

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

**[2022] SGHC 145**

Suit No 1045 of 2020

Between

Ng Hwee Phong

*... Plaintiff*

And

Thum Sow Chan

*... Defendant*

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**JUDGMENT**

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[Trusts — Resulting trusts — Presumed resulting trusts]

[Land — Interest in land — Joint tenancy — Severance of joint tenancy over  
sale proceeds]

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**Ng Hwee Phong**

**v**

**Thum Sow Chan**

**[2022] SGHC 145**

General Division of the High Court — Suit No 1045 of 2020

Andre Maniam J

18–21, 24 January, 22 April 2022

24 June 2022

Judgment reserved.

**Andre Maniam J:**

### **Introduction**

1 The plaintiff (Mr Ng) claims the sum of \$762,000 from the defendant (Mdm Thum).<sup>1</sup> Mdm Thum had withdrawn that sum from the parties' joint account with the Bank of China ("BOC") on 9 March 2020 – it was half of the balance in the account.<sup>2</sup> Mdm Thum left the other half for Mr Ng, who withdrew it and closed the account on 31 March 2020.<sup>3</sup>

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<sup>1</sup> Statement of Claim (Amendment No 2) ("SOC") at para 21 (a) (Set Down Bundle "SDB" at page 66).

<sup>2</sup> Affidavit of Evidence-in-Chief of Thum Sow Chan affirmed on 25 November 2021 ("Mdm Thum's AEIC") at para 40 (Bundle of Affidavits of Evidence-in-Chief ("BAEIC") at page 88); Agreed Bundle of Documents ("AB") at page 75.

<sup>3</sup> AB at page 79.

2 Mr Ng claims that although the BOC account was in their joint names, and the money in it came from the sale proceeds of a property that was also in their joint names, he was the sole beneficial owner of the property and the money in the bank account. Accordingly, he contended that Mdm Thum was not entitled to any of the money that she took.

### **Background**

3 Mr Ng and Mdm Thum (now in their 80s) were in a romantic relationship for over 40 years – from the 1970s until the relationship soured towards the end of 2019.<sup>4</sup> They were, however, never married. Mr Ng already had a wife and children when his relationship with Mdm Thum started.<sup>5</sup> There is some disagreement over when Mdm Thum found out about Mr Ng’s wife and children (which I deal with at [16] and [34] below). Specifically, Mdm Thum says that she only came to know of Mr Ng’s wife and children some years later, when they turned up at the Sennett Lane home of Mr Ng and Mdm Thum (a linked bungalow bought in Mr Ng and Mdm Thum’s joint names)<sup>6</sup> (the “Sennett Lane Property”), and demanded to stay there.<sup>7</sup> Mr Ng says instead that he had told Mdm Thum about his wife and children from the start of his relationship with Mdm Thum.<sup>8</sup>

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<sup>4</sup> Affidavit of Evidence-in-Chief of Ng Hwee Phong affirmed on 21 November 2021 (Mr Ng’s AEIC”) at paras 4, 24 and 25 (BAEIC at pages 2–3 and 10); Mdm Thum’s AEIC at para 5 (BAEIC at pages 79–80).

<sup>5</sup> Mr Ng’s AEIC at para 4 (BAEIC at pages 2–3).

<sup>6</sup> Mr Ng’s AEIC at para 9 (BAEIC at pages 4–5); Mdm Thum’s AEIC at para 15 (BAEIC at page 4).

<sup>7</sup> Mdm Thum’s AEIC at para 5 and 17 (BAEIC at pages 79–80 and 82–83).

<sup>8</sup> Mr Ng’s AEIC at para 4 (BAEIC at pages 2–3).

4 They all stayed together for a few years, but there were quarrels. In particular, Mr Ng’s wife and children were unhappy that Mdm Thum was a co-owner of the Sennett Lane Property, whereas they were not.<sup>9</sup> In the mid-1980s, Mr Ng’s wife and children left the Sennett Lane Property to stay elsewhere.<sup>10</sup>

5 Mr Ng and Mdm Thum continued to stay at the Sennett Lane Property until it was sold in or around 2011.<sup>11</sup> The net sale proceeds of some \$3.7m were paid into an account with United Overseas Bank (“UOB”) that was in Mr Ng and Mdm Thum’s joint names.<sup>12</sup> Various payments were made out of the UOB account, including \$1m to Mdm Thum,<sup>13</sup> and \$100,000 each to three of Mr Ng’s four children. Nothing was paid to the other child,<sup>14</sup> or to Mr Ng’s wife.<sup>15</sup>

6 \$2m was transferred from the UOB account for placement as two time deposits of \$1m each with BOC.<sup>16</sup> There is disagreement over whether the BOC account was opened in the joint names of Mr Ng and Mdm Thum from the beginning (as Mdm Thum contends)<sup>17</sup>, or whether Mdm Thum’s name was

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<sup>9</sup> Notes of Evidence (“NE”), 18 January 2022, page 34, lines 1–21.

