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DISTRICT JUDGE CHIAH KOK KHUN

25 September 2026

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGDC 316

District Court Originating Claim No 122 of 2024

Between

- (1) CWL Facilities Management Pte Ltd
- (2) Lit Wai Choy Derek

... Claimants

And

Tan Eng Huat

... Defendant

JUDGMENT

[Tort — Defamation — Chairman of management corporation
posting alleged defamatory statements on Facebook page —

Whether statements defamatory of managing agent of strata title property]

TABLE OF CONTENTS

INTRODUCTION.....	1
ISSUES TO BE DETERMINED	2
ANALYSIS AND FINDINGS	3
THE LEGAL REQUIREMENTS OF DEFAMATION	3
THE FB POSTS ARE DEFAMATORY OF THE CLAIMANTS.....	7
THE FB POSTS ARE PUBLISHED OF THE CLAIMANTS	13
THE DEFENDANT FAILS TO MAKE GOOD ANY OF THE DEFENCES PLEADED BY HIM	15
DAMAGES	21
CONCLUSION.....	26

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**CWL Facilities Management Pte Ltd & Another
v
Tan Eng Huat**

[2026] SGDC 316

District Court Originating Claim No 122 of 2024
District Judge Chiah Kok Khun
22, 23 June, 28, 29 July, 9 September 2026

25 September 2026

Judgment reserved.

District Judge Chiah Kok Khun:

Introduction

1 The 1st claimant was the managing agent of the condominium known as Bellewoods (“Bellewoods”). The 2nd claimant is the executive director and shareholder of the 1st claimant. He was also the managing agent of Bellewoods. The claimants were appointed as managing agents on 1 May 2020, and ended their roles on 16 January 2024. The defendant is the chairperson of the 5th management council (“5th MC”) of Bellewoods.

2 The claimants’ claim is for defamation and malicious falsehoods published and republished by the defendant on a Facebook page entitled Home @ Bellewoods (“Facebook Page”). The Facebook Page consisted solely of subsidiary proprietors (“SPs”) of Bellewoods. The claimants are not members

of the Facebook Page. There were almost 600 members in the Facebook Page as of October 2023.¹

3 The claim is that between September 2023 and October 2023, in the lead up to the 6th annual general meeting (“AGM”) of Bellewoods, the defendant had published four Facebook posts on the Facebook Page as well as sent an email dated 27 October 2023 (“27 Oct 23 Email”) to a number of different recipients while copying the Building and Construction Authority (“BCA”) which contained statements which were defamatory and maliciously false of the claimants. The defendant also republished the 27 Oct 2023 Email on the Facebook Page.²

4 The defendant resists the claim and relies on the defences of justification, fair comment and qualified privilege.³ At various points of the trial and in his closing written submissions,⁴ his counsel also appears to challenge meanings and whether the Facebook Posts were published and whether they referred to the claimants.

5 For the reasons as follows, I am allowing the claim.

Issues to be determined

6 The issues to be determined by me are as follows:

- (a) Whether the Facebook Posts are published.

¹ Paras 41-45 of statement of claim.

² Paras 31-37 of statement of claim.

³ Paras 15-19, 31-35, 51-55, 70-72, 90-92 of the defence.

⁴ Paras 12-17 of defendant’s closing submissions.

- (b) Whether the Facebook Posts are defamatory of the claimants.
- (c) Whether the defences of justification, fair comment and qualified privilege apply.
- (d) If liability for the defamatory claims is established, what would be the appropriate remedies and damages.

Analysis and findings

The legal requirements of defamation

7 I turn first to the elements of the tort of defamation. They are trite. To establish a tort of defamation, there must be:

- (a) a statement bearing a defamatory meaning;
- (b) reference made to the claimant; and
- (c) publication to a third party.

8 Once the above is established, defamation is made out and the question of the applicability of defences such as justification, qualified privilege and fair comment arises. See: *Golden Season Pte Ltd v Kairos Singapore Holdings Pte Ltd* [2015] 2 SLR 751 (“*Golden Season*”) at [35] & [39].

9 As for the question of publication, the leading case dealing with the element of publication in the context of Internet defamation is the High Court decision of *Qingdao Bohai Construction Group Co, Ltd v Goh Teck Beng* [2016] 4 SLR 979 (“*Qingdao Bohai*”).⁵ I begin by first referring to the key

⁵ I have the occasion in recent judgments to discuss the question of publication in Internet defamation: see *Clarence Lun Yaodong v Tan Chin Aik Joseph* [2026] SGDC

passages in *Qingdao Bohai* that are relevant to the present case. The High Court stated as follows at [35]-[36]:

