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

[2025] SGHC 123

Bankruptcy No 2246 of 2019 (Summons No 3381 of 2024)

In the matter of the Bankruptcy Act (Cap 20, 2009 Rev Ed)

And

In the matter of Goh Teh Lee

Between

(1) Tan & Au LLP
(2) Tan Beng Hui Carolyn

… *Plaintiffs*

And

Goh Teh Lee

… *Defendant*

And

Official Assignee

… *Official Assignee*

JUDGMENT

[Insolvency Law — Bankruptcy — Official Assignee's certificate reducing the monthly contribution and target contribution under s 86D of the Bankruptcy Act — Whether Official Assignee can issue a new certificate in

replacement of an earlier certificate — Whether certificate should be varied under s 86E of the Bankruptcy Act — Standard of review]

Version No 1: 02 Jul 2025 (14:17 hrs)

TABLE OF CONTENTS

BACKGROUND 2

HEARINGS BEFORE THE COURT ON 7 FEBRUARY AND 14 APRIL 2025 6

PARTIES' ARGUMENTS IN SUM 3381 7

ISSUES TO BE CONSIDERED 8

WHETHER THE OA CAN ISSUE A CERTIFICATE IN REPLACEMENT OF AN EARLIER CERTIFICATE ISSUED UNDER S 86D(1) OF THE BA 9

WHETHER SUM 3381 WAS FILED OUT OF TIME 10

WHETHER TIME SHOULD BE EXTENDED FOR MR GOH TO MAKE AN APPLICATION UNDER S 86E(1) OF THE BA 11

APPLICABLE STANDARD OF REVIEW UNDER S 86E OF THE BA 14

WHETHER THE 2/10/23 CERTIFICATE SHOULD BE VARIED 15

CONCLUSION 21

Version No 1: 02 Jul 2025 (14:17 hrs)

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Re Goh Teh Lee

[2025] SGHC 123

General Division of the High Court — Bankruptcy No 2246 of 2019
(Summons No 3381 of 2024)
Audrey Lim J
7 February, 14 April, 26 May, 4 June 2025

1 July 2025 Judgment reserved.

Audrey Lim J:

1 On 2 October 2023, the Official Assignee ("OA") issued Mr Goh Teh Lee ("Mr Goh"), a bankrupt, a certificate reducing his monthly contribution ("MC") and target contribution ("TC") to $100 and $5,200 respectively, pursuant to s 86D(1) of the Bankruptcy Act (Cap 20, 2009 Rev Ed) ("BA"). On 12 October 2023, the OA issued Mr Goh a new certificate stating that his MC was reduced to $100 from October 2023 to July 2026 and his TC was reduced to $12,040, with a letter explaining that the 2 October 2023 certificate was erroneous and should be disregarded. Mr Goh applied in HC/SUM 3381/2024 ("SUM 3381") to reduce the MC and TC, decided by the OA in its 12 October 2023 certificate.

2 This case raises the issues of whether the OA can issue another certificate to replace an earlier certificate issued under s 86D(1) of the BA, and what the applicable standard of review should be when the court reviews the OA's decision to issue a certificate under s 86D(1).

Background

3 Mr Goh is presently 68 years old. On 23 August 2021, he was made a bankrupt, and the OA was appointed the trustee in bankruptcy of his estate.

4 On 16 February 2022, the OA issued Mr Goh a Notice of Determination of MC and TC pursuant to s 86A(1)(*b*) of the BA. The notice set the MC and TC at $480 and $24,960 respectively, and required Mr Goh to pay the MC for 52 months starting from 1 March 2022.

5 On 8 March 2022, Mr Goh filed HC/SUM 926/2022 ("SUM 926") to reduce the MC and TC to $1 and $52 respectively. SUM 926 was dismissed on 5 May 2022. The court in SUM 926 found that the evidence did not indicate that Mr Goh had no earning capacity.[1] In those proceedings, the OA had emphasised Mr Goh's educational qualifications (being a degree-holder), work experience (having been a director of two companies, a partner and manager of two limited liability partnerships, and the owner and manager of three businesses), and his earned income prior to his bankruptcy (of about $3,250 and $13,115 in 2020 and 2021 respectively).[2]

6 On 29 August 2023, Mr Goh wrote to the OA with information and documents to show his medical conditions and support his inability to secure employment:[3]

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1 SUM 926 Minute Sheet dated 5 May 2022.

2 OA's Explanation of Basis of Determination of MC and TC dated 27 November 2024 ("27/11/24 OA Explanation") at pp 13–16.

