

Bank of China v Huang Ran-Chi alias Huang Ran-Chi Kibo
[2000] SGHC 62

Case Number : OS 1789/1998, RA 92/99 and 93/99
Decision Date : 19 April 2000
Tribunal/Court : High Court
Coram : S Rajendran J
Counsel Name(s) : Mdm Chow Ai Hwa (in person) on her own behalf and on behalf of the defendant/appellant; C R Rajah (Tan Rajah & Cheah) for the plaintiffs/respondents
Parties : Bank of China — Huang Ran-Chi alias Huang Ran-Chi Kibo

JUDGMENT:

Grounds of Judgment

1. The defendant is the registered owner of premises known as 7Q, Napier Road, Eng Lok Mansion, Singapore. On 14 April 1981, the defendant mortgaged the said property to the plaintiffs to secure advances made or to be made by the plaintiffs to one Mdm Chow Ai Hwa, the mother of the defendant, who had an account with the plaintiffs (the "said account"). On 20 April 1998, the plaintiffs demanded from the defendant the sum owing to the plaintiffs under the said account. The demand was not met and the plaintiffs in OS 1789/98 instituted proceedings under Order 83 of the Rules of Court against the defendant for:

(1) delivery to the plaintiffs of possession of the said premises; and

(2) payment of the outstanding sum of \$402,421.12 together with contractual interest thereon from 11 December 1998 until date of full settlement;

under the terms of the mortgage document.

2. On 13 January 1999, Mdm Chow, purportedly acting under a Power-of-Attorney, entered appearance for the defendant. Shortly thereafter, Mdm Chow, vide SIC 492 of 1999, applied under Orders 14(4) and 15(4) of the Rules of Court that she be joined as the 2nd defendant in the Originating Summons. In her supporting affidavit, Mdm Chow alleged that, as this was prime property for which there had been offers to buy at \$1.8 million, the plaintiffs were more than adequately covered for the advances made to her and they should not therefore be allowed to take possession of or force the sale of the said property. She also alleged that the plaintiffs had improperly sold, at considerable loss to her, some \$815,880 worth of Malaysian shares that she had pledged to them as additional security for her loans, when there was, in the light of the value of the said property, no necessity for them to have sold the shares.

3. Mdm Chow's application under SIC 492/99 was heard together with the Originating Summons by the Assistant Registrar ("AR") on 15 February 1999. The learned AR dismissed Mdm Chow's application in SIC 492/99 to be made a party to the proceedings and granted the plaintiffs prayers in OS 1789/98.

4. Mdm Chow, again purporting to act in person and on behalf of the defendant, filed a notice of appeal against the decision of the learned AR in respect of both the Summons-in-Chambers and the Originating Summons (RA 92/99 and 93/99 respectively). Both appeals were heard before me on 19 April 2000. In arguing the appeal, Mdm Chow made various allegations, most of which were vituperative and irrelevant.

5. In an affidavit she had filed, Mdm Chow had stated that she had never denied her debt to the plaintiffs. Mr Rajah, who appeared for the plaintiffs, submitted that had Mdm Chow disputed the debt, then perhaps the court may in its discretion have granted her application in SIC 492/99 to be made a defendant but, as the debt was admitted, the learned AR was right in having exercised her discretion not to grant the application. Mr Rajah submitted that, if indeed the plaintiffs had improperly sold Mdm

Chow's shares as alleged, the appropriate course of action would be for Mdm Chow to commence separate proceedings against the plaintiffs and not seek to be made a defendant in this Originating Summons. He therefore urged me to dismiss the appeal in respect of SIC 492/99.

6. With respect to the appeal in respect of OS 1789/98, Mr Rajah, on a preliminary point, submitted that under s 29 of the Legal Profession Act, only advocates and solicitors can appear on behalf of others in these courts. He pointed out that the defendant in these proceedings had not, by himself, entered appearance, filed any affidavit, engaged any solicitor, appeared before the learned AR to defend the Originating Summons or appeared in this court to pursue the appeal. On the substantive merits of the appeal, Mr Rajah pointed out that Mdm Chow's only argument appeared to be that the property was worth more than what she owed the plaintiffs and the judgment obtained by the plaintiffs should therefore be set aside.

7. I accepted the submissions of Mr Rajah. With respect to SIC 492/99 (RA 92/99), as Mdm Chow was not disputing that the monies claimed by the plaintiffs were in fact owed to the plaintiffs, the learned AR could not be faulted for not having granted the application. With respect to OS 1789/98 (RA 93/99), the fact that the defendant was not before me either in person or by solicitor to argue the appeal was, in itself, a sufficient ground to dismiss the appeal. In addition, Mdm Chow's complaint, that because the value of the property was much higher than the sums owed to the plaintiffs, the learned AR should not have granted the prayers in the Originating Summons, had no merit. I therefore dismissed both appeals and ordered Mdm Chow to pay costs which I fixed at \$2,000.

S. Rajendran

Judge