35 The main issue with the Online Articles as well as the News Articles in the present case is the publication element in the law of defamation. Generally, in order to prove that the defendant published the offending material, the plaintiff must establish that the defendant has, by any act, conveyed or communicated the material to at least one other person who has received it. As can be seen from the legal meaning here, publication for the purposes of the law of defamation is bilateral in nature. In *Golden Season Pte Ltd v Kairos Singapore Holdings Pte Ltd* [2015] 2 SLR 751, the High Court cited (at [54]) *Dow Jones & Company Inc v Gutnick* (2002) 210 CLR 575 (“*Gutnick*”) (at [26]) for the proposition that publication is a bilateral act. Therefore, publication has two components: (a) an act that makes the defamatory material available to a third party in a comprehensible form (“the first component”); and (b) the receipt of the information by a third party in such a way that it is understood (“the second component”) (*Wayne Crookes and West Coast Title Search Ltd v Jon Newton* [2011] 3 SCR 269 at [55]). As the plaintiffs have brought the present suit in Singapore, it is also necessary for the publication to have occurred within Singapore (Doris Chia & Rueben Mathiavararam, *Evans on Defamation in Singapore and Malaysia* (LexisNexis, 3rd Ed, 2008) (“*Evans*”) at p 59).

36 To satisfy the requirements of the first component of publication in the context of Internet defamation, the plaintiff must establish, on the balance of probabilities, that the defendant as the Internet user had uploaded or posted the material on the Internet. In this sense, by uploading or posting the material on the Internet, the defendant had made the offending material available to a third party. This is the first component of publication.

10 It is seen that in order to prove that the defendant published the offending material, the claimant must establish that the defendant has, by any act, conveyed or communicated the material to at least one other person who has received it. It is also necessary for the publication to have occurred within

37; *Nguyen Thuy Ha v Tran Thi Bich Ha & Jarta (S) Pte Ltd & Anor v Tran Thi Bich Ha* [2026] SGDC 84.

Singapore. Publication comprises the following two components referred to by the High Court:

- (a) an act that makes the defamatory material available to a third party in a comprehensible form; and
- (b) the receipt of the information by a third party in such a way that it is understood.

11 In respect of the first component of publication, to satisfy its requirements in the context of Internet defamation, the claimant must establish, on the balance of probabilities, that the defendant as the Internet user had uploaded or posted the material on the Internet. By so uploading or posting the material on the Internet, the defendant would have made the offending material available to a third party under the first component.

12 As seen, the High Court however made it clear that this does not mean that electronic evidence is the only means by which the responsibility of a defendant for material appearing on the Internet can be established. The High Court makes the point explicitly at [74] as follows:

74 As can be observed, in three of the above cases, the defendant's identity was established through the use of electronic evidence: *Takenaka* (forensic examination and analysis); *Vaquero* (IP addresses); and *Applause Store* (activity log for defendant's IP address). That said, this does not mean that electronic evidence is the only means by which the responsibility of a defendant for material appearing on the Internet can be established. Indeed, electronic evidence was not relied on in *Warman*. However, as Alliot J cautioned in *Takenaka*, cogent evidence is needed to meet the requisite standard of proof in order to discharge the burden of proof. Typically, the use of electronic evidence to link a defendant to any particular material appearing on the Internet would be the most obvious way to achieve this requirement of cogency, since such evidence is objective in nature. If a plaintiff chooses to rely on other evidence, then he must ensure that such evidence is

similarly cogent. In this regard, I note that the evidence in *Warman* pointed almost inexorably to the conclusion that the defendant was the perpetrator.

13 It is seen that whilst the use of electronic evidence to link a defendant to any particular material appearing on the Internet would be the most obvious way, the High Court held that the use of electronic evidence is not the only means by which the responsibility of a defendant for material appearing on the Internet can be established. Cogent evidence which is not electronic in nature can be adduced to meet the requisite standard of proof. What is important is the cogency of the evidence, and not the nature of the evidence.

14 As regards the second component of publication, the High Court held that there is no presumption of law that material appearing on the Internet has been published. The High Court stated at [41] as follows:

41 To summarise, publication on the Internet can be proved either *directly or indirectly*. There is no presumption of law that material appearing on the Internet has been published, and it is therefore insufficient for a plaintiff to simply allege that the defamatory material was posted on the Internet and was accessible in Singapore. The second component of the element of publication has to be satisfied.

[emphasis added]

15 It is therefore insufficient for a claimant to simply allege that the defamatory material was posted on the Internet and was accessible in Singapore. It should be noted however that the High Court goes further to hold that publication on the Internet can be proved either directly or indirectly. The High Court reiterated the avenue of indirect proof of publication at [136]:

136 The plaintiffs argue that publication of the Online Articles in Singapore can be inferred on account of: (a) their accessibility on the Internet; and (b) the results of using search terms on search engines. Again, the starting point in relation to the accessibility of the Online Articles on the Internet is that there is no presumption of law that material appearing on the

Internet has been published, and it is therefore insufficient for a plaintiff to simply allege that the defamatory material was posted on the Internet and was accessible in Singapore by a substantial number of third party readers. There must be some facts in evidence to support an inference of publication in Singapore to a substantial number of third-party readers.

