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

[2025] SGHC(A) 14

Appellate Division / Originating Application No 3 of 2025

Between

WJY

… *Applicant*

And

WJZ

… *Respondent*

GROUNDS OF DECISION

[Courts and Jurisdiction — Jurisdiction — Appellate — Whether the Appellate Division of the High Court has the jurisdiction to set aside an order of the General Division of the High Court]
[Administrative Law — Natural justice — Allegations of breach of natural justice]

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v
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[2025] SGHC(A) 14

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11 July 2025

2 September 2025

Kannan Ramesh JAD (delivering the grounds of decision of the court):

1 In *Harmonious Coretrades Pte Ltd v United Integrated Services Pte Ltd* [2020] 1 SLR 206 ("*Harmonious Coretrades*"), the Court of Appeal emphasised that the court's inherent power to set aside an order or judgment to prevent injustice was not a licence for litigants to make frivolous applications. It should never be a back-door appeal or an opportunistic attempt to relitigate the merits of the case (at [40]).

2 The present application, AD/OA 3/2025 ("OA 3"), was precisely an application of the character the Court of Appeal cautioned against. The applicant, dissatisfied with the decision of a Judge of the High Court (the "Judge") and a decision of the Appellate Division denying him permission to appeal therefrom, sought to invoke the Appellate Division's inherent power to set aside those decisions, in order to reopen and relitigate issues that had already been determined.

3 To address the risk of abuse of process that may result from applications of this nature, appellate courts are empowered under ss 38 and 56 of the Supreme Court of Judicature Act 1969 (2020 Rev Ed) (the "SCJA") to summarily dismiss any application or appeal on their own motion. Accordingly, we invited the applicant to show cause why OA 3 ought not to be summarily dismissed.

4 Having considered the parties' submissions, we summarily dismissed OA 3 on 11 July 2025, pursuant to s 38 of the SCJA. We briefly stated our grounds in doing so. We take the opportunity to state our full reasons in these grounds of decision as there has been no previous decision published on the exercise of the court's power to summarily dismiss an application on its own motion in such circumstances.

Background facts

5 The dispute centred on the division of a property (the "Property") in matrimonial proceedings between the applicant, the ex-husband (the "Husband"), and his former wife (the "Wife"), the respondent. The Husband had purchased the Property in his sole name. At the hearing of the ancillary issues, the District Judge ("DJ") found that the Husband should retain the Property in his sole name. On appeal against the DJ's decision, the Judge held that 48% of the net proceeds of the sale thereof should be distributed to the Wife. Having been denied permission by the Appellate Division to appeal against the Judge's decision, the Husband filed OA 3 seeking in effect to reinstate the decision of the DJ.

The parties

6 The parties were married in India on 29 January 1992, and their marriage was registered in Singapore on 14 May 1992. There is one child of the marriage, a son born in 1995 in India (the "Son").

7 Over the course of the marriage, the Wife and the Son stayed primarily in India. Between 1995 and 2007, they sporadically visited Singapore. The parties had no meaningful contact or relationship after September 2007, and the Wife and Son remained in India. The Husband filed for divorce on 12 December 2018 in FC/D 5697/2018. Interim judgment was granted on 13 February 2019 on the ground of four years of separation.

8 A third party (the "Third Party") had a close relationship with the Husband during the marriage. The Third Party regularly transferred money to the Husband's bank account, which helped him service a loan that was secured by a mortgage on the Property.

Procedural history

9 In 2019, the Third Party commenced proceedings in HC/OS 1116/2019 for a declaration that she had a beneficial interest in the Property pursuant to an alleged oral agreement between the Husband and herself. The Wife intervened in the application. A Judge of the High Court ("OS 1116 Judge") found that there was a common intention constructive trust on the basis of the alleged oral agreement as a result of which the Third Party had a 73% share in the Property.