3 OA's Written Submissions dated 27 January 2025 ("1st OAWS") at [3]; 27/11/24 OA Explanation at [4] and pp 47–67.

Version No 1: 02 Jul 2025 (14:17 hrs)

(a) Mr Goh exhibited his Central Provident Fund ("CPF") Transaction History Statement and his Inland Revenue of Singapore Notice of Assessment of Income Tax to show he had no income. He claimed that he had attended job fairs in May and June 2022 but was ineligible for the jobs advertised by various companies as they required employees to be vaccinated against COVID-19 but he was not.

(b) Mr Goh listed a series of medical problems such as hypertension, diabetes, high cholesterol, a urinary condition and various vision-related issues. In particular, he produced a medical memorandum which stated that he had "bilateral eyes blurring of vision since August 2022" and was undergoing treatment at the Singapore National Eye Centre, and that the impaired vision would cause some difficulty with working.

7 The OA reviewed Mr Goh's submissions and assessed that his unvaccinated status was a personal choice and not a valid justification for his inability to secure employment. The OA also assessed that while it was relevant that Mr Goh's impaired vision, taken with his age and other medical conditions, might cause some difficulty with finding a job, this did not necessarily mean that he was completely unemployable.[4]

8 That said, the OA was satisfied that the condition in s 86D(2)(*c*) of the BA was met, *viz*, the bankrupt is unable to pay the MC in full due to personal circumstances such as a debilitating illness which resulted in substantial reduction in income that is not likely to be transient in nature. The OA thus reduced Mr Goh's MC to $100 and TC to $5,200, pursuant to s 86D(1) of the BA. Based on the OA's calculations, Mr Goh's estimated net income would be

[4] 27/11/24 OA Explanation at [6].

Version No 1: 02 Jul 2025 (14:17 hrs)

lower than the deductibles allowed by the OA. However, as the OA has a standing policy that the MC should be no less than $100, Mr Goh's MC was reduced to the nominal sum of $100.[5] The OA stated that the MC was reduced on account of Mr Goh having no employment or income, and his medical conditions would make it difficult, but not completely impossible, for him to find a job.[6]

9 Hence, on 2 October 2023, the OA issued Mr Goh a Certificate of Reduction of MC and TC under s 86D(1) of the BA, which stated that the MC and TC were reduced to $100 and $5,200 respectively and that the "reduction … [took] effect on 2 October 2023" ("2/10/23 Certificate"). The 2/10/23 Certificate further stated that Mr Goh had "produced evidence that his impaired vision will cause difficulty in his employment".[7] Pursuant to s 86D(3) of the BA, the 2/10/23 Certificate took effect on the date it was issued.

10 On 9 October 2023, Mr Goh submitted various queries to the OA.[8] The OA then discovered that the TC of $5,200 stated in the 2/10/23 Certificate was erroneously calculated. As s 86D(3) of the BA only provides for a prospective reduction of the MC, Mr Goh was obliged to pay the MC of $480 from March 2022 to September 2023. The reduced MC of $100 would only apply from October 2023 to June 2026 (being the 52nd month of the repayment plan). Hence, the TC should not have been computed as $100 x 52 months.[9]

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5 27/11/24 OA Explanation at [7]–[9].

6 1st OAWS at [3].

7 27/11/24 OA Explanation at [9] and Exhibit LYJ-3.

8 Mr Goh's 1st affidavit dated 15 November 2024 ("Mr Goh's 1st Affidavit") at [3]–[4].

9 27/11/24 OA Explanation at [10]–[11].

Version No 1: 02 Jul 2025 (14:17 hrs)

11 Consequently, the OA issued Mr Goh a new Certificate of Reduction of MC and TC under s 86D(1) of the BA on 12 October 2023 ("12/10/23 Certificate"), which stated that the MC had been reduced to $100 from October 2023 to July 2026, and the TC had been reduced to $12,040. The OA enclosed the 12/10/23 Certificate in a letter dated 12 October 2023 ("12/10/23 Letter") sent to Mr Goh via registered post on 13 October 2023. In the 12/10/23 Letter, the OA stated that: (a) there was an error in the computation of the TC in the 2/10/23 Certificate and Mr Goh should disregard that certificate; (b) the reduced MC of $100 could not be applied retrospectively under s 86D of the BA; and (c) the TC of $12,040 comprised $480 x 18 months and $100 x 34 months.[10]

12 Mr Goh subsequently liaised with the OA. This resulted in the OA writing various letters, including the following:[11]

(a) On 15 November 2023, the OA reiterated to Mr Goh that his TC had been revised to $12,040 and informed him to disregard the 2/10/23 Certificate.