16 As seen, the proof of publication on the Internet can be inferred. What is required would be some facts in evidence to support an inference of publication in Singapore to a substantial number of third-party readers.

The FB Posts are defamatory of the claimants

17 With the above legal principles in mind, I return to present case. As alluded to above, the statements in question are found in the Facebook Posts. The Facebook Posts in turn comprises four Facebook posts and the 27 Oct 2023 Email, which was republished in another Facebook Post (collectively, “FB Posts”).

18 The first Facebook Post was published by the defendant on 13 September 2023 on the Facebook Page containing the following words (“First FB Post”):⁶

This MA will try to rebuff my private motion during this coming 6th AGM. This MA will try to strip off the power of the general body and deprive us from our rights of voting the termination and appointment of the managing agent.

This MA is trying to short change and depriving the general body from voting by claiming that the general body can let the incoming council to decide. This is not complying the BMSMA, Section 66 as BCA stated.

⁶ Paras 4-5 of the statement of claim.

19 The second Facebook Post was published by the defendant on 14 September 2023 on the Facebook Page containing the following words (“Second FB Post”):⁷

I have contacted the authority rather than the advice given by the rich boss of CWL, Mr Derek, to seek advice. On the day of AGM, he will be misleading the general body by providing his “professional advice” that the intent of my “private motion” violates the BMSMA.

20 The third Facebook Post was published by the defendant in September 2023 on the Facebook Page containing the following words (“Third FB Post”):⁸

Why waste time on this type of MA just vote them out?

Mr Lim told me that it is contradicting, now Chris is trying to threaten me that enforcement will come after me, later the rich boss might come to warn me that legal action can be taken against me. MA or Council can’t reject any private motions raised during the AGM because it is against the law. Get a more professional one which are more interested in serving our estate. I don’t understand the mindset of this MA which should proof their performance in improving our estate and not waste time and just sit there to be paid. Cannot settle issues just blame no reply or seek legal advise to follow up.

21 The fourth Facebook Post was published by the defendant on 10 October 2023 on the Facebook Page containing the following words (“Fourth FB Post”):⁹

This MA is a joker.

We are wasting our money and paying for nothing.

⁷ Paras 10-11 of the statement of claim.

⁸ Paras 17-18 of the statement of claim.

⁹ Paras 24-25 of the statement of claim.

22 The 27 Oct 2023 Email which was sent to a number of different recipients while copying the BCA, was published on 27 October 2023 by the defendant containing the following words:¹⁰

Your company is very unprofessional not to organise an EOGM for the general body to vote and renew or award the contract to new MA. Are you so desperate to service our estate at the expense of not complying the BMSMA Section 66?

I had already stated in my previous email that 2 emails were send out by the secretary, Mr Ravi to award the contract for MA. Now you are pushing the responsibility of organizing the bidding and tendering of MA contract to the council with the excuse that you cannot get the majority council to organise for the general body to vote which is a violation to BMSMA section 66. Since you company had violated the BMSMA as in the expired contract, my advise that you let go and resign after creating so much problem for our MCST 4544.

23 On 27 October 2023 the defendant republished the 27 Oct 23 Email on the Facebook Page repeating the statements contained in the 27 Oct 23 Email (“Fifth FB Post”).¹¹ It should be noted that the Facebook Page consisted solely of SPs from Bellewoods.¹²

24 The claimants say that the meanings attributable to these statements are as follows:¹³

(a) they mean that the claimants were dishonest, fraudulent or deceptive, or were otherwise carrying on a business that was dishonest, fraudulent or deceptive;

¹⁰ Paras 31-34 of the statement of claim.

¹¹ Para 32 of the statement of claim.

¹² Bundle of affidavits (“BA”) Vol 3 p3.

¹³ Para 15 of the claimants’ opening statement.

- (b) they mean that the claimants were unprofessional, or were otherwise carrying on a business that was unprofessional; and
- (c) they mean that the claimants were engaged, or otherwise engage in illegal conduct or acts.

25 In determining the meaning of words in a defamation claim, the test is the natural and ordinary meaning attributable to the offending words. The legal principle in this regard is trite. The natural and ordinary meaning of the offending words could include inferences and implications that the ordinary reasonable reader might draw in the light of his general knowledge, common sense and experience, but would not include those based on extrinsic evidence: *Ng Koo Kay Benedict and another v Zim Integrated Shipping Service Ltd* [2010] 2 SLR 860 (“*Ng Koo Kay*”) at [12] – [13].