<sup>10</sup> NE, 18 January 2022, page 33, line 25–page 34, line 15.

<sup>11</sup> Mr Ng’s AEIC at para 12 (BAEIC at pages 5–6); Mdm Thum’s AEIC at paras 20–21 (BAEIC at page 83).

<sup>12</sup> Mr Ng’s AEIC at para 15 (BAEIC at pages 6–7); Mdm Thum’s AEIC at para 21 (BAEIC at page 83); AB at page 6.

<sup>13</sup> Mr Ng’s AEIC at para 15 (BAEIC at pages 6–7); Mdm Thum’s AEIC at para 22(a) (BAEIC at page 83).

<sup>14</sup> NE, 18 January 2022, page 39, line 19–page 40, line 10; Mdm Thum’s AEIC at para 22(b) (BAEIC at page 84).

<sup>15</sup> Mr Ng’s AEIC at para 16 (BAEIC at page 7).

<sup>16</sup> Mr Ng’s AEIC at para 18 (BAEIC at page 7–8); Mdm Thum’s AEIC at para 30 (BAEIC at page 85); AB at pages 6 and 30; NE, 18 January 2022, page 44, lines 16–23.

<sup>17</sup> Mdm Thum’s AEIC at para 30 (BAEIC at page 85).

added as a joint account holder later on (as Mr Ng contends)<sup>18</sup> – I will deal with this at [53]–[63] below. By the end of 2014, the time deposits in the BOC account had been reduced to a total of \$1,550,004.38.<sup>19</sup> By 13 February 2020, the time deposits in the BOC account were lower still, totalling \$1,532,140.94.<sup>20</sup>

7 On 9 March 2020, Mdm Thum withdrew from the BOC account the \$762,000 that Mr Ng is suing her for, leaving time deposits totalling \$760,615.07.<sup>21</sup> There is a small difference between what Mdm Thum withdrew and the time deposits that remained in the account, and they do not add up to the preceding balance of \$1,532,140.94 (but instead, the lower figure of \$1,522,615.07). That difference is likely due to Mdm Thum withdrawing interest and/or the incurring of bank charges reducing the remaining balance. For instance, the BOC statement dated 31 December 2014 shows that in 2014, \$27,002.32 was paid in interest.<sup>22</sup> Furthermore, in withdrawing \$762,000 from the BOC account, on 9 March 2020 a \$1,019,595.05 deposit was withdrawn ahead of maturity (the maturity date was 13 August 2020),<sup>23</sup> for which charges may have been incurred. The parties did not make an issue of these differences, and I accept that what Mdm Thum withdrew from the BOC account represented half of the balance that was then in the account – she explained that she had sought the branch manager’s assistance to divide the balance 50-50.<sup>24</sup>

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<sup>18</sup> Mr Ng’s AEIC at paras 18 – 20 (BAEIC at pages 7–9).

<sup>19</sup> AB at page 35.

<sup>20</sup> AB at page 36.

<sup>21</sup> Mdm Thum’s AEIC at para 40 (BAEIC at page 88); AB at pages 39 and 75.

<sup>22</sup> AB at page 35.

<sup>23</sup> AB at pages 36 and 75.

<sup>24</sup> NE, 20 January 2022, page 55, line 26 to page 56, line 10.

8 On 31 March 2020, Mr Ng withdrew \$761,048.42 from the BOC account and closed the account.<sup>25</sup> That is slightly less than the \$762,000 which Mdm Thum had withdrawn earlier that month, but the parties made no issue of this. Again, the difference is likely due to interest and/or bank charges. When Mr Ng withdrew the remaining money from the BOC account and closed it, he would have terminated all of the time deposits ahead of maturity.<sup>26</sup>

9 On 31 March 2020, Mr Ng also withdrew from the UOB account the balance of \$5,418.20 in that account, and closed it.<sup>27</sup> Thus, from the time Mdm Thum withdrew the disputed \$762,000 from the BOC account on 9 March 2020, Mr Ng withdrew slightly more from the two accounts (\$766,466.62, being \$761,048.42 plus \$5,418.20).