(b) On 13 May 2024, the OA informed Mr Goh that its position on the revised MC and TC remained unchanged.

(c) On 6 June 2024, the OA reiterated to Mr Goh that after the 12/10/23 Certificate: (i) his MC would be $480 from March 2022 to September 2023, and $100 from October 2023 to July 2026; and (ii) the TC would be $12,040 (comprising $480 x 18 months and $100 x 34 months).

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10 27/11/24 OA Explanation at [12] and Exhibit LYJ-4.

11 27/11/24 OA Explanation at [13] and Exhibit LYJ-5.

Version No 1: 02 Jul 2025 (14:17 hrs)

13 On 15 November 2024, Mr Goh filed SUM 3381 to reduce his MC and TC from the amounts stated in the 12/10/23 Certificate to $20 and $1,040 respectively, or to such other amounts as the court deems fit.

Hearings before the court on 7 February and 14 April 2025

14 At the first hearing on 7 February 2025, I informed the OA, and the OA accepted, that based on the OA's decision to reduce the MC to $100 from October 2023 onwards, the 12/10/23 Certificate contained the following calculation errors:

(a) the number of months in which the MC was $480, from March 2022 to September 2023, should be 19 (and not 18) months;

(b) the number of months in which the MC is to be $100 should be 33 (and not 34) months;

(c) the TC payable at the end of the 52-month period should be $12,420 (and not $12,040); and

(d) the 52-month period commencing in March 2022 should end in June (and not July) 2026.

15 The OA then requested for an adjournment to take appropriate steps to correct the errors. On 5 March 2025, the OA filed HC/SUM 604/2025 ("SUM 604") under s 31(1A) of the BA to declare void the 12/10/23 Certificate and to modify the 2/10/23 Certificate such that the TC is to be amended to $12,420.

16 At the next hearing on 14 April 2025, and in subsequent letters to the court, Mr Goh claimed that SUM 604 was not served on him and he did not

Version No 1: 02 Jul 2025 (14:17 hrs)

have an opportunity to file an affidavit in reply.[12] However, the OA claimed that it delivered the papers for SUM 604 to Mr Goh's residential address by post on 5 March 2025 (the day SUM 604 was filed). It was only on 1 April 2025 that Mr Goh notified the court that he had changed his residential address.[13] Nevertheless, I directed the OA to re-serve the papers for SUM 604 on Mr Goh and gave him an opportunity to file an affidavit in reply.[14] In subsequent letters to the court and the OA, Mr Goh maintained that the papers for SUM 604 were still not properly served on him.[15] The OA, however, has attested to having re-served the papers for SUM 604 on Mr Goh via registered post and by leaving a copy at the main door of Mr Goh's new residential address.[16] On 27 May 2025, the OA sought the court's permission to withdraw SUM 604, which I granted. Thus, there is no need for me to deal with SUM 604 which, in any event, would not have made a difference to my decision in SUM 3381.

Parties' arguments in SUM 3381

17 Mr Goh's arguments can broadly be categorised as follows:

(a) The 12/10/23 Certificate is erroneous and should be disregarded. The 2/10/23 Certificate is the correct certificate, in that the TC should be $5,200 (*ie*, $100 x 52 months). The OA had failed to explain how

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12 Minute Sheet dated 14 April 2025 ("14/4/25 Minute Sheet"); Mr Goh's letters to court dated 21 and 29 April 2025.

13 14/4/25 Minute Sheet; Mr Goh's letter to the court dated 1 April 2025; OA's affidavit dated 4 June 2025 (by Ms Angela Lee) at [8].

14 Correspondence from court dated 2 May 2025.

15 Mr Goh's letters dated 6, 14 and 16 May 2025.

16 OA's affidavit dated 4 June 2025 (by Ms Angela Lee) at [17]–[18]; OA's affidavit dated 4 June 2025 (by Ms Kala Selvi d/o S Rengasamy) at [6]–[7].

Version No 1: 02 Jul 2025 (14:17 hrs)

there was an error in the 2/10/23 Certificate which led to the issuance of the 12/10/23 Certificate.

(b) In any event, he is unable to pay the MC of $100 because of his unemployment and medical conditions, and he only receives a small monthly payout from his CPF retirement account. The OA had failed to take these into account when deciding on his MC.