26 In other words, context is relevant. In deciding meaning, the court will determine what the offending words in context and in their natural and ordinary meaning, meant and were understood to mean. In the present case, I note at the outset that the SPs comprise the members of the Facebook Page and they are therefore the readers of the FB Posts. The readers of the Facebook Page would thus have likely attended the general meetings of Bellewoods and would have been aware of the issues to be determined at those meetings. They would also have been aware what had transpired at the 5th AGM. The readers would be acquainted with the roles of the claimants as managing agents and the work they have done; and with what has transpired on the Facebook Page.

27 It is apposite to refer to the events surrounding the FB Posts to see the context in which the SPs would have read the offending words. It started on 15 October 2022 when Bellewoods conducted the 5th AGM. At the 5th AGM, the

defendant was elected the chairperson of the 5th MC. At the same time, the SPs voted (under resolution 14.0) not to empower the incoming 5th MC to appoint a managing agent for Bellewoods. Further, an SP, Mr Muneer Mohd Haneefa (“Mr Muneer”), proposed that resolution 14.0 be amended or modified to appoint the first claimant to continue as a managing agent of Bellewoods until the next AGM. Mr Muneer’s proposal was seconded by two other SPs. It was put to a vote and the SPs duly voted by ordinary resolution to re-appoint the 1st claimant as the managing agent until the next AGM. For completeness, I note that the defendant has asserted in his defence that it was the claimants who proposed the amendment to resolution 14.0. However, he admitted at trial that it was not so.¹⁴ In fact, it appears to be the central plank of the pleaded defence that it was the claimants who had put forward the amended resolution under which the claimants themselves appointed the 1st claimant as MA for another term, till the conclusion of the 6th AGM.¹⁵ But at trial, the defendant conceded that this was untrue. He agreed that contrary to his pleaded case, it was an SP and not the claimants who put forward the amendment resolution. Indeed, it is recorded in the minutes of the 5th AGM that it was Mr Muneer who had raised the resolution. The defendant’s witness, Mr Lim, also conceded likewise under cross-examination.¹⁶

28 After the 5th AGM, on 10 September 2023, the defendant requested that a “private motion” be included for voting at the 6th AGM of Bellewoods. The “private motion” contained the following resolutions:¹⁷

¹⁴ Agreed bundle (“ABD”) Vol 2 pp 407–411.

¹⁵ Paras 12(b), 15(c), 29(b), 36(b), 48(b), 88(b), 100(f), and 100(j) of defence.

¹⁶ TT Day 2, 64:16–73:1.

¹⁷ 2AB2 pp 423.

Termination of the current MA (section 66) which do not has a signed [contract] since May 2023 and no evaluation or bidding since the 5th AGM (a notice of 1 month will be given) [sic];

Appointment of a new MA with an attachment list of MA invited for bidding. Additional of private MA may be added if after the interviewing the private MA and found not be suitable. A 1 year contract will be awarded with the highest number from the SPs' voted. No 3 years contract for MA because:

- (a) There is always an increment of the contract price every year;
- (b) Chances that MA will become slack as they feel secure without any competition;

...

- (d) An unprofessional MA can don't respect the section 6 of the BMSMA by giving all types of excuses; and

- (e) Power will be transferred to MA if the MC is not empowered then MC can't do anything until an EOGM or AGM being called.

29 I will return to the fate of the defendant's "private motion" at the 6th AGM below. Suffice it to say for now that as alluded to above, the members of the Facebook Page consisted of SPs, who would be voting at the 6th AGM.

30 In my view, in the context of the above events surrounding the FB Posts, it is clear that the offending words are capable of the meanings attributed by the claimants. The offending words in context and in their natural and ordinary meaning, are capable of been understood by the SPs to mean that the claimants were dishonest, fraudulent or deceptive, that the claimants were unprofessional, and that the claimants were engaged in illegal conduct or acts. I therefore find that the offending words are defamatory of the claimants. In this regard, for completeness, I would add that it is undisputable that the 1st claimant has a trading and business reputation in Singapore as per *Qingdao Bohai* at [51].

The FB Posts are published of the claimants

31 As regards the question of publication and reference, it cannot be seriously disputed that the FB Posts are published of the claimants. As discussed above, publication comprises two aspects (*Qingdao Bohai* at [35]-[36]): a) an act that makes the defamatory material available to a third party in a comprehensible form; and b) the receipt of the information by a third party in such a way that it is understood. In the present case, it is not disputed that it was the defendant who had uploaded or posted the defamatory words on the Facebook Page. By so uploading or posting the material on the Internet, the defendant would have made the offending material available to the members of the Facebook Page. The first component of publication is clearly satisfied.

32 In regard to the second component, as noted above, there were almost 600 members in the Facebook Page as of the material time. These constituted a large number of third-party readers of the defamatory words. As discussed above, the proof of publication on the Internet can be inferred: *Qingdao Bohai* at [136]. What is required would be some facts in evidence to support an inference of publication. It can plainly be inferred that the members of the Facebook Page would have read and understood the defamatory words. For completeness, I also note that there are a number of “likes” and comments registered in regard to the FB Posts. I therefore find that the element of publication is made out.