### **The parties' positions**

10 Mr Ng's claim to the \$762,000 withdrawn by Mdm Thum rests on two contentions:<sup>28</sup>

(a) Mr Ng only included Mdm Thum as a joint account holder of the BOC account after Mdm Thum had undertaken: that she was a joint account holder in name only, that the money in the account belonged solely to Mr Ng, and that she was not to draw out any money from the account; and

(b) in any event, Mr Ng was beneficially entitled to all of the money in the BOC account by a resulting trust, or a common intention

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<sup>25</sup> AB at page 79.

<sup>26</sup> AB at page 39.

<sup>27</sup> AB at page 38.

<sup>28</sup> SOC at paras 9 and 11 (SDB at pages 62–63).

constructive trust, or a bare trust – Mr Ng contended that the Sennett Lane Property belonged solely to him although it was registered in his and Mdm Thum’s joint names, that the net sale proceeds in the UOB account belonged solely to him although the account was in their joint names, and that the money in the BOC account (funded by \$2m from the UOB account) belonged solely to him although that account too was in their joint names.

11 Mdm Thum denied the alleged undertaking.<sup>29</sup> She contended that all these assets (the Sennett Lane Property, the money in the UOB account, and the money in the BOC account) were held on a beneficial joint tenancy until March 2020 when she withdrew half of the balance in the BOC account<sup>30</sup> (following which Mr Ng withdrew the remainder from both the BOC and UOB accounts and closed them).

12 Mdm Thum also contended that the financial contributions to the purchase of the Sennett Lane Property had not come solely from Mr Ng – she too had contributed to the purchase financially.<sup>31</sup>

### **The evidence**

13 Mr Ng and Mdm Thum were the main witnesses in this case. There was some contemporaneous documentary evidence, but it was not complete. Family

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<sup>29</sup> Defence (Amendment No 1) (“Defence”) at paras 37–40 (SDB at page 42); Mdm Thum’s AEIC at paras 29–30 (BAEIC at page 85).

<sup>30</sup> Defendant’s Written Submissions (“DWS”) at paras 12–14 and 54; Defence at para 75 (SDB at page 47); Mdm Thum’s AEIC at para 40 (BAEIC at page 88).

<sup>31</sup> Defence at paras 11–13 and 18 (SDB at page 38); Mdm Thum’s AEIC at para 12 (BAEIC at page 81).



members of Mr Ng and Mdm Thum gave evidence on aspects of the matter, as did their next-door neighbour from Sennett Lane.

14 I generally preferred Mdm Thum’s evidence to Mr Ng’s. Mdm Thum’s testimony was more consistent with her own pleadings and Affidavit of Evidence-in-Chief (“AEIC”). Her evidence was also more consistent with the documentary evidence. Crucially, the documentary evidence contradicts Mr Ng’s version of events as to how the Sennett Lane Property came to be in joint names, and how the BOC account came to be in joint names. I do, however, have some difficulties with aspects of Mdm Thum’s evidence, such as the significance of loans from her family members, and whether any of the money from the BOC account had gone towards Mdm Thum’s purchase of a flat at Pine Close in 2014 (the “Pine Close Flat”). I elaborate below.

## **Findings**

### ***The Sennett Lane Property***

15 An analysis of the parties’ interests in the Sennett Lane Property and its sale proceeds must start with their relationship, which had begun prior to the purchase of the property.

### ***Mr Ng and Mdm Thum’s relationship, and the business of Seacon Trading Company***

16 It is common ground that Mr Ng and Mdm Thum met in or around 1971,<sup>32</sup> and Mdm Thum was then working as a secretary in Industrial and

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<sup>32</sup> SOC at para 3 (SDB at pages 60–61), Defence at para 6 (SDB at page 37); Mr Ng’s AEIC at para 4 (BAEIC at pages 2–3); Mdm Thum’s AEIC at para 5 (BAEIC at pages 79–80).

