and that the assets in the estate be sold and the proceeds divided equally among the three children.

4 SCH's estate was not large and consisted mainly of the MT Flat. He carried on a business selling fruit. This business was registered in the name of his wife (who had predeceased him). He has another business, namely, that of a convenience store and supermarket. The plaintiff was the one helping in the fruit shop. The defendant and the sister were not involved in the father's business. According to the defendant, the plaintiff went to read a course in veterinary science in Australia but failed to complete it. SCH then took him as an assistant in his business.

5 The defendant alleged that he discovered that his father, SCH, had transferred his business to the plaintiff about three weeks before his death (on 1 May 2020). The defendant found this incredible as his father was weak and bed-ridden by that time and was going in and out of the hospital. In any event, this issue did not arise in the trial of the counterclaim.

6 The defendant called four witnesses to prove the counterclaim. He led the evidence and testified that by reason of his father's physical condition, he would not have been able to execute a will in 2019. He further testified that his father would not have known or approved of the contents of the 2019 will. This was evidenced by contemporaneous evidence, such as WhatsApp messages between himself and the plaintiff. More importantly, he called Mr Chim Hou Yan and his secretary, Alice Lim. Mr Chim was a partner at M/s Hilborne Law LLC ("Hilborne Law"). The evidence from them was that SCH and his wife instructed him to draw up their wills. He identified the 29 August 2016 will as the one he drafted for SCH, and that it was identical in substance with that of his wife. Ms Alice Lim testified that she and Mr Chim's assistant (PW-4) Mr Ambalavanar Ravidass (then an associate with Hilborne Law), witnessed the execution of the wills. Ms Alice testified that the will was read and explained to SCH, and that he indicated that he understood the nature and contents of the will. SCH then signed the will and initialled at the bottom of every page. Mr Ambalavanar corroborated the evidence of Mr Chim and Ms Lim and confirmed that he was present.

7 I was satisfied that the will of 29 August 2016 had been duly proved. Although the plaintiff's case has been struck out, he was represented by Mr Danny Nah ("Mr Nah") at the trial, but Mr Nah did not challenge the defendant and his witnesses' testimonies. I was satisfied that the evidence showed that SCH would not have known or approved of the 28 September 2019 will. I was satisfied that it was not properly proved, and thus pronounced against it. It was incredible that SCH expected the plaintiff to return him a fresh loan of \$25,000 (provided in September 2019), with this being recorded down by the plaintiff on WhatsApp, before suddenly changing his mind two days later and recording in the 28 September 2019 will that all the plaintiff's debts to him were

forgiven. There were many other instances of contemporaneous WhatsApp messages which corroborated the defendant's version of events.

8 For the reasons above, I was satisfied that the defendant had proved his case and granted him an order in terms of prayers 1 to 6 of the amended Defence and Counterclaim with costs fixed at \$20,000 plus disbursements.

- Sgd -
Choo Han Teck
Judge of the High Court

Nah Wei Jin Danny Erwin (H C Law Practice) for the plaintiff /
defendant-in-counterclaim;
Lee Chung Yen Steven (Hilborne Law LLC) for the defendant /
plaintiff-in-counterclaim.