33 Strictly for the sake of completeness only, I turn now to the question of whether the FB Posts referred to the claimants. The approach to identifying the person defamed was laid down by the House of Lords in *Knupffer v London*

Express Newspaper Ltd [1944] AC 116 (“*Knupffer*”).¹⁸ Although *Knupffer* is the case authority recognised in the textbooks as the *locus classicus* for class or group defamation, the approach to identifying the person defamed as laid down by the House of Lords is of general application. The approach has been endorsed by our High Court in *Golden Season* at [46].

34 In *Knupffer*, the Lord Chancellor Viscount Simon held that the issue of identifying the appellant in that case as the person defamed is one of mixed law and fact; and posed the following two questions (at 121):

... There are two questions involved in the attempt to identify the appellant as the person defamed. The first question is a question of law – can the article having regard to its language, be regarded as capable of referring to the appellant? The second question is a question of fact – Does the article, in fact, lead reasonable people, who know the appellant, to the conclusion that it does refer to him? Unless the first question can be answered in favour of the appellant, the second question does not arise ...

35 In other words, the first question to be answered is whether the alleged defamatory words, having regard to its language, can be regarded as capable of referring to the claimant. This is a question of law. The second question, which is one of fact, is whether reasonable people who know the claimant would arrive at the conclusion that the words refer to him. The second question does not arise unless the first question is answered in favour of the claimant.¹⁹

36 Turning to the present case, I have noted above that the SPs made up the membership of the Facebook Page and they are therefore the readers of the FB

¹⁸ See also Gary Chan Kok Yew and Lee Pey Woan, *The Law of Torts in Singapore* (Academy Publishing, 2nd Ed, 2016) at para 12.054.

¹⁹ I have on a previous occasion discussed the law relating to reference; see *Iris Koh Hsiao Pei and others v Calvin Cheng Ern Le* [2024] SGDC 311 at [80].

Posts. They would also have likely attended the general meetings of Bellewoods and would have been aware of the issues to be determined at those meetings. Moreover, they would also have been aware of what had transpired at the 5th AGM. The readers would be acquainted with the role of the claimants and the work they have done; and with what has transpired on the Facebook Page. As the matter of the claimants and their terms of service was at the centre of the discussion at the 5th AGM, it is plain that the readers of the FB Posts would have understood that the defamatory words referred to the claimants. Further, I note that the Second FB Post referred to the 2nd claimant by name. As the FB Posts were posted by the defendant in quick succession in the same month, the readers will further infer that the FB Posts referred to the 2nd claimant as well. I therefore find that the element of reference to the claimants is satisfied in the present case.

The defendant fails to make good any of the defences pleaded by him

37 It follows from all of the foregoing that the claimants have made out their case in defamation against the defendant. I turn next to the defences.

38 The defendant has raised the gamut of defences to a claim of defamation. None of them are made out. In regard to the defence of justification, the defendant has not shown that the FB Posts consisted of statement of facts which are true in substance and in fact. As pointed out by the claimant, O 43 r 3(2)(a) of Rules of Court 2021 mandates that where a defendant alleges that the words complained of consist of statements of fact which are true in substance and in fact, he must give particulars stating which of the words complained of are statements of facts. Further, the defendant must state the facts and matters the defendant relies on in support of the allegation that the words are true. A perusal of the defence shows that the defendant failed to do so. He did not specifically

and sufficiently plead which of the words in question were statements of fact which are true in substance and in fact. Without doing so, his defence of justification is a non-starter. Further, the particulars of the facts and matters the defendant says he is relying on in support of his allegation that the FB Posts were true are not correlated to the substance of the FB Posts. He has not shown how they relate to his contention that the FB Posts were true in substance and in fact.

39 In this regard, for completeness, I turn to the matter of the statements made by the 2nd claimant at the 5th AGM to the effect that the 1st claimant will have to step down as managing agent if resolution 14.0 were defeated. These statements became the subject matter of cross-examination of the 2nd claimant at trial. For context, the managing agent agreement dated 1 May 2022 (“2nd MA Agreement”) contained the words “whichever is later” at clause 2.²⁰ When shown clause 2 at the trial, the 2nd claimant conceded that he was mistaken in stating that the 1st claimant would have to step down as managing agent if resolution 14.0 were defeated at the 5th AGM.²¹ Instead, the 1st claimant would step down only at the end of the 2nd MA Agreement. The 2nd claimant explained that all the MA agreements signed by the 1st claimant to be appointed as managing agent did not contain the words “whichever is later” in clause 2.²² It was a later inclusion, and he did not know the reason for its inclusion. I note that the 2nd claimant’s explanation comports with the wording of clause 2 of the managing agent agreement dated 1 May 2020 (“1st MA Agreement”) which did not include the words “whichever is later”.²³ In this regard, I agree that the

²⁰ 3AB2 pp 62-82.