10 The Wife's appeal against the decision of the OS 1116 Judge to the Appellate Division in AD/CA 50/2021 was allowed. The Appellate Division held that: (a) the alleged oral agreement had not been established; (b) the

OS 1116 Judge "had overlooked the close relationship between [the Third Party] and [the Husband]", which might have been the reason why she was willing to guarantee the loans taken by the Husband and lend significant sums to him; and (c) while the Third Party had no beneficial interest in the Property, she could nonetheless bring a personal claim against the Husband to recover the loans. Subsequently, the Third Party brought a claim against the Husband for $2,034,430 in HC/S 134/2022. The Husband did not contest the claim despite some of the loans being disbursed more than six years before the commencement of the suit. Default judgment was entered against the Husband on 1 March 2022.

11 On 15 November 2022, the DJ decided the ancillary issues and determined that the parties were to retain the assets that were in their sole names. As the Property was registered in the Husband's sole name, he retained it. The parties had initially purchased an executive maisonette in their joint names (the "HDB Flat") on 15 August 1993, which served as their matrimonial home until the parties ceased to have meaningful contact in 2007. The HDB Flat was sold in 2008. The Wife claimed that the sale proceeds were used to subsequently fund the purchase of the Property. The DJ found that the allegation was an afterthought as it was made more than a decade after the purchase of the Property. Finally, the DJ did not order spousal maintenance or backdated child maintenance.

12 The Wife appealed against the DJ's decision in HCF/DCA 105/2022. In *WJZ v WJY* [2024] SGHCF 2 (the "DCA Judgment"), the Judge allowed the appeal in part and ordered that the net proceeds of the Property, after accounting for sums transferred by the Third Party, be distributed 52:48 in favour of the Husband (DCA Judgment at [190]).

13 In AD/OA 12/2024 ("OA 12"), the Husband sought permission to appeal against the DCA Judgment, asserting that the Judge made *prima facie* errors in ascertaining the operative date for determining the matrimonial pool of assets and in determining the ratio of the parties' respective contributions. The Husband also asserted that various issues of law, such as the test for the operative date, were questions of importance upon which further argument would be to the public's advantage. The Appellate Division dismissed OA 12 on 10 October 2024 (the "PTA Decision").

The application in OA 3

14 On 6 March 2025, the Husband filed OA 3 seeking to set aside the PTA Decision and the DCA Judgment and to reinstate the DJ's decision.

15 In OA 3, the Husband alleged that the DCA Judgment was tainted by breaches of natural justice. The alleged breaches arose from (a) manifest errors on the face of the record; and (b) the Judge's prejudgment of and apparent bias against the Husband (collectively, the "Natural Justice Arguments"). The basis of the latter allegation was the Judge's mistaken impression of the Husband's alleged adultery and failure to prioritise his family, as was apparent from remarks he made at the hearing of the appeal. These arguments were raised for the first time in OA 3, though they could have been raised in OA 12. The Husband also contended that the PTA Decision could not stand as the underlying DCA Judgment, which the Appellate Division had considered in OA 12, was tainted and prejudicial against him.

The summary dismissal proceedings

16 On 21 April 2025, on the court's own motion, the parties were directed to file written submissions within 14 days to show cause why OA 3 should not

be summarily dismissed. In particular, the parties were asked to consider whether the extended doctrine of *res judicata* applied such that the Husband was precluded from raising the Natural Justice Arguments.

The parties' submissions

The Husband's submissions

17 The Husband submitted that the court had inherent jurisdiction to set aside its previous decisions on the basis of a breach of natural justice. He relied on *Management Corporation Strata Title Plan No 301 v Lee Tat Development Pte Ltd* [2011] 1 SLR 998 ("*Lee Tat*"). As the DCA Judgment and the PTA Decision were tainted by breaches of natural justice, the Appellate Division had jurisdiction to hear OA 3. The Husband submitted that the Natural Justice Arguments were not raised in OA 12 and therefore not addressed by the Appellate Division in the PTA Decision. He emphasised the merits of the Natural Justice Arguments and asserted that where a material breach of natural justice was alleged, the court should be slow to dismiss such arguments based on the extended doctrine of *res judicata*. Alternatively, he submitted that a breach of natural justice was an exception to the extended doctrine of *res judicata*.

