Chee Siok Chin and Another v Attorney-General
[2006] SGHC 144

Case Number : OS 1203/2006

Decision Date : 03 August 2006

Tribunal/Court : High Court

Coram : Woo Bih Li J

Counsel Name(s) : M Ravi (M Ravi & Co) for the plaintiffs; Jeffrey Chan (Attorney-General's Chambers) for the defendant

Parties : Chee Siok Chin; Chee Soon Juan — Attorney-General

Courts and Jurisdiction – Judges – Application for judge to recuse himself on ground of suspicion or likelihood of bias but not actual bias arising from prior unrelated acrimonious exchange between counsel for applicants and judge – Whether judge should recuse himself – Factors to consider

3 August 2006

Woo Bih Li J:

Background

1 This originating summons is an application by Ms Chee Siok Chin and Mr Chee Soon Juan ("the Applicants") for a declaration that the deletion or repeal of O 14 r 1(2) of the Rules of the Supreme Court 1970 (Act 24 of 1969, S 274/1970) is a breach of principles of natural justice and unconstitutional.

2 The reason for the application was that the Applicants are defendants in two defamation suits commenced by Mr Lee Hsien Loong and Mr Lee Kuan Yew ("the Plaintiffs") in Suits Nos 261 and 262 respectively of 2006 and they had learnt that the Plaintiffs were considering an application for summary judgment against them in the suits. I should add that the Plaintiffs have filed their applications for summary judgment against the Applicants.

3 Previously, O 14 r 1(2) precluded a plaintiff from applying for summary judgment in respect of certain causes of action, including libel and slander. That prohibition was deleted in 1991 and the Applicants are challenging the validity of the deletion.

4 The originating summons and the applications for summary judgment were fixed to be heard by me on 3 August 2006. Naturally, the originating summons had to be heard first as a successful outcome thereof for the Applicants would render the application for summary judgment academic.

5 Mr M Ravi, counsel for the Applicants, informed me that, on the instructions of his clients, he was applying for me to recuse myself based on a suspicion or likelihood of bias but not actual bias. This was in the light of an acrimonious exchange between him and me in September 2003 in respect of another case which was unrelated to this originating summons I was to hear. Mr Ravi submitted that because the incident had been repeatedly reported in the press over the years, an impression had been created in the minds of the public that I was prejudiced against him. His clients too had the same impression, although Mr Ravi stressed that he was not saying that I was prejudiced.

6 Mr Chan for the Attorney-General said he was not given advance notice of this application. All he could say without any getting-up, *ie*, without any preparation or research on the issue, was that there was no allegation of prejudice against the Applicants but against their counsel only. He

also cited a previous occasion when an application was made to Chao Hick Tin JC (as he then was) to recuse himself because he was formerly head of the civil division in the Attorney-General's Chambers and Chao JC was hearing a case brought by Mr Jeyaretnam against the Government. Mr Chan said that Chao JC had said he had taken an oath of office and would abide by it, whatever his past experience was, and Chao JC decided not to recuse himself.

7 I was of the view that the case Mr Chan mentioned was different on its facts and was therefore not of much assistance to me.

8 On basic principles, it is common knowledge that, at times, counsel is criticised or reprimanded by the court. Although the exchange between Mr Ravi and me in September 2003 led to my making a complaint to the Law Society of Singapore about his conduct, I would have been surprised if I were the first judge to make a complaint about the conduct of a counsel. In my view, criticism, reprimand or a complaint from a judge does not *per se* disqualify the judge from hearing the same counsel in a separate case, or even the same case, unless there is personal animosity on the part of the judge towards counsel. No such animosity was suggested by Mr Ravi or the Applicants. Furthermore, I assured Mr Ravi that I considered the past incident as closed.

9 Nevertheless, it was true that the press had from time to time mentioned the incident between Mr Ravi and me. While I did not necessarily accept that the public was of the impression that I was or would be prejudiced against Mr Ravi, I had to take into account the concerns of the Applicants. As the maxim goes, justice must not only be done, it must also be seen to be done. In my view, this maxim applies whether the fear of prejudice is against the litigant or his counsel.

10 In the interest of justice, I indicated to Mr Ravi that I would accede to the application to recuse myself if the Applicants were maintaining their instructions. After taking further instructions, Mr Ravi informed me they were still maintaining their position and I recused myself.

11 Accordingly, the originating summons and the applications for summary judgment were adjourned to be fixed for hearing before another judge.