(c) The OA had repeatedly failed to answer his questions, and its officers had treated him improperly.

(d) After the first hearing on 7 February 2025, Mr Goh further argued that there was no provision under s 86D of the BA for the OA to issue a second certificate (*viz*, the 12/10/23 Certificate) after it had issued the first certificate under the same provision (*viz*, the 2/10/23 Certificate). A revised certificate could only be issued under s 86E, when the court reviews the OA's decision made under s 86D(1) and varies that decision.[17]

18 The OA argued that Mr Goh's application, being a review of the OA's decision under s 86D of the BA, was filed out of time and was, in any event, without merit.

Issues to be considered

19 SUM 3381 presents the following issues:

(a) whether the OA can issue a certificate in replacement of an earlier certificate issued under s 86D(1) of the BA;

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17 Mr Goh's Further Written Submissions dated 14 February 2025 at [9].

Version No 1: 02 Jul 2025 (14:17 hrs)

(b) whether Mr Goh's application in SUM 3381 was filed out of time and, if so, whether the court should grant Mr Goh an extension of time to make the application;

(c) what is the applicable standard of review when the court reviews the OA's decision under s 86D(1) of the BA; and

(d) whether the OA's certificate issued under s 86D(1) of the BA should be varied.

Whether the OA can issue a certificate in replacement of an earlier certificate issued under s 86D(1) of the BA

20 Section 86D(1) of the BA empowers the OA, on a bankrupt's application, to issue a certificate reducing the bankrupt's MC and TC, if it is satisfied that one or more of the conditions described in s 86D(2) arose after its determination of the MC and TC.

21 In my view, the OA may issue another certificate under s 86D(1) of the BA if: (a) there is a new application by the bankrupt; (b) there are new circumstances arising after the issuance of the previous certificate which satisfy one or more of the conditions in s 86D(2) of the BA; and (c) the other certificate reduces the bankrupt's MC and TC stated in the previous certificate. In the present case, the OA issued the 12/10/23 Certificate shortly after the 2/10/23 Certificate. However, there were no new circumstances arising after the issuance of the 2/10/23 Certificate which satisfied one or more of the conditions in s 86D(2) of the BA. The 12/10/23 Certificate also did not reduce Goh's TC but instead increased it. As such, I find that the OA was in error in issuing the 12/10/23 Certificate and the certificate is thus invalid. The 2/10/23 Certificate remains the operative certificate for the purposes of this case.

Version No 1: 02 Jul 2025 (14:17 hrs)

22 Where the OA makes a mistake which it wishes to correct, it can apply to the court under s 31(1A) of the BA to reverse or modify its previous act or decision. This was the course the OA subsequently sought to take in filing SUM 604 to modify its 2/10/23 Certificate. Although the OA later withdrew SUM 604, I resolve the matter by relying on my powers under s 86E of the BA instead. In any case, the relevant considerations in exercising my powers under s 31(1A) of the BA, in relation to the OA's decisions under s 86D, are the same as those pertaining to the exercise of my powers under s 86E.

Whether SUM 3381 was filed out of time

23 Mr Goh seeks to reduce his MC and TC as stated in the 12/10/23 Certificate. However, as I found the 12/10/23 Certificate to be invalid, I will address SUM 3381 in relation to the 2/10/23 Certificate (and address the 12/10/23 Certificate where necessary). In any event, the MC of $20 and TC of $1,040 which Mr Goh seeks are still lower than the quantum stated in the 2/10/23 Certificate.

24 Although Mr Goh did not specify the provision in the BA he is relying on, this is clearly an application under s 86E(1) of the BA because it seeks to review the OA's decision under s 86D(1) to reduce the MC and TC.

25 I agree with the OA that Mr Goh had filed SUM 3381 out of time.

26 Section 86E(1) of the BA provides that an application to review the OA's decision to reduce the MC and TC under s 86D(1) must be made within 21 days after service of the notice of the issue of the certificate under s 86D(5). In the present case, the relevant date of service is the date on which the 2/10/23 Certificate was delivered to Mr Goh (see *Mirmohammadali Hadian v Ambika d/o Ramachandran (Official Assignee, non-party*) [2023] 5 SLR 1153

Version No 1: 02 Jul 2025 (14:17 hrs)

("*Mirmohammadali*") at [15], albeit dealing with s 340(1) of the Insolvency, Restructuring and Dissolution Act 2018 (2020 Rev Ed) ("IRDA")). However, I consider also the relevant date of service being the later date the 12/10/23 Certificate was delivered to Mr Goh, because the OA had at the material time acted on that certificate as being a valid certificate (and even informed Mr Goh to disregard the 2/10/23 Certificate).