The Wife's submissions

18 The Wife submitted that the Husband could not bring an appeal under the SCJA against the PTA Decision. The Husband had failed to make the Natural Justice Arguments in OA 12 and OA 3 was an attempt at a second bite of the cherry. Permitting OA 3 to be heard would allow the Husband to circumvent the doctrine of *res judicata* by bringing claims in a piecemeal fashion, which was an abuse of process. The Judge's remarks had no bearing on

the outcome in the DCA Judgment as the Husband's relationship with the Third Party had always been an issue before the court. In any case, as a result of OA 3, the Wife was severely prejudiced by her inability to realise her share of the Property.

Issue before the court

19 The sole issue before us was whether OA 3 should be summarily dismissed, pursuant to s 38 of the SCJA. This required the determination of whether any of the limbs for summary dismissal in s 38 of the SCJA was satisfied. The primary limb that was pertinent to our determination of OA 3 was s 38(1)(*a*) of the SCJA, namely whether the court had the jurisdiction to hear the appeal or application. We concluded that the Appellate Division did not have jurisdiction to hear OA 3. The analysis was approached by examining (a) the threshold for summary dismissal; and (b) the jurisdiction of the court to consider standalone applications to set aside a judgment or order.

The law on summary dismissal

20 Section 38 of the SCJA provides that the Appellate Division is empowered to summarily dismiss any application on its own motion, without hearing oral arguments, where certain conditions are fulfilled:

> **Summary dismissal of certain matters**
>
> **38.**—(1) The Appellate Division may summarily dismiss any appeal or application on its own motion if the Appellate Division is satisfied of any of the following:
>
> (*a*) the Appellate Division does not have the jurisdiction to hear and determine the appeal or application;
>
> (*b*) the Appellate Division or the Court of Appeal has already decided every issue in the appeal or application in an earlier matter in which the appellant or applicant

> was involved, and the appeal or application therefore has no merit;
>
> (*c*) such conditions as may be prescribed by the Rules of Court are met.
>
> (2) Before summarily dismissing any appeal or application under subsection (1), the Appellate Division must —
>
> (*a*) give the appellant or applicant a reasonable opportunity to show cause why the appeal or application should not be summarily dismissed; and
>
> (*b*) consider any representations made by the appellant or applicant.
>
> (3) The Appellate Division may exercise its powers under this section without hearing oral arguments.
>
> (4) In this section, "appeal" includes part of an appeal and "application" includes part of an application.

A provision in similar terms was introduced in s 56 of the SCJA for the Court of Appeal.

21 Pursuant to s 38(1) of the SCJA, the three alternative limbs for the Appellate Division to summarily dismiss an appeal or application are that:

> (a) it does not have the jurisdiction to hear and determine the application;
>
> (b) the issue in the application has been decided by the Appellate Division in an earlier matter in which the applicant was involved, and the application therefore has no merit; or
>
> (c) other conditions as may be prescribed in the Rules of Court 2021 are met.

As stated earlier, only the first limb of s 38(1) of the SCJA was engaged as in OA 3. Regarding the third limb, no conditions for summary dismissal are prescribed in the Rules of Court 2021.

22 Before the Appellate Division exercises its power to summarily dismiss an appeal or application, the applicant must be given a reasonable opportunity to show cause why the appeal or application should not be summarily dismissed, and the Appellate Division must consider any representations made by the applicant in this regard (see s 38(2) of the SCJA). A similar process applies to the Court of Appeal (see s 56(2) of the SCJA).

23 Sections 38 and 56 of the SCJA were implemented by s 13 of the Supreme Court of Judicature (Amendment) Act 2019 (Act 40 of 2019) and came into effect on 2 January 2021. The changes were made alongside the restructuring of the High Court and Court of Appeal into the General Division of the High Court, the Appellate Division of the High Court and the Court of Appeal. Given that the provision is relatively new, there are no published judgments on ss 38 or 56 of the SCJA.

