Ong Wui Teck *v* Ong Wui Jin and others

[2021] SGCA 104

Case Number	: Civil Appeal No 34 of 2021
Decision Date	: 15 November 2021
Tribunal/Court	: Court of Appeal
Coram	: Andrew Phang Boon Leong JCA; Judith Prakash JCA; Quentin Loh JAD
Counsel Name(s)	: The appellant in person; The respondents in person.
Parties	: Ong Wui Teck — Ong Wui Jin — Ong Wui Leng — Ong Wui Yong — Ong Wui Swoon

Probate and Administration – Administration of assets

15 November 2021

Andrew Phang Boon Leong JCA (delivering the judgment of the court *ex tempore*):

Introduction

1 This is yet another instalment of the long-standing dispute between the appellant, Mr Ong Wui Teck (the "appellant"), and his siblings, who are the respondents in this appeal. The appellant is the sole executor and trustee of his mother's, Mdm Chew Chen Chin's ("Mdm Chew"), will and the sole surviving administrator of his father's, Mr Ong Thiat Gan's, estate. On 7 May 2021, the High Court Judge (the "Judge") dismissed the appellant's application to be reimbursed for costs from his mother's estate ("Mother's Estate"). These claims include, first, costs incurred by the appellant in defending himself in the proceedings against him for contempt of court (in HC/OS 871/2017, CA/CA 33/2019, and CA/CA 112/2019 (collectively, the "contempt of court proceedings")) and, second, costs incurred by him and his wife in the administration of his father's estate ("Father's Estate"). Third, the Judge also ordered the appellant to account for a sum of $1,500 that the appellant had purportedly incurred on expenses for the administration of the Mother's Estate in 2017 ("$1,500 sum"). The Judge ordered the appellant to revise the executor's statement of account for the Mother's Estate in accordance with the foregoing directions and resubmit the revised statement of account to the court.

2 In this appeal, the appellant challenges all the foregoing findings. The appellant has largely rehashed his unsupported claims that have been rejected by the courts in the previous proceedings concerning the Father's and the Mother's Estates. It is clear from our review of the appellant's submissions that this appeal is wholly without merit. We shall now briefly explain the reasons why this is so.

Costs for contempt of court

3 We first turn to the appellant's claim that he should be entitled to recover his costs incurred in the contempt of court proceedings from the Mother's Estate. The appellant relies on O 59 r 6(2) of the Rules of Court (Cap 322, R 5, 2014 Rev Ed), which provides that:

> (2) Where a person is or has been a party to any proceedings in the capacity of trustee, personal representative or mortgagee, he shall, unless the Court otherwise orders, be entitled to the costs of those proceedings …

4 Therefore, generally, an executor, administrator or trustee is entitled to be recouped for costs that he has properly expended to fulfil his duties as executor, administrator, or trustee (see this

court's decision in *Rajabali Jumabhoy and others v Ameerali R Jumabhoy and others* [1998] 2 SLR(R) 576 at [11], endorsing the Court of Chancery decision of *In re Jones; Christmas v Jones* [1897] 2 Ch 190 at 197, *per* Kekewich J). The appellant submits that the costs and expenses incurred by him in his defence of the contempt of court proceedings fall within this general rule and should thus be recoverable from the Mother's Estate, as he made the application in HC/OS 165/2016 ("OS 165") for Woo Bih Li J (as he then was) to recuse himself from hearing proceedings related to the administration of the Mother's Estate ("recusal application") for the interests of that estate and the beneficiaries therein.

5 In our judgment, O 59 r 6(2) does not assist the appellant. This is because the appellant was not "a party to [the contempt] proceedings *in the capacity of trustee, personal representative or mortgagee*" [emphasis added]. Rather, as the Judge rightly found, the appellant was defending the contempt of court proceedings in his own *personal capacity* for his contemptuous conduct in OS 165. In other words, the recusal application had nothing to do with the interests of the Mother's Estate and the beneficiaries.