27 It is undisputed that Mr Goh received the 2/10/23 Certificate on or shortly after 2 October 2023, and certainly before 9 October 2023 when he wrote to the OA with queries regarding the 2/10/23 Certificate.[18] SUM 3381 was clearly filed way out of time. Even if Mr Goh were to rely on the 12/10/23 Certificate, SUM 3381 would have been filed way out of time. Whilst the OA was unable to prove that the 12/10/23 Certificate enclosed in the 12/10/23 Letter was delivered to Mr Goh's residential address on 13 October 2023 (see [11] above), Mr Goh was aware of the 12/10/23 Certificate by 3 November 2023, as he attended the OA's office on that date to enquire about that certificate.[19] Even taking the later date of 3 November 2023, the deadline for Mr Goh to file his application for review would have been 24 November 2023.

Whether time should be extended for Mr Goh to make an application under s 86E(1) of the BA

28 Mr Goh did not apply to extend the time for making the application in SUM 3381 or argue that the court should exercise its discretion under s 86E(2) of the BA to extend the time for him to make an application under s 86E(1). Nevertheless, I consider whether I should exercise my discretion to do so.

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18 Mr Goh's 1st Affidavit at [2]–[3].

19 1st OAWS at [9]–[10]; Mr Goh's 2nd affidavit dated 10 January 2025 ("Mr Goh's 2nd Affidavit") at [9].

Version No 1: 02 Jul 2025 (14:17 hrs)

Section 86E(2) of the BA provides that the court may extend the period for the making of an application under s 86E(1) if the court is satisfied that it is just to do so.

29 The relevant factors that guide the court in determining whether an extension of time should be granted are well established, namely: (a) the length of the delay; (b) the reasons for the delay; (c) the merits of the intended proceedings; and (d) the prejudice to the other party if the extension of time were granted. The court takes into consideration the facts and circumstances of each case to achieve a fair and just outcome.

30 I have found that there was inordinate delay in the filing of SUM 3381 (see [27] above). Mr Goh has also not furnished any satisfactory reason for the delay.

31 Mr Goh highlights that he is a not a lawyer and that as a bankrupt he has no means to engage a lawyer to advise him. He also claims that the OA has a duty to assist a bankrupt by informing him of the 21-day deadline to file an application to review the OA's decision, so that he could make an informed decision on how to proceed.[20] I find no basis for imposing such a duty on the OA. In fact, in a letter dated 24 May 2023, the OA had informed Mr Goh that it was unable to provide legal advice and told him that he may wish to seek independent legal advice by approaching the Legal Aid Bureau. In its letter dated 6 June 2024, the OA again informed Mr Goh that it was unable to provide him with legal advice pertaining to the interpretation of the statutory provisions

[20] Mr Goh's 2nd Affidavit at [14].

Version No 1: 02 Jul 2025 (14:17 hrs)

dealing with the MC and TC as the OA was trustee for Mr Goh's creditors, and that he may consider applying for legal aid with the Legal Aid Bureau.[21]

32 Mr Goh also claims that his vision was poor prior to his cataract operation in December 2023 and thus he was unable to file an application to review the 2/10/23 Certificate or 12/10/23 Certificate within the statutory deadline.[22] I agree with the OA that there is no logical correlation between Mr Goh's poor vision and his inability to comply with the statutory deadline. Even if it were true that his eyesight only improved after the cataract operation in December 2023, he did not file SUM 3381 until 15 November 2024, which was a lapse of over 10 months.[23] Indeed, contrary to his claim that his vision impeded his ability to challenge the OA's decision on his MC and TC, the evidence shows that Mr Goh was capable of engaging in extended correspondence with the OA before and after the 2/10/23 Certificate and 12/10/23 Certificate were issued, having written to the OA on 29 August 2023, in October 2023 and on 25 April 2024.[24]

33 That said, although there was inordinate delay in the filing of SUM 3381 and Mr Goh has failed to furnish satisfactory reasons for the delay, I exercise my discretion under s 86E(2) of the BA to extend the time for him to make his application. I find there is merit to his application which warrants the court's intervention, which I will elaborate on below. The OA accepts that both the 2/10/23 Certificate and 12/10/23 Certificate were erroneous and that the 2/10/23

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21 27/11/24 OA Explanation at pp 74–75 and 125–126

22 Mr Goh's 2nd Affidavit at [14].

23 1st OAWS at [19].