24 The debates during the second reading of the Supreme Court of Judicature (Amendment) Bill do not shed light on the summary dismissal provisions, other than noting that the amendments had been made to "help ensure the timely disposal of appeals, ensure better use of limited judicial resources and bring the overall cost of litigation down" (Singapore Parl Debates; Vol 94, Sitting No 114 [5 November 2019] (Mr Edwin Tong Chun Fai, Senior Minister of State for Law)).

25 In 2021, the General Division of the High Court, the State Courts and the Family Courts were also empowered to summarily dismiss appeals without

hearing oral arguments, pursuant to provisions that were introduced pursuant to ss 25, 46, 55 and 59 of the Courts (Civil and Criminal Justice) Reform Act 2021 (No 25 of 2021). At the second reading of the Courts (Civil and Criminal Justice) Reform Bill, the then Second Minister for Law explained that the amendments were intended to manage unmeritorious or frivolous appeals (Singapore Parl Debates; Vol 95, Sitting No 37 [13 September 2021] (Mr Edwin Tong Chun Fai, Second Minister for Law)):

> First, on summary dismissal. At present, the Court of Appeal and the Appellate Division have powers to summarily dismiss unmeritorious appeals. The Bill will introduce amendments to empower the General Division, the State Courts and the Family Courts to also summarily dismiss appeals that arise from the lower Courts, or from a decision of the Registrar. To avoid doubt, the Courts have the ability to exercise their powers of summary dismissal without hearing oral arguments.
>
> The summary dismissal powers are narrowly scoped and are intended to manage frivolous appeals that are a drain on judicial resources.
>
> We have also provided that the Court must consider representations made by the appellant and must also give the appellant a reasonable opportunity to show cause, before exercising its summary dismissal powers.

26 Broadly, these provisions empower the courts as follows:

(a) a Judge sitting in the General Division may, on his or her own motion, summarily dismiss (i) any appeal to the General Division in the exercise of its appellate civil jurisdiction on grounds which are similar to the three limbs in ss 38(1) and 56(1) of the SCJA (s 22B of the SCJA), and (ii) any appeal made against a decision of the Registrar relating to civil proceedings on grounds which are similar to the second and third limbs (save that both the Rules of Court and the Family Justice Rules are referred to) of ss 38(1) and 56(1) of the SCJA (s 17C of the SCJA);

(b) a District Judge sitting in a District Court, may on his or her own motion, summarily dismiss any appeal made against a decision of the Registrar relating to civil proceedings on his or her own motion on grounds which are similar to the second and third limbs of ss 38(1) and s 56(1) of the SCJA (s 49B of the State Courts Act 1970 (2020 Rev Ed) ("SCA")); and

(c) a District Judge sitting in a Family Court may, on his or her own motion, summarily dismiss any appeal made against a decision of the Registrar relating to civil or quasi-criminal proceedings on grounds which are similar to the second and third (save that the Family Justice Rules are referred to) limbs of ss 38(1) and 56(1) of the SCJA (s 29B of the Family Justice Act 2014 (2020 Rev Ed) ("FJA")).

As is the case with summary dismissal by the Appellate Division and the Court of Appeal, under ss 17C(2) and 22B(2) of the SCJA, s 49B(2) of the SCA and s 29B(2) of the FJA, the appellant must be given a reasonable opportunity to show cause why the appeal should not be summarily dismissed, and any representations of the appellant must be considered.

27 It is apparent from the above that unlike the Court of Appeal, the Appellate Division and the General Division, the State Courts and the Family Courts are *not* empowered to summarily dismiss an appeal on the ground that they do not have the jurisdiction to hear and determine the appeal.

