UVH and another *v* UVJ and others
[2019] SGHCF 22

Case Number	: Suit No 6 of 2016 (Taking of Accounts or Inquiries No 1 of 2017)
Decision Date	: 15 October 2019
Tribunal/Court	: High Court (Family Division)
Coram	: Valerie Thean J
Counsel Name(s)	: Philip Antony Jeyaretnam SC and Chua Weilin (Dentons Rodyk & Davidson LLP) for the plaintiffs; N Sreenivasan SC and Lim Shu Fen (K&L Gates Straits Law LLC) for the first to third defendants; Deborah Evaline Barker SC (Withers KhattarWong LLP) for the fourth to sixth defendants.
Parties	: UVH — UVI — UVJ — UVK — UVL — UVO — UVP — UVQ

Equity – Fiduciary relationships – Duties

Equity – Remedies – Account

[LawNet Editorial Note: The appeal in Civil Appeal No 127 of 2019 was allowed in part while the appeal in Civil Appeal No 172 of 2019 was dismissed by the Court of Appeal on 18 May 2020. See [2020] SGCA 49.]

15 October 2019

Valerie Thean J:

Introduction

1 In Suit No 6 of 2016, two sisters ("the Sisters") sought an account against their three brothers ("the Brothers"), the first to third defendants who were the executors of their late father's estate ("the Estate"). My decision in the taking of the accounts is detailed in *UVH and another v UVJ and others* [2019] SGHCF 14 ("*UVH*"). The Brothers have since appealed against my decision by way of Civil Appeal No 127 of 2019.

2 These grounds of decision deal with the pre-judgment interest ordered against the Brothers subsequently. On 18 July 2019, counsel agreed they would write in with submissions, and I would deal with the matter by way of a letter. I so did on 16 August 2019, holding that pre-judgment interest on the previously ordered sums should commence from the date of the writ at 5.33% per annum. It is this holding that forms the subject matter of the Sisters' appeal in Civil Appeal No 172 of 2019. I now give my reasons for that decision.

Background

3 The facts pertinent to the suit and taking of accounts were set out in *UVH*. I therefore only refer here to the facts material to these supplemental grounds, which are as follows.

4 The Testator passed away on 30 May 1997. In his will, he appointed the Brothers as the executors of his Estate. Grant of probate was issued on 4 September 2000. Clause 3 of the will devised all of the Testator's real and personal property to his wife and the siblings. In particular, the

Estate had a sizeable real estate portfolio held through four private companies ("the Companies") in which the Brothers were directors. The Estate had various shareholdings in the Companies (*UVH* at [2] and [7]).

5 The suit was commenced by the Sisters on 25 July 2016. This was followed by a summary application for an account to be taken of the Estate on a wilful default basis. On 10 April 2017, I granted the order and highlighted at least two breaches of the Brothers' fiduciary duties: the failure of the Brothers to furnish any account for some 19 years, and the failure to distribute or deal with the shares in the Companies (*UVH* at [13] and [28]).

6 Further breaches of fiduciary duties were established at the taking of accounts. On 3 June 2019, I ordered the following remedies in the taking of the accounts ("the Judgment Sum"): [note: 1]

(a) An account of profits for the directors' remuneration received by the Brothers throughout the accounting period, on the basis that the Brothers had failed to disclose their conflict of interest. The total sum amounted to $20,987,689.90.

(b) A surcharge on the Estate's account for the benefits-in-kind enjoyed by the first defendant and the second defendant from renting properties belonging to the Estate below market value, which amounted to $174,000 and $360,000 respectively.

(c) A falsification of the legal fees which were incurred in prior legal proceedings taken out by the Brothers' half-siblings against them, as they were not reasonably incurred. The legal fees amounted to $5,500.65.

7 It was on the Judgment Sum that the award of pre-judgment interest was made.

Parties' positions on pre-judgment interest

8 The Sisters' position was that pre-judgment interest ought to accrue on the Judgment Sum. Regarding the account of profits for the directors' remuneration, the Sisters highlighted that in principle, pre-judgment interest should have run from the date of the Brothers' receipt of the salaries, bonuses and fees, which were received in conflict of interest. Nevertheless, in order to simplify calculations, interest was calculated on the basis that it would commence from the dates of the respective annual meetings in which the remuneration was received. [note: 2] For the benefits enjoyed in kind in the form of reduced rental, the Sisters asked for interest on the difference between the annual value and rental paid in each year of the rental. Regarding the legal fees, the Sisters asked for interest to run from 22 January 2003, the date the money was paid out of the Estate's account. [note: 3]