24 27/11/24 OA Explanation at pp 48–49 and 83–85; Mr Goh's 1st Affidavit at [3]–[4].

Version No 1: 02 Jul 2025 (14:17 hrs)

Certificate requires rectification.[25] Ultimately, the overall picture that emerges from this case shows that justice and fairness demand that an extension of time be given (*Sunpower Semiconductor Ltd v Powercom Yuraku Pte Ltd* [2023] SGHC(A) 14 at [1]).

Applicable standard of review under s 86E of the BA

34 I turn first to the applicable standard of review under s 86E of the BA when the court reviews the OA's decision under s 86D(1).

35 In *Mirmohammadali*, the High Court (at [23]–[25]) held that the standard of review in an application under s 340(1) of the IRDA to review the OA's determination of the MC and TC is the perversity standard. The question is whether the OA's decision was so absurd that no OA properly advised or properly instructing himself could have so acted. Section 340(1) of the IRDA replaced s 86B(1) of the BA but the provisions are *in pari materia*.

36 In my view, the test in *Mirmohammadali* applies equally to an application under s 86E(1) of the BA. Sections 86B(1) and 86E(1) of the BA serve a similar function, *viz*, to provide a statutory mechanism for the court to review the OA's decision in relation to the MC and TC, albeit they relate to the OA's decision at different stages. An application under s 86B(1) is to review the OA's first determination of the MC and TC under s 86A(1), whereas an application under s 86E(1) is to review the OA's decision to reduce the MC and TC under s 86D(1). The overarching principle is that the OA should be allowed to do his job without constantly looking over the shoulder to wonder if some complaint would be made (*Mirmohammadali* at [27]).

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[25] 14/4/25 Minute Sheet.

Version No 1: 02 Jul 2025 (14:17 hrs)

37 Thus, the key considerations in an application under s 86E(1) of the BA to review the OA's decision under s 86D(1) are: (a) whether the OA has satisfied itself that one or more of the conditions in s 86D(2) have been met; and (b) if so, whether the OA's decision under s 86D(1) was so absurd that no OA properly advised or properly instructing himself could have so acted.

Whether the 2/10/23 Certificate should be varied

38 Having considered the matter, I am satisfied that there are good reasons to vary the 2/10/23 Certificate. While I do not accept some of Mr Goh's arguments in support of his application and do not agree that the MC and TC should be reduced to $20 and $1,040 respectively, I am also of the view that the OA's decision to vary the MC to $100 (from October 2023 onwards) and the TC to $12,420 would be perverse on the facts of this case. I elaborate.

39 First, Mr Goh argues that the OA had failed to consider his lack of income when reducing the MC to $100, and this was contrary to ss 2(1) and 86A(2)(*a*) of the BA.[26] His argument suffers on two counts. The OA's decision to reduce the MC to $100 was made pursuant to s 86D (and not s 86A) of the BA. Additionally, the OA's determination under s 86A had been the subject of Mr Goh's previous application in SUM 926 to review that determination under s 86B, and SUM 926 was already dismissed in 2022 (see [4]–[5] above).

40 Second, Mr Goh argues that the TC of $5,200 stated in the 2/10/23 Certificate, being the MC of $100 x 52 weeks *starting from March 2022*, was correct. In essence, he argues that there cannot be two different MC rates (*viz*, $480 before the 2/10/23 Certificate was issued and $100 after the 2/10/23

[26] Mr Goh's 1st Affidavit at [7]–[13].

Version No 1: 02 Jul 2025 (14:17 hrs)

Certificate was issued) as this was contrary to the definition of "monthly contribution" and "target contribution" in s 2(1) of the BA.[27]

41 I disagree with Mr Goh that there cannot be two different MC rates. Section 86D(3) of the BA stipulates that a certificate (reducing a bankrupt's MC and TC) issued under s 86D(1) takes effect on the date it is issued. In other words, where the OA reduces the MC pursuant to s 86D(1), the reduced MC would only apply prospectively. Section 86D(4) further states that the certificate does not affect any payments made by the bankrupt in respect of the MC or TC before the date of the issue of that certificate. The legislation thus contemplates that the MC and TC rates can differ, as s 2(1) of the BA defines "monthly contribution" and "target contribution" with reference to both the original amount as determined by the OA under s 86A as well as any amount varied or reduced by the court or the OA. Section 86E(5), which empowers the court to order that its variation of the OA's certificate issued under s 86D(1) is to take effect from a date other than the date of issue of the certificate, also supports that there can be multiple MC rates pertaining to the same bankruptcy, thereby affecting the computation of the TC.