²¹ TT Day 2, 46:4 – 46:16.

²² TT Day 2, 32:5 – 32:24.

²³ 3ABD p 5.

2nd claimant was a forthright witness who openly and willingly conceded that he was mistaken. I accept that he proceeded under a mistaken belief at the 5th AGM.

40 In this respect, the defendant's reliance on these statements made by the 2nd claimant to advance his defence of justification is misguided. As noted by the claimants, the defendant did not plead that the 2nd claimant had deliberately misled the SPs at the 5th AGM. The statements made by the 2nd claimant were not pleaded as correlating to the substance of the FB Posts, to support the defendant's plea of justification. The defendant's pleaded case does not go beyond that the claimants put forward the amendment to resolution 14.0, which as discussed, is in any event factually incorrect. More pertinently, the defendant did not plead any particular meaning that he is attributing to the FB Posts which he is justifying in reference to these statements made by the 2nd claimant. It is also not the defendant's pleaded case that the 2nd claimant had a dishonest intention in making these statements.

41 It follows from the foregoing that the defence of justification is not made out by the defendant. I turn next to the defence of fair comment. The four elements of a defence of fair comment are as follows:

- (a) the words complained of are comments, though they may consist of or include inference of facts;
- (b) the comment is based on facts;
- (c) the comment is one which a fair-minded person can honestly make on the facts; and
- (d) the comment is on a matter of public interest.

(See: Gary Chan Kok Yew and Lee Pey Woan, *The Law of Torts in Singapore* (Academy Publishing, 2nd Ed, 2016) at para 13.013)

42 In this regard, a perusal of the FB Posts shows that they are clearly not expressions of opinions or comments by the defendant. On plain reading, they contain assertions of fact, not comments. In pleading the defence of fair comment, it is for the defendant to ensure that the reader of the defamatory words would not be confused as to whether the defendant was expressing an opinion or stating a fact. The defendant does not make clear in the FB Posts that they are his opinion and that he is not making statements of fact. I agree with the claimant that the context, tone and language employed in the FB Posts show that they are statements of facts. Further, the statements are not statements which a fair-minded person could honestly make on the facts. In particular, there is no basis for the defendant's statements implying that the claimants were unprofessional or were otherwise carrying on a business that was unprofessional. I also agree with the claimant that there was no legitimate public interest at stake. What goes on at Bellewoods would not be of any public interest. The defendant has not pleaded any wider public interest at stake. The defence of fair comment is plainly not made out.

43 I consider next the defence of qualified privilege. The defence of qualified privilege may arise in one or more of the following circumstances:

- (a) the defendant has an interest or duty to communicate information, and the recipient has the corresponding interest or duty to receive the information;
- (b) the defendant makes a statement with a view to protecting his self-interests; or

(c) the statement constitutes fair and accurate reports of parliamentary and judicial proceedings.

(See: Gary Chan Kok Yew and Lee Pey Woan, *The Law of Torts in Singapore* (Academy Publishing, 2nd Ed, 2016) at para 13.064)

44 In this regard, a defendant has to plead and prove all facts necessary to show that the publication was made on an occasion of qualified privilege. Further it should be noted that the privilege is qualified because even if the occasion of privileged is proved, the defence can still be defeated if the claimant shows that the defendant was actuated by malice when the publication was made. The Court of Appeal stated in *Low Tuck Kwong v Sukanto Sia* [2014] 1 SLR 639 at [52] as follows:

52 The essence of the first part of the Appellant's arguments in this respect is that the Respondent's state of mind is relevant to the question of whether the defence of qualified privilege attaches. The Appellant claims that the Respondent knew that the statements made in the Publications were false and so the defence of qualified privilege does not attach. It is clear in our view that the subjective state of mind of the Respondent would be a factor towards showing malice. The ordinary framework of analysis in this area of the law is to ask first, whether the publications were made on an occasion of qualified privilege, and, second, whether such defence is defeated by the plaintiff being able to show that the defamatory statements were made with express malice. ...

45 As seen, the defence of qualified privilege can thus be defeated by the claimant showing that the defamatory statements were made with express malice.

46 The burden of proof is on the defendant to prove the facts and circumstances showing that the occasion was privileged. In the present case, except for the defendant's defence in respect of the Fourth FB Post, the

defendant has not pleaded any facts or particulars to support his defence of qualified privilege. It is nothing more than a bare assertion. The defendant did not plead and prove the facts to show that the FB Posts were made on an occasion of qualified privilege. The defendant's defence of qualified privilege therefore fails at the threshold in respect of the First, Second, Third and Fifth FB Posts, and the 27 Oct 23 Email.