28 Having set out the relevant provisions and their purpose, we turn to our decision.

The court's decision on summary dismissal

29 We summarily dismissed OA 3 on the basis that the Appellate Division did not have the jurisdiction to hear and determine OA 3. Specifically, we were of the view that the Appellate Division did not have jurisdiction to hear an application to set aside the PTA Decision or the DCA Judgment. We explain.

The scope of the Appellate Division's jurisdiction to hear setting aside applications

The statutory jurisdiction of the Appellate Division

30 The Appellate Division's civil jurisdiction is provided for in s 35 of the SCJA. Section 35 of the SCJA provides as follows:

> **Civil jurisdiction**
>
> **35.**—(1) This Division applies to the Appellate Division in the exercise of its civil jurisdiction.
>
> (2) The civil jurisdiction of the Appellate Division consists of the following matters, subject to the provisions of this Act or any written law regulating the terms and conditions upon which those matters may be brought:
>
> (*a*) any appeal against any decision made by the General Division in any civil cause or matter in the exercise of its original or appellate civil jurisdiction;
>
> (*b*) any appeal or other process that any written law provides is to lie, or that is transferred in accordance with any written law, to the Appellate Division.

31 It is clear that for the purpose of s 35(2)(*a*) of the SCJA, two threshold requirements must be met before the Appellate Division is seized of jurisdiction (see *Re Nalpon Zero Geraldo Mario* [2013] 3 SLR 258 ("*Re Nalpon Zero*") at [44]–[46], affirmed in *Iskandar bin Rahmat v Law Society of Singapore* [2021] 1 SLR 874 at [57] and *Loh Der Ming Andrew v Koh Tien Hua* [2021] 1 SLR 926 at [20]):

(a) the decision appealed against must be a decision of the General Division; and

(b) the General Division has exercised either its original or appellate civil jurisdiction in any civil cause or matter.

32 Accordingly, the Appellate Division has statutory civil jurisdiction to hear:

(a) appeals against decisions by the General Division, where the General Division is exercising its original or appellate civil jurisdiction; or

(b) appeals or processes that any written law provides is to lie, or that is transferred in accordance with any written law, to the Appellate Division.

The "inherent jurisdiction" of the Appellate Division

33 The Appellate Division also has inherent jurisdiction in certain circumstances. The applicability and scope of such "inherent jurisdiction" has been considered in several decisions, and we trace its development below.

34 In *Ong Cher Keong v Goh Chin Soon Ricky* [2001] 1 SLR(R) 213 ("*Ong Cher Keong*") at [44]–[46], Judith Prakash J (as she then was) held that there were at least three circumstances in which a court might set aside a judgment or order of court: (a) where an order was obtained irregularly; (b) where an order was obtained by fraud; or (c) where an order was obtained in default of the appearance of one of the parties to the suit:

> 44 The basic principles which govern applications to set aside orders of court or judgments are concisely set out in paras

> 558, 559 and 560 of *Halsbury's Laws of England* vol 36 (4th Ed). There are three situations in which an order may be set aside. The first situation is when the order has been obtained irregularly, that is, the person obtaining the order has not complied with the requirements of the Rules of Court in some aspect. In this situation, the person against whom the order is made is entitled to have it set aside …
>
> 45 The second situation is when a judgment has been obtained by fraud. Such a judgment may be impeached by means of an action which may be brought without leave. The fraud must relate to matters which *prima facie* would be a reason for setting the judgment aside if they were established by proof and the fraud must have been discovered after the judgment was passed …
>
> 46 The third situation is where an order or judgment has been obtained in default of the appearance of one of the parties to the suit. In such a case, the person against whom the order has been made may apply for it to be set aside but the court has a discretion as to whether to allow the application. As a rule, the applicant must show by affidavit that he has a defence to the action on the merits …