9 As for the rate of pre-judgment interest, the Sisters contended that there was no basis to depart from the default rate of 5.33% per annum set out in para 117(5) of the Family Justice Court Practice Directions dated 1 January 2015. [note: 4] There would be no element of double counting as the Sisters were not claiming the profits made by the Brothers on the remuneration and benefits they received. [note: 5]

10 To the contrary, the Brothers submitted that no pre-judgment interest ought to be payable on the Judgment Sum. [note: 6] The Brothers contended that they would not be unduly enriched after the full disgorgement of the remuneration and benefits received by them. In fact, the pre-judgment interest claimed, amounting to over $9m, was disproportionate to the Judgment Sum and would be

punitive in nature. [note: 7] The Estate would be adequately compensated by the account of profits, [note: 8] and any pre-judgment interest awarded would be equivalent to "further profits" guaranteeing a fixed rate of return for the Sisters. [note: 9]

11 In particular, in respect of the directors' remuneration ordered as an account of secret profit, the Brothers contended that the Estate would in any event not have been entitled to the directors' remuneration received by them. The monies would either have remained in the Companies or been paid out as dividends, to which the Estate was only entitled to a small fraction as a shareholder of the Companies. [note: 10] Pre-judgment interest ought to apply only if the Judgment Sum comprised monies owned by the Estate that could have been invested instead of being misused. However, the directors' remuneration never belonged to the Estate. [note: 11]

12 The Brothers argued that even if interest were to be ordered, the default rate of 5.33% ought not to apply. If the monies had been placed in a bank account, they would have generated interest at a fixed deposit rate at best. The Sisters did not show that the Estate would have invested the monies or that it had to borrow money at a commercial rate. [note: 12] Accordingly, an interest rate of 1.5% was more appropriate. [note: 13]

Issues

13 There were two issues in dispute. The first was whether, as a matter of principle, pre-judgment interest ought to accrue on the Judgment Sum. Specifically, whether pre-judgment interest was payable on an account of profits was a point of particular contention. If the first issue was answered in the positive, the second issue, as a matter of judicial discretion, was the date on which that pre-judgment interest ought to commence.

Whether pre-judgment interest ought to accrue on the Judgment Sum

14 I turn then to whether pre-judgment interest ought to accrue on the Judgment Sum. I was first guided by the general principles relating to pre-judgment interest set out by the Court of Appeal in *Grains and Industrial Products Trading Pte Ltd v Bank of India and another* [2016] 3 SLR 1308 ("*Grains*") at [137]:

> 137 Pre-judgment interest connotes the *compensation* awarded to a successful claimant for the *time value of money* the use of which was lost between the date on which the claimant's cause of action arose and the date of the judgment (*Sempra Metals Ltd (formerly Metallgesellschaft Ltd) v Inland Revenue Commissioners* [2006] QB 37 at [46]). *The basis for the award lies in the fact that the unsuccessful defendant had wrongfully kept the successful claimant out of moneys to which he has been shown to be entitled, during which time, the defendant instead had the use of it (Harbutt's "Plasticine" Ltd v Wayne Tank and Pump Co Ltd* [1970] 1 QB 447 at 468; see *also Lee Soon Beng v Wee Tiam Sing* [1985-1986] SLR(R) 799 at [7]). Historically, the common law provided no remedy in damages for the late payment of a debt or damages (see *Ahong Construction (S) Pte Ltd v United Boulevard Pte Ltd* [1994] 1 SLR(R) 669 at [10]; *TKM (Singapore) Pte Ltd v Export Credit Insurance Corp of Singapore Ltd* [1992] 2 SLR(R) 858 at [119]). The court's inherent power to award interest was traditionally confined to limited circumstances such as where interest is claimed as special damages or under the equitable or admiralty jurisdictions (UK Law Commission, *Pre-judgment Interest on Debts and Damages, Item 4 of the Eighth Programme of the Law Reform: Compound Interest* (23 February 2004) ("*UKLC Report*") at p 7). Recognising that this was often capable of working injustice against

claimants, reform efforts were initiated and these culminated in legislation that gave the courts the power to award interest. The Law Reform (Miscellaneous Provisions) Act 1934 was the first statute in England that gave the courts a general power to award interest in all cases. In Singapore, the equivalent of this power was first introduced by the Civil Law (Amendment) Ordinance (No 30 of 1940) which today, is contained in s 12 of the Civil Law Act (Cap 43, 1999 Rev Ed) …