47 I turn to the question of express malice. A defendant will be guilty of malice if he knew that his statement was untrue or he was reckless as to its truth, or even if he had an honest belief in the truth of his statement, he was actuated by some dominant improper motive: *WBG Network (Singapore) Pte Ltd v Meridian Life International Pte Ltd* [2008] 4 SLR(R) 727 (“WBG Network”) at [72]. In the present case, it is plain that the defendant was desirous to get rid of the claimants as the managing agent of Bellewoods. This was clear in the FB Posts. For example, the defendant stated in the Third FB Post that the SPs should not “waste time on this type of MA just vote them out” and that the SPs should “get a more professional one which are more interested in serving our estate”. In the Fourth FB Post, the defendant stated, “how can we let a MA run Bellewoods ... that cannot write to BCA” and that the SPs “are wasting our money and paying for nothing”.

48 In this regard and for completeness, I would return to the saga of the defendant's “private motion” at the 6th AGM and the events thereafter. On 28 October 2023 Bellewoods conducted its 6th AGM whereby: a) the minutes of the 5th AGM were received and adopted by the SPs without amendments; b) the defendant was re-elected the chairperson of the 6th Management Council of Bellewoods (“6th MC”); c) the 6th MC was empowered to appoint a managing agent; and d) the defendant's private motion was defeated by an ordinary

resolution with the SPs voting 62% against the defendant's private motion.²⁴ After the 6th AGM, in the period from 14 November 2023 to 21 November 2023, the 6th MC, *via* the defendant, purported to terminate the 1st claimant as managing agent of Bellewoods with a months' notice. The claimants rejected the purported termination with a months' notice on the basis that it did not comply with clause 10(a) of the 2nd MA Agreement. The 6th MC eventually relented and issued a further notice of termination dated 16 November 2023 with two months' notice given to the 1st claimant as per the 2nd MA Agreement.²⁵

49 The claimant contends that the foregoing shows that the defendant's publication of the FB Posts was therefore actuated and motivated by an improper ulterior motive of the termination and removal of the claimants as the managing agent. I agree. The defence of qualified privilege is thus in any event defeated by the defendant's express malice in posting the FB Posts.

50 As I have found that defamation is made out, and the defendant cannot succeed on any of his pleaded defences, I do not propose to consider the claimants' alternative claim in malicious falsehoods.

Damages

51 I turn now to the question of damages to be awarded to the claimants. It is trite that the purposes of general damages in defamation are as follows:

- (a) to console the claimant for the personal distress and hurt he suffered caused by the publication of the defamatory statement;

²⁴ 2AB2 pp 428-438.

²⁵ 2AB2 pp 195-202.

- (b) to repair the harm to the claimant's reputation; and
- (c) to vindicate the claimant's reputation to the public.

(See *Lim Eng Hock Peter v Lin Jian Wei and anor and anor appeal* [2010] 4 SLR 357 ("*Peter Lim*") at [4]-[5])

52 It is also trite that the relevant factors in assessing the quantum of general damages for defamation include the following:

- (a) the nature and gravity of the defamatory statement;
- (b) the conduct and standing of the claimant;
- (c) the mode and extent of publication;
- (d) the conduct of the defendant from the time of publication to verdict;
- (e) the failure to apologise and retract the offending statement;
- (f) the presence of malice; and
- (g) the adverse effect of the publication on the claimant.

(See Gary Chan Kok Yew and Lee Pey Woan, *The Law of Torts in Singapore* (Academy Publishing, 2nd Ed, 2016) at para 13.134)

53 The claimants contend that there is substantial publication of the defamation in the present case.²⁶ They pointed out that the FB Posts were published on the FB Page which contained almost 600 members. Further, the

²⁶ P111 of claimants' closing submissions.

claimants noted that the defendant's witness Mr Lim gave evidence that after he had read the FB Posts, he discussed their contents with around 50 residents, and thereby increased its readership.²⁷ Another witness, Mr Kng testified that his neighbours were discussing the contents of the FB Posts and he heard about it from them.²⁸ The FB Posts were published between September and October 2023, and remain online on the FB Page, and have therefore been accessible for almost three years. The claimants therefore submit the quantum of general damages to be in the sum of \$40,000 for each of them. In view of the nature and gravity of the defamatory statement; the mode and extent of publication of the FB Posts; and the failure of the defendant to apologise and retract the FB Posts, I agree that the appropriate general damages would be as proposed by the claimants.

