

Tao Li v Toh Ah Poh and two others
[2019] SGHC 164

Case Number : Originating Summons No 431 of 2019
Decision Date : 12 July 2019
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Jeanny Ng (M/s Jeanny Ng) for the plaintiff; Andy Chiok Beng Piow (JHT Law Corporation) for the first defendant; Anna Oei Ai Hoesa (Tan, Oei & Oei LLC) for the second and third defendants.
Parties : Tao Li — Toh Ah Poh — Tan Yi Ting — Tan Yu Xuan

Land – Interest in land – Joint tenancy

Family Law – Divorce – Court order

[LawNet Editorial Note: The appeal in Civil Appeal No 158 of 2019 was dismissed by the Court of Appeal on 28 February 2020. See [\[2020\] SGCA 18.](#)]

12 July 2019

Judgment reserved.

Choo Han Teck J:

1 Tan Chua Joo (“Tan”) divorced his wife Toh Ah Poh (“Toh”), and an interim judgment was entered by consent of both of them on 2 June 2009. The judgment was made absolute on 10 September 2009. The only relevant part of that order in the present proceedings before me concerns the flat at 6 Kitchener Link which was held by both Tan and Toh as joint tenants until the court order of 2 June 2009.

2 Tan and Toh consented to have the joint tenancy severed so that upon the payment of \$60,000 by Tan to Toh, Toh would transfer her interest in the flat to Tan. After the decree was made absolute, Tan married Tao Li (“Tao”), the plaintiff in these proceedings, on 14 May 2010 and they (Tan and Tao) lived in the flat together, but the \$60,000 had not been paid to Toh.

3 And then Tan died on 25 June 2018. Tao, Tan’s daughter Tan Yi Ting and Tan’s son Tan Yu Xuan are the administrators of Tan’s estate. The daughter and son and their mother, Toh, are the defendants in this Originating Summons.

4 The administrators disagree as to the status of the flat. The question is whether the joint tenancy in the flat had been severed. If it had not, then upon Tan having died intestate, the whole of the interest in the flat devolved to Toh by way of the right of survivorship.

5 Mr Andy Chiok, counsel for Toh, submitted that the order of court did not sever the joint tenancy because, and only because the condition that Tan pay Toh a sum of \$60,000 had not been complied with to this day. Mr Chiok disagrees with Ms Jeanny Ng, counsel for Tao, who relies on the CA decision in *Sivakolunthu Kumarasamy v Shanmugam Nagaiah and another* [1987] SLR(R) 702, in which the court held that when a court order had been made absolute, the order operated to sever a joint tenancy.

6 When a judgment has been made absolute, and the joint tenancy severed, the property can no longer be held by the parties concerned as joint tenants. The act of severance, whether by consensual agreement or judicial pronouncement, is permanent. If the obligations that accompany or follow the severance remain unfulfilled, the parties must enforce them as the law may permit. Hence, in this case, the estate of Tan may be compelled to pay up the \$60,000 as required. Until then, the property remains in the joint names of Tan and Toh as tenants-in-common.

7 There will therefore be judgment for the plaintiff. I will hear the question of costs at a later date. I do not see what damages Tao might have suffered but I will grant leave to counsel to address me on damages if any.

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