6 More critically, the fundamental flaw in the appellant's submission is that he has conflated the recusal *application* with his *conduct* in the recusal application. Even if the recusal application were necessary because assuming *arguendo* that there was indeed a legitimate ground for the recusal of the judge, that does not mean that the appellant had to spout all the egregious contemptuous statements that he had directed at the judge in the way that he did. In other words, the appellant's statements amounting to contempt of court were *completely unnecessary* for the purposes of the recusal application, *even if* the latter were meritorious. In this case, as is evident from Woo J's judgment in the recusal application, the recusal application was not even meritorious as the appellant's allegations of bias, dishonesty and impropriety made against Woo J were "baseless" and "invalid" (see the High Court decision of *Ong Wui Teck v Ong Wui Swoon* [2016] 2 SLR 1067 at [46] and [77]). Thus, it is *a fortiori* the case that the appellant's contemptuous conduct in the recusal application was unrelated to the administration of the Mother's Estate.

7 In the circumstances, the appellant has not only failed to show that the recusal application was necessary or in the interests of the Mother's Estate, but has also failed to show that his *contemptuous conduct* in the recusal application was necessary for the recusal application. Therefore, the costs incurred by the appellant in defending his conduct amounting to contempt of court are completely unrelated to the administration of assets of the Mother's Estate. There is thus no basis for this court to disturb the Judge's finding that these costs should not be recoverable from the Mother's Estate.

8 Finally, we note that the appellant has devoted the *bulk* of his appellant's case in this appeal to his arguments about how he disagrees with this court's ruling in the contempt of court proceedings, reported in *Ong Wui Teck v Attorney-General* [2020] 1 SLR 855. These arguments have no merit or even relevance to this appeal, and it is egregious that the appellant has effectively sought to reopen the concluded appeal in the contempt of court proceedings by rehashing his arguments *ad nauseam* in this appeal as to why the recusal application was justified and why he should not have been convicted of contempt of court.

Costs in the administration of the Father's Estate

9 The next claim by the appellant concerns costs and expenses related to HC/S 385/2011 ("Suit 385") amounting to $19,036.49 and costs for "accounting" work done by the appellant's wife for the Father's Estate amounting to $20,000. Suit 385 concerned the administration of the Father's Estate, and was adjudicated upon by Woo J. Woo J's grounds of decision were reported in *Ong Wui*

Soon v Ong Wui Teck [2013] 1 SLR 733 (the "2012 Judgment"). A key aspect of the 2012 Judgment which is relevant to this appeal relates to Woo J's findings in relation to the shares in OCBC held by the Father's Estate (the "OCBC Shares"). The appellant had claimed in Suit 385 that the OCBC Shares had been transferred to his mother's name in her capacity as an administrator of the Father's Estate. The appellant claimed that this was so because his mother had paid estate duties for the Father's Estate, and that the Father's Estate transferred the OCBC Shares to his mother as a form of reimbursement. Woo J rejected this claim (see the 2012 Judgment at [84]). He thus held that the OCBC Shares, while registered in the name of the appellant's mother, were to be treated as part of the assets of the Father's Estate (see the 2012 Judgment at [139(b)]). Consequently, the appellant was bound to account for these shares (see the 2012 Judgment at [145]). Woo J also held that the appellant had failed to give a proper account of the assets of the Father's Estate. He thus ordered an inquiry to determine the net total value of the Father's Estate for distribution to the beneficiaries (the "Inquiry").

10 The basis on which the appellant seeks to link the costs incurred from the administration of the Father's Estate to the administration of the Mother's Estate centres on the OCBC Shares. The appellant submits that these costs arise from Woo J's order in Suit 385 that the assets of the Father's estate be accounted for, and his mother's actions in relation to these assets, in particular, the OCBC Shares, which were "taken" by his mother as joint administrator of the Father's Estate. This, according to the appellant, is what resulted in the Father's Estate having a positive value at the time of the Inquiry, even though it had a negative value in 1988 and 1989 when the grant of letters of administration for the Father's Estate was extracted and the assets were realised.