138 As a plain reading of the provision would suggest, interest is not awarded as of right. While the recoverability of interest is a matter of the court's discretion, we held in *Robertson Quay Investment Pte Ltd v Steen Consultants Pte Ltd* [2008] 2 SLR(R) 623 … at [100]-[103] that as a general rule, damages should commence from the date of accrual of loss. As a matter of principle, claimants who have been kept out of pocket without basis should be able to recover interest on money that is found to have been owed to them from the date of their entitlement until the date it is paid. The object of leaving it to judicial discretion as opposed to laying down a fixed rule making interest payable as of right is to enable the courts to achieve justice across the infinite range of factual permutations that may confront the court by tailoring the award to fit the unique circumstances of each case. Such discretion would extend to a determination of whether to award interest at all; what the relevant rate of interest should be; what proportion of the sum should bear interest; and the period for which interest should be awarded (Harvey McGregor, *McGregor on Damages* (Sweet & Maxwell, 19th Ed, 2014) at para 18-031).

[original emphasis omitted; emphasis added in italics]

Benefits in kind and legal fees

15 The Brothers rented properties belonging to the Estate below market value. In the absence of the Sisters' informed consent, they ought to have paid a rate equivalent to market value, which the Estate would have been entitled to when rent became due. Similarly, the Brothers unreasonably incurred the legal fees expended in prior legal proceedings taken out by the Brothers' half-siblings. They ought not to have paid the amount out of the Estate's account. It is therefore clear, from the guidance of the Court of Appeal in *Grains* at [137], that pre-judgment interest is payable on these sums.

Directors' remuneration

16 As for the directors' remuneration, the Brothers were in a position of conflict of interest as the directors' remuneration and the dividends payable to shareholders came from the same pool of funds. The Brothers' interest would lie in higher remuneration, while the Estate's interest would lie in higher dividends (*UVH* at [42]). The Brothers used the Estate's shares to vote in favour of resolutions approving the directors' remuneration. In the circumstances, the Brothers were required to seek the Sisters' informed consent, as the latter were the only non-conflicted beneficiaries of the Estate. The Brothers failed to do so. The Estate was therefore entitled to the unauthorised profits.

17 The Brothers drew a distinction between a trustee's misuse of money belonging to a beneficiary, and an account of profits. They contended that pre-judgment interest does not accrue on the account of profits as the Estate would not have been entitled to the directors' remuneration or that the remuneration sums was were not monies that belonged to the Estate (see [11]–[12] above). This was not a position supported by precedent. The English cases cited by the Brothers, *Jones v Foxall* (1852) 15 Beav 388 and *Cochrane v Black* (1855) 17 D 321 ("*Cochrane*"), show that the court will award pre-judgment interest when a trustee misuses trust funds in breach of fiduciary duties. They do not, however, stand for any wider proposition that it is *only* against this factual backdrop

that pre-judgment interest can accrue.

18 Looking at the issue as a matter of principle, the Estate was entitled to the unauthorised profits received by the Brothers at the date the Brothers received the profits, as equity regards the unauthorised profits as trust funds. The Court of Appeal in *Guy Neale and others v Nine Squares Pty Ltd* [2015] 1 SLR 1097 ("*Guy Neale*") explained as such at [130], citing the UK Supreme Court's decision in *FHR European Ventures LLP v Cedar Capital Partners LLC* [2014] 3 WLR 535 ("*FHR European*"):

> … any benefit acquired by an agent in the course of his agency and in breach of his fiduciary duty would be *held on trust for his principal* … and in all cases where an agent was obliged to account for any benefit received in breach of his fiduciary duty*, his principal could also claim the beneficial ownership of the benefit*. … [emphasis added]

19 It follows, then, that the Estate was kept out of money owed to it at the date that the Brothers' secret profit accrued. Because of this availability of proprietary remedies apart from a personal remedy, any ancillary gains would have to be accounted for as well. If the various uses the Brothers put their profits to were known, equity would impose a constructive trust on both the secret profits and the ancillary gains from the time of their receipt. As stated by the UK Supreme Court in *Attorney-General for Hong Kong v Charles Warwick Reid and others* [1993] 3 WLR 1143 at 1146 ("*Reid*"), which was approved by the Court of Appeal in *Thahir Kartika Ratna v PT Pertambangan Minyak dan Gas Bumi Negara (Pertamina)* [1994] 3 SLR(R) 312 at [56]:

> … As soon as the bribe was received it should have been paid or transferred instanter to the person who suffered from the breach of duty. Equity considers as done that which ought to have been done. As soon as the bribe was received, whether in cash or in kind, the false fiduciary held the bribe on a constructive trust for the person injured. …

20 Although *Reid* was a case which concerned bribes and secret commissions, it is clear from *Guy Neale* and *FHR European* that the proposition referred to in [19] above is applicable to any benefit acquired by a fiduciary in breach of duty (*Guy Neale* at [130]).