35 Subsequently, in *Lee Tat*, the Court of Appeal held that it had inherent jurisdiction to reopen and rehear an issue decided in breach of natural justice and to set aside the whole or part of its decision based on that issue. Where a decision was reached in breach of natural justice, it could not be said that the Court was fully apprised or informed of all the relevant considerations in arriving at its decision. As such, it could not be said that the court was *functus officio* in the sense of having exhausted its power to adjudicate on the issue as it would not have exercised its jurisdiction properly in relation to that issue. This was explained in *Lee Tat* at [55] as follows:

> …In our view, the [Court of Appeal] *has* inherent jurisdiction to reopen and rehear an issue which it decided in breach of natural justice as well as to set aside (in appropriate cases) the whole or part of its earlier decision founded on that issue. If the [Court of Appeal] (or, for that matter, any other court) has decided an issue against a party in breach of natural justice, it cannot be said that the [Court of Appeal] was fully apprised or informed at the material time of all the relevant considerations pertaining to that issue, and, therefore, the [Court of Appeal]

> cannot be said to have applied its mind judicially to that issue. In other words, the [Court of Appeal] would not have exercised its jurisdiction properly *vis-à-vis* that issue, and, therefore, it cannot to be said to be *functus officio* in the sense of having exhausted its power to adjudicate on that issue. Nothing in the SCJA prescribes for this situation, and we see no justification to circumscribe the inherent jurisdiction of this court (which would be the effect if we were to rule that the [Court of Appeal] has no inherent jurisdiction to reopen an issue which it decided in breach of natural justice) as that could potentially result in this court turning a blind eye to an injustice caused by its own error in failing to observe the rules of natural justice. [emphasis in original]

36 The relationship between the three situations described in *Ong Cher Keong* (where the court may set aside a judgment or order) and the court's inherent jurisdiction to reopen and rehear an issue which was decided in breach of natural justice was explained in *Harmonious Coretrades* at [33]–[40]. It was observed by the Court of Appeal there that the court had residual discretion to set aside a judgment or court order, flowing from its inherent powers to prevent injustice, as preserved by O 92 r 4 of the Rules of Court 2014 (*Harmonious Coretrades* at [36]–[38]). It was clarified that the three situations described in *Ong Cher Keong* were not exhaustive. To limit the scope of the court's power to the three situations described in *Ong Cher Keong* might lead to injustice. Further, *Lee Tat* was described as being in accordance with the view that the court's inherent power was for the purpose of preventing injustice (*Harmonious Coretrades* at [39]).

37 To be clear, the "inherent jurisdiction" of the court (as referred to in *Lee Tat*) is not in fact a question of jurisdiction. Rather, it is a question of the "inherent power" of the court to reopen and rehear a decision because jurisdiction over the matter at hand was not properly exercised in relation to that decision as a result of breach of natural justice. The distinction between the jurisdiction and the powers of the court was succinctly explained by Chan Sek

Keong J (as he then was) in *Muhd Munir v Noor Hidah and other applications* [1990] 2 SLR(R) 348 ("*Muhd Munir*"). Jurisdiction refers to the court's "authority, however derived, to hear and determine a dispute that is brought before it" and the powers of a court refer to "its capacity to give effect to its determination by making or granting the orders or reliefs sought by the successful party to the dispute" (*Muhd Munir* at [19], as adopted by the Court of Appeal in *Re Nalpon Zero* at [31]). In other words, it is only after the court's jurisdiction to hear and determine a matter is established that the court is conferred the powers to give effect to its determination by granting the orders or reliefs sought (*Re Nalpon Zero* at [45]).

38 In *Re Nalpon Zero*, the Court of Appeal explained that the term "inherent" simply refers to the *source* of the jurisdiction and power, this source being the fact that the High Court and Court of Appeal are superior courts of law (*Re Nalpon Zero* at [33]). The Court of Appeal held that the inherent jurisdiction of the court was no more than the exercise by the court of its fund of powers conferred by virtue of its institutional role to dispense justice, rather than an inherent "authority" to hear and determine a matter (at [34]). Two reasons were offered for this:

(a) First, the "inherent jurisdiction" of the court had been described in academic literature in terms of the powers that the court could exercise (*Re Nalpon Zero* at [35]).