11 The appellant has completely mischaracterised Woo J's decision in the 2012 Judgment. It is clear from [80] to [84] of the 2012 Judgment that Woo J had *disbelieved* the appellant's claim that the OCBC Shares were transferred to the appellant's mother because they were used to "reimburse" her for paying estate duties for the Father's Estate, as this claim was belated and unsupported by any objective evidence. This finding is significant for several reasons.

(a) First, this shows that, even as early as 2011 and 2012 when Suit 385 was first adjudicated, there was *no evidence* to support the appellant's claim that his mother had paid any estate duties for the Father's Estate. Even the quantum of the alleged payment was not stated. In other words, there is no basis to show that there is a *link* between Mdm Chew holding title to the OCBC Shares and the administration of the Father's Estate. There is thus completely no basis for the appellant to submit that his mother's "retention" of the OCBC Shares was somehow a form of cost or expense incurred in the administration of the Father's Estate. This leads us to the next point.

(b) Second, the appellant has conflated costs incurred in the *administration* of the Father's Estate with an action that results in the growth of the *value* of the Father's Estate. The appellant is seeking to submit that he should be entitled to claim money from the Mother's Estate because it was his mother's act of retaining the OCBC Shares which led to a positive value in the Father's Estate. With respect, this submission is confusing and makes little sense. Even if this were true, this is completely unrelated to the *administration* of the Father's Estate. The appellant's duty to account for the assets in the Father's Estate, which was ordered by Woo J in the 2012 Judgment, had nothing to do with his mother's "retention" of the OCBC Shares; instead, this duty flowed from the appellant's role as an administrator of the Father's Estate.

(c) Third, Woo J's finding was that there was insufficient credible evidence to prove the appellant's claim on a balance of probabilities that his mother had paid any estate duties for the Father's Estate. On this basis, Woo J rejected the appellant's claim that the OCBC Shares were

transferred to his mother to "reimburse" her. This is different from the appellant's claim now that the OCBC Shares were "taken" by his mother to reimburse her for her "work" as an "administrator" of the Father's estate.

(d) Fourth, even if the latter argument were accepted, there is yet another step which the appellant has not proven, *viz*, that the cost incurred by *Mdm Chew* as an administrator of the Father's Estate should be claimable by *the appellant* from the Mother's Estate for work done by the *appellant's wife*.

12 Finally, as the Judge rightly noted, the appellant's argument regarding the "accounting" work done by his wife had already been rejected by this court in the previous appeal concerning the administration of the Mother's Estate (see *Ong Wui Teck (personal representative of the estate of Chew Chen Chin, deceased) v Ong Wui Soon and another* [2019] SGCA 61 ("2019 CA Judgment") at [69]).

13 As such, we find the appellant's submissions on this issue to be unmeritorious and accordingly reject them.

Sum of $1,500 for expenses in 2017

14 Finally, the appellant also sought to be reimbursed for the $1,500 sum from the Mother's Estate. This $1,500 sum was stated in the statement of account of the Mother's Estate dated 31 December 2017. The $1,500 sum, as noted by the Judge, was explained in a letter by the appellant to the fourth respondent, Ms Ong Wui Swoon ("OWS"), dated 3 March 2017 ("3 March 2017 letter"). In particular, it was stated in that letter that any excess or deficiency in the $1,500 sum would be accounted for in the final accounts:

> **ESTATE OF MADAM CHEW CHEN CHIN**
>
> **POST-AUDIT EXPENSES**
>
> Enclosed herewith are soft copies of supporting documents of bills/receipts for the 3½ year period since August 2013 in respect of the post-audit expenses of $21,095.45 as reflected in Schedule E of the Accounts furnished to all beneficiaries on 20 February 2017. *This amount is inclusive of a provision of $1,500 for out-of-pocket expenses*, ***for which any excess or deficiency will be accounted for in the final accounts***. …
>
> [emphasis added]