21 In the present case, the court has no knowledge of the specific uses the monies were put to, but the Brothers remain accountable for keeping the Estate out of money. Interest may therefore be ordered. As stated in *Cochrane* at 331:

> … The rule is, that whenever a trustee … violates his duty, and deals with the trust-estate for his own behoof … he shall, in the election of the [beneficiary], either account for all the gain which he has made, or be charged with interest …

22 There appears to be no local case on point, but an example is provided by the House of Lords' decision in *Regal (Hastings) Ltd v Gulliver and others* [1967] 2 AC 134 ("*Regal (Hastings)*") where pre-judgment interest accrued on the profits made by errant directors in breach of their fiduciary duties to the plaintiff company. Briefly, the facts in that case were as follows. The plaintiff company ("Regal") owned a cinema and was keen to acquire two other local cinemas. Accordingly, the directors of Regal incorporated a subsidiary with a cash capital of £2,000 in order to acquire the two cinemas. The lessor of the two cinemas was however only willing to sell the two cinemas if the subsidiary had a cash capital of £5,000. The directors of Regal therefore decided to subscribe for shares directly in the subsidiary in order to raise the necessary capital. Subsequently, the directors of Regal sold their shares in the subsidiary for a profit (*Regal (Hastings)* at 140–143). It was held that these were unauthorised profits which the directors were liable to account for, in the absence of the

shareholders' informed consent. Pre-judgment interest was awarded in *Regal (Hastings)* at a rate of 4% (*Regal (Hastings)* at 152).

23 The Brothers submitted that no reasons were given in *Regal (Hastings)* for why interest was awarded. Be that as it may, I noted that in the recent case of *In re Lehman Bros (in administration) (No 8) Lomas and others v Revenue and Customs Commissioners* [2019] 1 WLR 2173, the UK Supreme Court had to decide whether the interests payable on debts proved in insolvency were to be deducted by income tax. While that issue is not relevant to this case, *Regal (Hastings*) was cited at [35] as an example where pre-judgment interest accrued on an account of profits. The correctness of *Regal (Hastings)* was not questioned. Australian cases also take the same view that pre-judgment interest can accrue on an account of profits: see *The Commonwealth of Australia v SCI Operations Pty Ltd* [1998] 192 CLR 285 at 316; *Kettle Chip Company Pty Ltd v Apand Pty Ltd (No 2)* (1998) 83 FCR 466 at 481; *LED Builders Pty Ltd v Eagle Homes Pty Ltd* [1999] FCA 582 at [231].

24 Therefore, for the reasons above, I answered the first issue in the affirmative. Pre-judgment interest can accrue on the Judgment Sum, and specifically, on an account of profits. This is supported both by principle and precedent.

The period for which pre-judgment interest should be awarded and the applicable rate

25 The second issue involved a matter of judicial discretion, pursuant to s 12(1) of the Civil Law Act (Cap 43, 1999 Rev Ed), which reads:

> **Power of courts of record to award interest on debts and damages**
>
> **12.**—(1) In any proceedings tried in any court of record for the recovery of any debt or damages, the court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment.
>
> (2) Nothing in this section —
>
> (a) shall authorise the giving of interest upon interest;
>
> (b) shall apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or
>
> (c) shall affect the damages recoverable for the dishonour of a bill of exchange.

26 As stated by the Court of Appeal in *Grains* at [138], the general rule is that "claimants who have been kept out of pocket without basis should be able to recover interest on money that is found to have been owed to them from the date of their entitlement until the date it is paid".

27 The Court of Appeal however also recognised that it was not possible to specify a fixed rule pertaining to pre-judgment interest, given the "infinite range of factual permutations" and the "unique circumstances of each case" (*Grains* at [138]). One of the most common reasons for refusing to grant interest or reducing its quantum was "where the claimant has been guilty of inordinate delay in bringing the action" (*Grains* at [139]).