(b) Second, "inherent jurisdiction" as used in local jurisprudence referred to the exercise of an inherent power (*Re Nalpon Zero* at [36]–[40]). *Lee Tat* was characterised as the court re-examining a matter that it originally had jurisdiction to hear and such re-examination should be

viewed as a continuation of the earlier proceedings rather than invoking jurisdiction afresh over the matter (*Re Nalpon Zero* at [36]):

> 36 Second, we also note that the Singapore cases which have used the phrase "inherent jurisdiction" are in fact referring to the exercise of an inherent power. For example, in *MCST Plan No 301 v Lee Tat Development Pte Ltd* [2011] 1 SLR 998, this court held that it had the "inherent jurisdiction" to reopen and rehear an issue that it had decided in breach of natural justice as well as to set aside the whole or part of its earlier decision founded on that issue. In law, this was no more than an instance of a court re-examining a matter that it originally had jurisdiction to hear. It can be viewed as a continuation of the earlier proceedings. Therefore, since it was already seized of the jurisdiction required to determine the dispute, it would be inaccurate to state that the court had to invoke an inherent "jurisdiction" to give the authority to determine the dispute. In fact, what the court had to do was to invoke an inherent "power" to reopen and rehear the issue, since such a power was not provided for statutorily.

39 The court's inherent jurisdiction to rehear and set aside a decision made in breach of natural justice was therefore clarified as an inherent "power" to reopen and rehear a matter which the court was already seized of the jurisdiction to hear (see *Re Nalpon Zero* at [36]). The implication is that the Appellate Division may exercise its inherent jurisdiction to rehear an issue or decision made in breach of natural justice only where it had jurisdiction in the first place to hear that matter.

40 It follows therefore that for inherent jurisdiction to be engaged, the decision sought to be set aside for breach of natural justice must be a decision which the Appellate Division had jurisdiction to hear and determine in the first place. In that situation, the Appellate Division would not be *functus officio* as its jurisdiction would not have been exhausted (*Lee Tat* at [55]), paving the way for the exercise of its inherent jurisdiction, or more accurately, its inherent power to rehear the matter. Therefore, for the Appellate Division's inherent

jurisdiction to be engaged, the breach of natural justice must be in relation to a decision it made in the exercise of its jurisdiction, *ie*, it was a breach of natural justice in relation to one of its own decisions. With this in mind, we turn to consider the Appellate Division's jurisdiction to hear OA 3.

The Appellate Division did not have jurisdiction to hear OA 3

41 In our view, the Appellate Division had no jurisdiction to determine OA 3 because we had no jurisdiction to set aside (a) the DCA Judgment, and (b) the PTA Decision.

Lack of jurisdiction to set aside the DCA Judgment

42 We were of the view that the Appellate Division did not have jurisdiction to set aside the DCA Judgment. The application to set aside the DCA Judgment did not fall within the statutory civil jurisdiction of the Appellate Division as set out in s 35 of the SCJA. Further, the Appellate Division's inherent jurisdiction, as understood above, was not engaged as the alleged breach of natural justice related to a decision of the General Division and not a decision of the Appellate Division.

43 First, the application to set aside the DCA Judgment was plainly not an "appeal" under s 35(2)(*a*) of the SCJA. The Appellate Division had already refused the Husband's application in OA 12 for permission to appeal in the PTA Decision. The question of whether apparent bias was made out was a question which had not been addressed by the General Division because it was not raised below. It was only made for the first time before us in OA 3. The Husband's prayer for the Appellate Division to set aside the DCA Judgment did not therefore engage the court's appellate jurisdiction. Instead, it was in substance

an attempt to invoke the court's original jurisdiction, but the Appellate Division plainly did *not* have such original jurisdiction.