15 This letter was referenced in the appellant's letter dated 19 January 2018 to the court forwarding the statement of account of the Mother's Estate as at 31 December 2017 ("31 December 2017 statement of account"). The 31 December 2017 statement of account states that the value of the Mother's Estate was $76,971 "inclusive of the security deposit of $20,000". The most recent statement of account dated 11 April 2020 that was submitted to the Judge also further states that the balance of the Mother's Estate was $76,791, "per last Statement of Accounts as at 31 December 2017". Under the 31 December 2017 statement of account, the balance sum of $56,971.00 was derived by deducting expenses of $3,817.65 – which includes the $1,500 sum – from the bank balance of $60,788.65. This sum of $3,817.65 for expenses was claimed to have been paid by the appellant in 2017 on behalf of the Mother's Estate.

16 On the basis that the appellant's 3 March 2017 letter itself stated that "any excess or

deficiency [in the sum of $1,500] will be accounted for in the final accounts", the Judge found that the appellant should account for this $1,500 sum in the final accounts.

17 The appellant submits that the $1,500 sum had already been accounted for in the 31 December 2017 statement of account, "notwithstanding that it is not the final accounts". Thus, the $1,500 sum is "not an outstanding issue". The appellant also highlights that the "beneficiaries did not raise this issue at all" and neither was the appellant "asked about it during the course of the proceedings following the [statement of account] being furnished on 11 April 2020".

18 In our judgment, the Judge was correct in finding that it is clearly stated in the appellant's own 3 March 2017 letter that "any excess or deficiency [in the $1,500 sum] will be accounted for in the final accounts". This 3 March 2017 letter is then expressly referenced and relied upon in the appellant's 31 December 2017 statement of account in order for the appellant to derive a balance of $79,971 ($20,000 plus bank balance of $60,788.65 minus expenses of $3,817.65 (which includes the $1,500 sum)), *and* this sum of $79,971 is then explicitly relied upon by the appellant in his latest statement of account dated 11 April 2020 which he submitted to the Judge. According to this statement of account, the Mother's Estate is in "deficit of $68k with expenses exceeding funds available", which results in there being "no further distribution to beneficiaries".

19 As such, the appellant has not explained, since the 3 March 2017 letter, whether there is any "excess or deficiency [in the sum of $1,500]". Contrary to the appellant's submission, the $1,500 sum was not accounted for in the 31 December 2017 statement of account. On the contrary, the 31 December 2017 statement of account asks the reader to "[r]efer to letter to beneficiaries dated 3 March 2017 …", and this 3 March 2017 letter states that any "excess or deficiency [in the $1,500 sum]" would be accounted for in the final accounts. Thus, we find no basis to disturb the Judge's order that the appellant account for the $1,500 sum in the final account of the Mother's Estate. If there is no change in the expenses incurred in 2017 from the $1,500 sum, that, along with the relevant receipts and payment vouchers, is all the appellant would have to inform the respondents of.

Conclusion

20 For the foregoing reasons, we find this entire appeal to be wholly unmeritorious. Therefore, the appeal is dismissed. The proceedings between the appellant and his siblings have gone on interminably, and it is in nobody's interests that precious judicial resources are spent on long-drawn proceedings and appeals concerning the parties' personal grievances against each other and disputes over minor issues of technicality, as is evident from the appellant's submissions in this appeal.

21 In ordinary circumstances, where an appeal that is clearly without merit is egregiously and unreasonably filed and pursued, costs may be awarded to the successful party on an indemnity basis (see, for example, the decision of this court in *Lim Oon Kuin and others v Ocean Tankers (Pte) Ltd (interim judicial managers appointed)* [2021] SGCA 100 at [35]–[38]). While the appellant is unrepresented, it is evident from the manner in which he has conducted and run his cases in this appeal and in the previous related proceedings that he is quite conversant with court procedures.

22 Nevertheless, as the respondents did not file a respondent's case or skeletal submissions in this appeal, we make no order as to costs. The usual consequential orders will apply. As we had intimated previously in the 2019 CA Judgment at [75], we hope that this decision will bring some finality to the long-drawn dispute between the parties.