42 Hence, assuming the MC is reduced to $100 from October 2023, the 2/10/23 Certificate should have stated the TC as $12,420 instead. I thus disagree with Mr Goh that the 2/10/23 Certificate correctly reflected the TC as $5,200 (being the MC of $100 x 52 months). As for whether the reduced MC of $100 and TC of $12,420 are defensible, I will return to this point later.

43 Third, Mr Goh asserts that the 12/10/23 Letter accompanying the 12/10/23 Certificate did not explain how the error arose in the 2/10/23

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[27] Mr Goh's 1st Affidavit at [12]–[14]; Mr Goh's 2nd Affidavit at [4].

Version No 1: 02 Jul 2025 (14:17 hrs)

Certificate, and that the OA had forced him to accept the purported error. He claims that the 12/10/23 Certificate was issued to "punish and bully [him] for posting too many questions" to the OA.[28] I find Mr Goh's complaints as to the OA's conduct to be without merit and irrelevant to my assessment of whether the OA's decision under s 86D(1) was perverse. I elaborate.

44 Mr Goh's aspersions as to the OA's motivations for issuing the 12/10/23 Certificate in replacement of the 2/10/23 Certificate were unfounded and without basis. Contrary to Mr Goh's assertion that the OA did not explain how the error arose in the 2/10/23 Certificate, the OA had, in its 12/10/23 Letter: (a) reiterated to him that the reduction of the MC from $480 to $100 was with effect from October 2023 onwards; and (b) explained that a reduction of the MC under s 86D of the BA could not be applied retrospectively.

45 Mr Goh's assertions that the OA had repeatedly failed to answer his queries and that its officers had treated him improperly were also baseless.

46 For instance, Mr Goh provided no evidence to support his assertion that the OA's representative, Mr Lim Yew Jin ("Mr Lim"), had not reported Mr Goh's income truthfully and had integrity issues.[29] On the contrary, Mr Lim had prepared two documents entitled "Explanation of Basis of Determination of [MC] and [TC]" on 15 March 2022 and 27 November 2024 in respect of Mr Goh's applications under SUM 926 and SUM 3381 respectively, and explained in them how the OA came to determine the MC and TC with reference to Mr Goh's income at the material time. For SUM 926, Mr Lim explained that the OA had considered Mr Goh's earned income in the relevant period (*ie*, in 2020

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28 Mr Goh's 2nd Affidavit at [7] and [13].

29 Mr Goh's 2nd Affidavit at [2]–[3].

Version No 1: 02 Jul 2025 (14:17 hrs)

and 2021) when first determining the MC and TC under s 86A(1) of the BA in February 2022 (see [5] above). For SUM 3381, Mr Lim objectively reported that Mr Goh did not seem to have a monthly income at the time of the OA's decision under s 86D(1) in 2023 (see [8] above).

47 As for Mr Goh's assertion that the OA's officers have repeatedly failed to answer his questions, such as "[w]here do I get the $100.00 or $480.00 per month to pay the OA?",[30] the OA is under no duty to advise a bankrupt on how to pay his MC. In any event, the evidence shows that the OA gave constructive suggestions. In its letter dated 24 May 2023, the OA informed Mr Goh that he could "make payments of varying amounts based on [his] financial circumstances during [his] period in bankruptcy". This was repeated in the OA's letter to Mr Goh dated 15 November 2023.[31] Indeed, in its letter dated 13 May 2024, the OA listed the various instances it had addressed this question.[32] Mr Goh also claims to have asked the OA how he was to interpret the MC of $100. In my view, this had been explained in the 12/10/23 Letter and reiterated in the OA's 6 June 2024 letter, albeit with computational errors.[33]

48 I turn finally to the OA's standing policy that the MC should be no less than $100.

49 Mr Goh claims that, in reducing the MC to $100, the OA's standing policy that the MC should be no less than $100 was never conveyed to him and

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30 Mr Goh's 2nd Affidavit at [9].

31 27/11/24 OA Explanation at pp 74 and 81.

32 27/11/24 OA Explanation at p 86.