44 This analysis was supported by the Court of Appeal's decision in *Prometheus Marine Pte Ltd v King, Ann Rita and another appeal* [2018] 1 SLR 1 ("*Prometheus Marine*"). The appellant there sought to set aside an arbitral award. The application was dismissed by the High Court. The appellant appealed against the decision and filed two summonses seeking to set aside the decision on the ground of apparent bias (at [1]–[2]). The Court of Appeal held that the summonses were an attempt to invoke the jurisdiction of the Court of Appeal without going through the appellate process. As the Court of Appeal did not have original jurisdiction to make a finding that the High Court decision was infected by apparent bias (and to set the decision aside on that basis), the summonses were dismissed as an abuse of the process of the court (at [33]–[35]).

45 The analysis in *Prometheus Marine* was directly applicable in the present case as the Appellate Division did not possess original jurisdiction to determine whether the Judge's decision was infected by a breach of natural justice. OA 3, in so far as it sought to set aside the DCA Judgment, plainly could not fall within the first limb of the Appellate Division's civil jurisdiction under s 35(2)(*a*) of the SCJA.

46 Second, the application to set aside the DCA Judgment similarly was not a process which any written law provided was to lie, or was to be transferred in accordance with any written law, to the Appellate Division under s 35(2)(*b*) of the SCJA. The application thus did not fall within either limb of the civil jurisdiction of the Appellate Division under s 35(2) of the SCJA.

47 Third, the Appellate Division did not have inherent jurisdiction to hear an application to set aside the DCA Judgment for two reasons.

(a) First, there was no decision of the Appellate Division that was tainted by breach of natural justice. The breach of natural justice was alleged in relation to the DCA Judgment, and not the PTA Decision. The Husband's allegation was that it was the Judge, and not the Appellate Division, that had breached natural justice in arriving at his decision. Thus, under *Lee Tat*¸ the Appellate Division had no inherent jurisdiction to set aside a decision *which it had not made*.

(b) Second, the Appellate Division only had inherent power to rehear a matter which it had jurisdiction to hear in the first place. For the reasons stated above, the Appellate Division did not have original or appellate jurisdiction to hear an application to set aside the DCA Judgment on the ground of breach of natural justice. Thus, the Appellate Division's inherent jurisdiction did not arise under *Lee Tat*.

48 We turn next to address the question of whether the Appellate Division had jurisdiction to set aside the PTA Decision.

Lack of jurisdiction to set aside the PTA Decision

49 We were also of the view that the Appellate Division did not have jurisdiction to set aside the PTA Decision. An application to set aside the PTA Decision was not an appeal and did not lie to the Appellate Division under any written law. Therefore, the application to set aside the PTA Decision did not fall under the statutory civil jurisdiction of the Appellate Division under s 35(2) of the SCJA.

50 The Appellate Division's inherent jurisdiction was also not engaged as there was no breach of natural justice alleged in arriving at the PTA Decision. The Husband's allegation was that the PTA Decision should be set aside because it considered the DCA Judgment. The allegation was that there was a breach of natural justice in the determination of the DCA Judgment, *and not the PTA Decision*. The allegation of breach of natural justice was an attempt to impugn the DCA Judgment, and not the PTA Decision. Therefore, there was no basis for the Appellate Division to reopen and rehear the PTA Decision under *Lee Tat*.

Conclusion

51 For the foregoing reasons, we summarily dismissed OA 3 without hearing oral arguments, on the basis that the Appellate Division did not have jurisdiction to hear and determine OA 3, pursuant to s 38(1)(*a*) of the SCJA. As this determination was dispositive of OA 3, we did not consider the applicability of s 38(1)(*b*) of the SCJA. We made no order as to costs in relation to the show cause proceedings and OA 3. The usual consequential orders applied.

Kannan Ramesh
Judge of the Appellate Division

See Kee Oon
Judge of the Appellate Division

Rai Vijay Kumar, Andrew Ohara and Jasleen Kaur (Arbiters Inc Law Corporation) for the applicant;
Seenivasan Lalita (Virginia Quek Lalita & Partners) for the respondent.