28 *Robertson Quay Investment Pte Ltd v Steen Consultants Pte Ltd and another* [2008] 2 SLR(R)

623 ("*Robertson Quay*") was such a case. There, the plaintiff was the owner and developer of a hotel. The defendants, who provided engineering services for the construction of the hotel, provided the wrong version of the structural drawings. This resulted in structural deficiencies requiring repairs and the completion of the project was delayed from September 1999 to December 1999. However, the writ of summons and the statement of claim were only filed more than five years later (*Robertson Quay* at [1]–[7]). The plaintiff did not furnish any reasons for this delay. The Court of Appeal held that there was unreasonable delay in commencing the action and the Judge was entitled to order that interest on the damages would run only from the date of the service of the statement of claim (*Robertson Quay* at [107]–[108]).

29 Turning to the facts of this case, the Brothers' position from their defence was that they were "baffled and entirely taken by surprise by the [Sisters'] non-action for a long period, followed by the sudden commencement of legal action without further notice". [note: 14] The Brothers further alleged that the Sisters had pretended that they were unaware of their status as beneficiaries. [note: 15] In support of their allegation that the Sisters knew that they were beneficiaries, the Brothers relied on documents signed by the Sisters relating to the sale of the Eastern Mansion property and the disposal of land in Johor Bahru, both of which comprised part of the Estate. Furthermore, cheques were also issued to the Sisters in 2006 and 2011 that would have shown that they had received various distributions from the Estate over the years. [note: 16]

30 The Sisters would therefore have been aware that the Brothers were alleging that there was unwarranted delay in commencing the action. In the Sisters' affidavit, their position was that they did not know that they had any entitlement to the Estate, as they were so informed by the Brothers over the course of 19 years. They only became aware of their entitlement after the demise of their mother, and commenced this suit thereafter. [note: 17] In the taking of accounts before me, the Sisters decided not to call evidence of their own. Not having taken the stand, their affidavit may not be used as no leave of court was obtained (see r 590(1) of the Family Justice Rules 2014 (S 813/2014), a provision identical to O 38 r 2(1) of the Rules of Court (Cap 322, R 5, 2014 Rev Ed)).

31 The decision of when to commence proceedings was solely that of the Sisters. The decision not to take the stand was also one that they were entitled to take. One consequence, nevertheless, was that the Brothers did not have the opportunity to cross-examine the Sisters on when they knew about their status as beneficiaries of the Estate or their reasons for not taking action earlier. It was the Brothers' responsibility as executors to inform the Sisters of their status and entitlement as beneficiaries. On a taking of accounts on a wilful default basis, it was for the Brothers to show which date they notified the Sisters in furtherance of their duty as executors. In the absence of their doing so, the court was entitled to make every assumption against them (see *Libertarian Investments Ltd v Thomas Alexej Hall* [2013] HKCFA 93 *("Libertarian")* at [174]). But the court has to assess the reasonableness of the Sisters' actions and whether and when in fact they had such knowledge or sufficient suspicion. Their father's death in 1997 was known to them and their not having taken action despite an expectation of inheritance arising in view of their status as daughters required explanation. While this did not have a bearing on the taking of the accounts, such a finding would be material in determining whether there was unreasonable delay in commencing the action. In all the circumstances, I decided to exercise my discretion for pre-judgment interest to run from the date of the writ, rather than the dates when the various causes of action arose.

32 A final issue pertained to the rate of interest, which was ordered at 5.33%. In my view, once the writ was issued (and in the present case a letter of demand was sent prior to writ), the Brothers would have been put on notice that they were being held to account. Having lost the case, their liability for interest over the period of the litigation process should rightly follow. There would be no

reason to deviate from the norm put in place by the Supreme Court Practice Directions (1 January 2013 release).

33 The Brothers submitted that a rate of 1.5% would be fair as the monies would have been placed in the bank account of the Estate otherwise, generating interest at a fixed deposit rate. [note: 18]

34 The Brothers drew a parallel to the case of *Ong Teck Soon (executor of the estate of Ong Kim Nang, deceased) v Ong Teck Seng and another* [2017] 4 SLR 819 ("*Ong Teck Soon*"). In *Ong Teck Soon*, the plaintiff and the second defendant were co-executors of their late father's will. The plaintiff alleged that the first defendant had issued two unauthorised cheques resulting in the withdrawals of monies from their late father's bank account, and sought restitution with interest (*Ong Teck Soon* at [1]–[3]). The plaintiff was successful for his claim based on the tort of conversion. On pre-judgment interest, the issue in *Ong Teck Soon* concerned the rate of interest applicable from the date of accrual of the cause of action to the date of the writ. Steven Chong JA held that there was no evidence that the estate would have invested the monies which were withdrawn by the first defendant without authorisation, or that the estate had to borrow money at a commercial rate (*Ong Teck Soon* at [85]). The plaintiff was therefore awarded interest at the actual rates earned on the various fixed and/or time deposits in which the monies were placed after they were withdrawn from the testator's bank account (*Ong Teck Soon* at [85]).