33 Mr Goh's 2nd Affidavit at [10]; 27/11/24 OA Explanation at pp 71 and 125.

Version No 1: 02 Jul 2025 (14:17 hrs)

that this policy was not found in the BA.[34] This argument is misconceived. Under ss 86A and 86D of the BA, the OA has discretion in determining or reducing the MC and TC, so long as the OA complies with the mandatory requirements set out therein (*eg*, s 86A(2) and s 86D(2)). In exercising this discretion, it is permissible for the OA to rely on a policy so long as it does not fetter its discretion by adhering too strictly to the policy (*Axis Law Corp v Intellectual Property Office of Singapore* [2016] 4 SLR 554 at [67]). As the Court of Appeal in *JD Ltd v Comptroller of Income Tax* [2006] 1 SLR(R) 484 stated (at [50]), the adoption of a general policy is perfectly valid provided the decision is not so outrageous in its defiance of logic or accepted moral standards that no sensible person who applied his mind to the question to be decided could have arrived at it or that no reasonable person could have come to such a view. This qualification operates much the same as the perversity standard. The OA is also not obliged to engage with a bankrupt or consult him in the course of making its determination or decision of the MC and TC (*Re Lim Keng Teck* [2024] 4 SLR 245 at [9]).

50 In the above regard, the OA explains that the policy of a nominal MC of $100 is applied consistently to all bankrupts who are of low income or unemployed, whether the bankrupt makes a conscious effort to contribute to the estate or refuses to do so.[35] This is to ensure that some funds accumulate in the bankruptcy estate to defray the OA's fees and costs and partially pay the bankrupt's creditors' costs incurred in the bankruptcy proceedings on the bankrupt's eventual discharge from bankruptcy.[36]

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34 Mr Goh's 2nd Affidavit at [12].

35 14/4/25 Minute Sheet.

36 1st OAWS at [29].

Version No 1: 02 Jul 2025 (14:17 hrs)

51 That the OA has a standing policy that the MC should be no less than $100 (the "MC Policy") is not, in itself, objectionable, so long as the OA does not fetter its discretion by blindly applying the MC Policy without regard to the possibility that a departure might be warranted in a particular case, and the application of the MC Policy is not perverse on the facts. In the present case, however, I find that the OA had fettered its discretion in applying the MC Policy to Mr Goh and that its application is perverse on the facts. Before me, the OA explained that it will *always* impose the nominal MC of $100 *regardless* of the bankrupt's circumstances.[37] It therefore appears that the MC Policy operates as a *blanket* policy, devoid of exception, amounting to a fetter on the OA's discretion.

52 The OA accepts that Mr Goh's estimated income (*ie*, the income that Mr Goh may reasonably be expected to earn) is *less* than the deductibles allowed by the OA; absent the imposition of the MC Policy, Mr Goh would not be required to make any MC payments.[38] Despite this, the OA claims that the nominal MC of $100 should still be imposed as it is very affordable.[39] I find the OA's assessment to be perverse when considered together with the following factors: (a) that Mr Goh suffers from a myriad of chronic illnesses including impaired vision which will cause some difficulty with working (see [6(b)] above); and (b) when the OA reduced the MC under s 86D(1) of the BA in October 2023, Mr Goh was already 66 years old and well past the statutory retirement age of 62 years old.[40] The assessment is not whether it is *completely impossible* for Mr Goh to find employment, as the OA has emphasised (see [8]

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37 14/4/25 Minute Sheet.

38 27/11/24 OA Explanation at [7]–[8].

39 14/4/25 Minute Sheet.

40 14/4/25 Minute Sheet.

Version No 1: 02 Jul 2025 (14:17 hrs)

above). In substance, even if Mr Goh were vaccinated, it is *more likely than not* that he would be unable to obtain employment in 2023, and more so today when he is now 68 years old. At the same time, I am cognisant that Mr Goh is receiving a small monthly payout from his CPF retirement account and thus has some means to pay a reduced MC.

53 In light of the above factors, and pursuant to s 86E(4) of the BA, I vary the 2/10/23 Certificate by reducing the MC to $50, with the variation to take effect from October 2023 when that certificate was issued. The TC will thus amount to $10,770, comprising the following:

(a) MC of $480 from March 2022 to September 2023 amounting to $9,120 ($480 x 19 months); and

(b) MC of $50 from October 2023 to June 2026 amounting to $1,650 ($50 x 33 months).

Conclusion

54 In conclusion, I allow Mr Goh's application in SUM 3381 and reduce the MC to $50 which is to take effect from October 2023. This would result in the TC amounting to $10,770.

Audrey Lim J
Judge of the High Court

Version No 1: 02 Jul 2025 (14:17 hrs)

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Version No 1: 02 Jul 2025 (14:17 hrs)