IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2022] SGHC 107

Suit No 1123 of 2016
(Registrar's Appeal No 299 of 2021)

Between

Ten Leu-Jiun Jeanne-Marie

… *Plaintiff*

And

1. Peter Low LLC
2. Choo Zheng Xi
3. Peter Cuthbert Low
4. Christine Low

… *Defendants*

JUDGMENT

[Civil Procedure — Striking Out]

Ten Leu-Jiun Jeanne-Marie
v
Peter Low LLC and others

[2022] SGHC 107

General Division of the High Court — Suit No 1123 of 2016 (Registrar's Appeal No 299 of 2021)
Choo Han Teck J
26 April 2022

17 May 2022. Judgment reserved

Choo Han Teck J:

1 The plaintiff's action in this suit (Suit No 1123 of 2016) is a claim against her former solicitors for their conduct in respect of a previous action in Suit No 667 of 2012 ("NUS Suit"). In that action, the plaintiff retained the first defendant, Peter Low LLC, to act for her against the National University of Singapore ("NUS"). The second defendant, Choo Zheng Xi, and the third defendant, Peter Cuthbert Low, were solicitors in the first defendant who acted for the plaintiff in the NUS Suit. The fourth defendant, Christine Low, is the daughter of the third defendant who was a trainee lawyer at the first defendant at the material time.

2 In or around January 2014, the plaintiff discharged the defendants from acting for her in the NUS Suit. After that, she engaged various sets of lawyers, including Mr M Ravi and subsequently, Mr Christopher Anand Daniel who

acted for her at the trial of the NUS Suit. The trial for the NUS Suit took place sometime in August 2017 and January 2018. On or around 9 July 2018, Justice Woo Bih Li dismissed the plaintiff's claims against NUS.

3 On 21 October 2016, the plaintiff filed her 68-page Statement of Claim ("SOC") against the defendants in this action. In her SOC, she says that the defendants have been negligent in acting for her in the NUS Suit. Her other causes of action against the defendants include breach of contract, fraudulent and/or negligent misrepresentation, the tort of deceit, breach of fiduciary duties and unlawful conspiracy.

4 The defendants applied in Summons No 6061 of 2018 to strike out the plaintiff's SOC on the ground that it disclosed no reasonable cause of action, was frivolous and/or vexatious, and that it constituted an abuse of process. The application was heard by an Assistant Registrar ("the AR"). The AR found that the plaintiff's claims in her SOC essentially relates to six main acts, which he summarised as:

(a) drafted the SOC in the NUS Suit inadequately by failing to plead the elements of the tort of misfeasance in public office ("the First Act");

(b) caused the plaintiff to mount unsuccessful discovery application against NUS through Summons 3299 of 2013 for documents in support of the claim for misfeasance in public office because of the inadequate pleadings ("the Second Act");

(c) wrongly advised the plaintiff to appeal the Assistant Registrar's dismissal of Summons 3299 of 2013, which appeal was

ultimately dismissed by Tan Siong Thye JC (as he then was) in RA 320 of 2013 ("the Third Act");

(d) fraudulently informed the plaintiff that Tan JC had not given any reasons for his dismissal of RA 320 of 2013, thereby causing the plaintiff to bring OS 669 of 2014 to seek Tan JC's issuance of written ground, and to appeal Tan JC's dismissal of OS 669 of 2014 by way of an appeal to the Court of Appeal in CA 177 of 2014 ("the Fourth Act");

(e) failed to disclose allegedly relevant documents which the plaintiff had provided to the defendant, including e-mail communications between the plaintiff and NUS, which were purportedly "crucial" to her claims against NUS ("the Fifth Act"); and

(f) charged the plaintiff excessive legal fees ("the Sixth Act").

5 The AR struck out the portions of the SOC pertaining to the First, Second, Third, Fifth and Sixth Acts, but did not strike out the SOC insofar as the Fourth Act was concerned:

(a) In respect of the First, Second, Third and Fifth Acts, the AR held that the plaintiff is unable to prove that she had suffered any loss given that she did not succeed in the NUS Suit despite engaging new sets of counsel and making fresh attempts at amending her SOC through her new sets of counsel.

(b) In respect of the Sixth Act, the AR found that the plaintiff's allegations were in essence a challenge to the bills which should be dealt with by way of taxation. To the extent the plaintiff's allegations of

overcharging were pleaded as evidence in support of her other claims, the AR took the view that they should be struck out because evidence ought not to be pleaded in the SOC.

(c) In respect of the Fourth Act, the AR found that there is a triable issue on what was represented by the second defendant to the plaintiff during their telephone conversation on or around 5 November 2013. Therefore, the causes of action (and the pleaded reliefs) in relation to the Fourth Act, namely, fraudulent misrepresentation, negligent misrepresentation, the torts of deceit and fraud, breach of fiduciary duties, and the tort of unlawful means conspiracy, were not struck out.

6 The plaintiff now appeals against the AR's decision. The crux of the plaintiff's case is that in striking out her SOC, the learned AR has engaged in fact-finding. The plaintiff also says that in a striking out application, the Court should only be concerned with facts as they are pleaded "on the face of the pleadings". As is patently obvious, the SOC is not only excessive in its pleading of facts, evidence, law, and argument, it is an untidy mess without any semblance of order or cohesion. It appears that the plaintiff believes that her previous litigation against NUS was lost on account of her lawyers, who she now sues in this action. She blames them for her loss, citing the usual medley of civil wrongs – negligence, breach of duty, misrepresentation, fraud and unlawful conspiracy.

7 Given the state of her pleadings, the defendants succumbed to the temptation of finding a swift end to the suit – they applied to strike out the SOC, on the ground that it discloses no reasonable cause of action. One may say that this is not an unreasonable application as the SOC is so bad in that it had breached almost every rule in pleading and good writing. Hence, it is almost

impossible for anyone, including counsel and the learned AR, to identify any specific portions for striking out. They would thus have to refer to the entire SOC to express the causes of action, but that would certainly have caused acute indigestion.

8 Consequently, the AR, with the best of intentions, summarised the plaintiff's claims and paraphrased them in what he then describes as "the six acts". He then struck out five of the six acts on the ground that they disclose no cause of action. One of the main grounds that the learned AR relied on is the lack of damage, which constitutes an essential component in the causes of action. But this lack of damage is not clearly absent from the SOC. Camouflaged in the mass of words, the plaintiff is saying that she suffered damage — "I lost my case" — though not in those clear words.

9 The defence in this regard is not that damage was not pleaded, but that there is a good defence, namely, the defence of an intervening force that shields the defendants' advice from criticism at trial. Given the circumstances, the course that might enable the defendants to end this action quickly is to persuade the court that there is incontrovertible evidence even in the plaintiff's evidence that there was no damage (by dint of a supervening event), and therefore, there is no case for the defendants to answer. But that should be done at trial, after the plaintiff had presented her case to the judge.

10 Ill-conceived and tardy as the plaintiff's claim may appear on the pleadings, if it were to be struck out, it must be struck out on her own words. Although it was well-intended, the court should not rephrase a plaintiff's claim, and then strike it out on the court's version of it. I therefore allow the appeal. The irony of the plaintiff succeeding in this appeal in spite, or perhaps, by reason

of her own badly drafted claim, is not without consequence. She may have to pay for the expense of these proceedings should the trial judge dismiss her action.

11 The costs here and below shall be costs in the cause.

- Sgd -
Choo Han Teck
Judge of the High Court

Plaintiff in person;
Ramesh Selvaraj and Hiew E-Wen, Joshua (Allen & Gledhill LLP)
for the defendants.