3 5 *Ong Teck Soon* is distinguishable. In that case, the plaintiff, who was the co-executor of the estate, was content for the funds to remain in the various fixed and/or time deposits that the unauthorised monies were placed in, albeit without the knowledge that their withdrawal was unauthorised. There was evidence therefore to suggest that the plaintiff, acting as an executor in the best interests of the beneficiaries, would have placed the unauthorised monies amounting to over $1m in fixed and/or time deposits (*Ong Teck Soon* at [85]).

36 In the present case, there is no evidence as to how the Brothers spent their remuneration, the rental money saved or the legal fees that were paid out to them (*ie*, the equivalent of the unauthorised monies in *Ong Teck Soon*). Given its sizable amount of over $21m, one would expect the Brothers, as experienced investors, to have put the monies to productive use in their own interest over the extended period, rather than place them in fixed and/or time deposits. Although the Brothers contended that the monies would have lain fallow in the Estate's account even if they had come into the account, the court was entitled to assume otherwise. As executors of the Estate, the Brothers' foremost duty was to act in the best interests of the beneficiaries (*Lakshmi Prataprai Bhojwani (alias Mrs Lakshmi Jethanand Bhojwani) v Moti Harkishindas Bhojwani* [2019] 3 SLR 356 at [52]). They would be deemed as "good fiduciaries who in equity will do what should be done" (*Malaysian International Trading Corp Sdn Bhd v Interamerica Asia Pte Ltd and others* [2002] 2 SLR(R) 896 at [73]). Equity would not allow a fiduciary to rely on his own tardiness in the execution of his duties. As explained by Lord Greene MR in *In re Diplock* [1948] Ch 465 at 525, a fiduciary is "precluded from setting up a case inconsistent with the obligations of his fiduciary position" (see also *Libertarian* at [123]; *Lalwani Ashok Bherumal v Lalwani Shalini Gobind and another* [2019] SGHC 1 at [40]).

Conclusion

37 In conclusion, the court has the power to order pre-judgment interest on the Judgment Sum, and if the court is so minded, such an entitlement could arise from the date on which the profit is received by the errant fiduciary. On the facts of this case, I directed for pre-judgment interest on the Judgment Sum to commence from the date of the writ at 5.33% until its payment. Because there was no finding regarding when the Sisters became aware of their status as beneficiaries, the extent of

their delay, if any, and reasons for such delay were unclear. In fairness to the Brothers, I decided that pre-judgment interest should commence from the date of the writ.

[note: 1] HCF/JUD 1/2019 filed on 10 September 2019.

[note: 2] Plaintiffs' Further Submissions on Interest dated 25 July 2019 ("Sisters' Further Submissions on Interest") at para 9.

[note: 3] Plaintiffs' Written Submissions on Appointment of Fresh Executor, Costs and Interest dated 15 July 2019 at paras 17–19.

[note: 4] Sisters' Further Submissions on Interest at para 11.

[note: 5] Sisters' Further Submissions on Interest at para 11.

[note: 6] 1st to 3rd Defendants' Further Submissions on Interest dated 1 August 2019 ("Brothers' Further Submissions on Interest") at para 2.

[note: 7] Brothers' Further Submissions on Interest at paras 8–9.

[note: 8] Brothers' Further Submissions on Interest at para 11.

[note: 9] Brothers' Further Submissions on Interest at para 13.

[note: 10] Brothers' Further Submissions on Interest at para 11.

[note: 11] Brothers' Further Submissions on Interest at para 14.

[note: 12] Brothers' Further Submissions on Interest at para 18.

[note: 13] Brothers' Further Submissions on Interest at para 19.

[note: 14] Defence (Amendment No 1) dated 7 November 2016 ("Defence") at para 12(i).

[note: 15] Defence at para 3(b).

[note: 16] Defence at para 3(c).

[note: 17] Sisters' Affidavit dated 23 June 2016 and sworn on 9 December 2016 at para 24.

[note: 18] Brothers' Further Submissions on Interest at para 18.