54 Next, I consider the question of aggravated damages. The claimant has submitted that aggravated damages should be awarded. I turn first to the approach in awarding aggravated damages in defamation suits. In *Goh Chok Tong v Jeyaretnam Joshua Benjamin* [1998] 2 SLR(R) 971 ("*Goh Chok Tong*") at [51], the Court of Appeal disagreed with the trial judge's approach of awarding separate awards for general damages and for aggravated damages. The Court of Appeal held that "The courts should award one single lump sum as damages." However, I note subsequently in *Peter Lim*, the Court of Appeal after making reference to *Goh Chok Tong*, elaborated on the approach as follows at [40]:

40 One point we wish to make at this juncture would be that whilst a single award can be made for damages in a defamation action, for the purposes of assessing the damages, a judge would necessarily (in his mind) have to come up with a

²⁷ TT Day 4, 31:15 – 32:26.

²⁸ TT Day 4, 10:23 – 11:9.

figure for general damages and a figure for aggravated damages (or other types of damages, as the case may be). The sums would then be added together to constitute a single lump sum award for damages. Therefore, it would be odd if the court does not provide a breakdown of the sums awarded as general damages and as aggravated damages (or other types of damages, as the case may be). Such an approach should be discouraged. ...

55 Therefore, whilst a single award can be made for damages in a defamation action, the court is to provide a breakdown of the sums awarded as general damages and as aggravated damages.

56 I turn next to the main factors of aggravation, which are well established. They generally include the following:

- (a) express malice;
- (b) defendant's conduct after the publication;
- (c) refusal or failure of the defendant to apologise; and
- (d) a reckless unsuccessful plea of justification.

(See *Peter Lim* at [7].)

57 In regard to express malice, the Court of Appeal explained in *Golden Season* the meaning of malice in the law of defamation. The Court of Appeal held as follows at [92]:

92 Malice is generally proven in two ways. The first is where it can be shown that the defendant had knowledge of falsity or where there was recklessness or lack of belief in the defamatory statement. The second is where although the defendant may have a genuine or honest belief in the truth of the defamatory statement his dominant intention is to injure the plaintiff or some other improper motive. As explained by the Court of

Appeal in *Lim Eng Hock Peter v Lin Jian Wei* [2010] 4 SLR 331 at [38]:

... The dominant motive test has no relevance if the defendant has no honest belief in the truth of what he is publishing. The fact that the defendant did not have a dominant motive of injuring the plaintiff did not necessarily mean that the publication of the defamatory statements was not made with malice. The word 'malice' is used in a special sense in the law of defamation. If a defendant knows that what he is publishing is false, there is express malice in law. In the other parts of his speech, Lord Diplock referred to other instances of improper motives which would destroy the privilege, such as personal spite or the abuse of the occasion to obtain some private advantage unconnected with the duty or the interest which constitutes the reason for the privilege. In such instances, the defendant would lose the benefit of the privilege *despite his positive belief that what he said or wrote was true*. Where the defendant had no belief that what he published was true or, worse, if he knew that what he published was untrue (as in the present case), it would have been an *a fortiori* case that the protection of the privilege would have been lost. [emphasis in original]

58 Therefore, there are two ways to establish malicious intent on the part of the defendant in a defamation action:

- (a) where it can be shown that the defendant had knowledge of falsity or where there was recklessness or lack of belief in the defamatory statement; or
- (b) where although the defendant may have a genuine or honest belief in the truth of the defamatory statement, his dominant intention is to injure the claimant, or he has some other improper motive.

59 As seen, where the defendant has an improper motive in making the defamatory statement, it can be tantamount to express malice. In the present case, I have made the finding above that the defendant in publishing the FB

Posts was actuated and motivated by an improper ulterior motive of the termination and removal of the claimants as the managing agent. I therefore find that there is the aggravating factor of express malice in the present case. I have also noted that the defendant has not apologised for the FB Posts, nor has he retracted them. In my view, an award of aggravated damages of \$10,000 to each of the claimants is appropriate.

60 As for the 1st claimant's contention that special damages should be awarded, I do not agree that it has been shown that as a direct and natural result of the defendant's publication and republication of the FB Posts, the 1st claimant was terminated as the managing agent of Bellewoods. Whilst it cannot be disputed that the 1st claimant was terminated as the managing agent on 16 November 2023, he has not proved on a balance of probabilities that the termination was as direct consequence of the publication of the FB Posts.

Conclusion

61 In summary, I find that the FB Posts are defamatory and they are published of the claimants. I also find that the defendant cannot succeed on any of his pleaded defences. I award general damages in the sum of \$40,000, and aggravated damages in the sum of \$10,000 for each of the claimants.

62 I would add that the approach of defending a defamation claim by perfunctorily running through the gamut of all the elements of the tort of defamation and its defences is prolix, inefficient and indolent. Such a blunderbuss approach in litigation does not serve the interests of the parties. It only results in time and costs wasting.

63 Parties are to file written submissions on the question of costs, to be limited to three pages, within 10 days hereof.

Chiah Kok Khun
District Judge

Mr Wickeremasuriya-Tan Aaron Christian (Jla Law Corporation) for
the claimants;
Mr Ng Hweelon (Nair, Jen & Tan LLC) for the defendant.