Commercial Bank (“ICB”).<sup>33</sup> I accept Mdm Thum’s evidence that Mr Ng had told her that he was then cohabiting with a woman, and that he and the woman no longer had any feelings for each other.<sup>34</sup> I reject Mr Ng’s evidence that he told Mdm Thum that he had a wife and children, and presented her with a “take it or leave it” decision as to whether to enter into a romantic relationship with him.<sup>35</sup> It is common ground that over time, Mr Ng and Mdm Thum did develop a romantic relationship.

17 Mr Ng had a business engaged in salvage operations (more specifically, purchasing and reselling salvaged goods), as well as in purchasing and reselling other items.<sup>36</sup> That business was carried on under the name of Seacon Trading Company (“Seacon”) – ACRA records show that Seacon was a sole-proprietorship of Mr Ng’s, with a business commencement date of 5 February 1972 and a registration date of 1975.<sup>37</sup> Mr Ng started Seacon with an initial capital of \$5,000.<sup>38</sup>

18 While she was still working with ICB, in her free time Mdm Thum helped with Seacon’s business on a part-time basis from around 1972. She subsequently left ICB and worked only for Seacon on a full-time basis from

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<sup>33</sup> Defence at para 7 (SDB at page 37), Reply (Amendment No 1) (“Reply”) at para 5 (SDB at page 51).

<sup>34</sup> Defence para 8 (SDB at page 37); Mdm Thum’s AEIC at para 5 (BAEIC at pages 79–80); NE, 20 January 2022, page 8, line 18–page 9, line 4.

<sup>35</sup> Mr Ng’s AEIC at para 4 (BAEIC at pages 2–3); NE, 18 January 2022, page 22, line 25–page 23, line 23.

<sup>36</sup> Defence at para 5 (SDB at page 37); Reply at para 3 (SDB at page 51).

<sup>37</sup> AB at pages 64–65.

<sup>38</sup> NE, 18 January 2022, page 9, lines 25–26.

around 1978.<sup>39</sup> I reject Mr Ng’s evidence that Mdm Thum was initially engaged by Seacon as a secretary at a salary of \$400 a month<sup>40</sup> – there is no documentary evidence to support this. Instead, I accept Mdm Thum’s evidence that Seacon did not pay her for her work at any point in time.<sup>41</sup>

19 It is common ground that after Mr Ng and Mdm Thum started a romantic relationship, she did not receive a salary or CPF for her work for Seacon.<sup>42</sup> Mr Ng pleaded that he paid Mdm Thum an allowance,<sup>43</sup> but during cross-examination he said that he did not pay her an allowance.<sup>44</sup> I accept that Mr Ng did not pay Mdm Thum an allowance for the work she did for Seacon, which is also Mdm Thum’s position.<sup>45</sup>

20 Mdm Thum describes her work for Seacon as: handling Mr Ng’s correspondence, explaining English documents to him, preparing accounting documents for Seacon, preparing vouchers and cheques for Mr Ng to sign, and accompanying Mr Ng to view prospective purchases.<sup>46</sup> While Mr Ng characterises Mdm Thum’s role in Seacon as “administrative”,<sup>47</sup> it remains a

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<sup>39</sup> Mdm Thum’s AEIC at paras 6–9 (BAEIC at page 80); NE, 20 January 2022, page 9, line 8–page 12, line 16.

<sup>40</sup> NE, 18 January 2022, page 14, lines 5–9; Plaintiff’s Written Submissions (“PWS”) at para 10.

<sup>41</sup> NE, 20 January 2022, page 10, line 30–page 11, line 4.

<sup>42</sup> Defence at para 13 (SDB at page 38), Reply at para 11 (SDB at page 51).

<sup>43</sup> Reply at para 11 (SDB at page 51), Mr Ng’s AEIC at para 4 (BAEIC at pages 2–3).

<sup>44</sup> NE, 18 January 2022, page 15, lines 7–9.

<sup>45</sup> Defence at para 13 (SDB at page 38).

<sup>46</sup> Mdm Thum’s AEIC at para 9 (BAEIC at page 80).

<sup>47</sup> SOC at para 3 (SDB at pages 60–61), Reply at paras 7 and 15 (SDB at pages 51 and 52).

fact that Mdm Thum worked for the business without being remunerated for her work.

*The purchase of the Sennett Lane Property*

21 The Sennett Lane Property was purchased at a price of \$160,000 in or about 1976. Seacon made the payments towards the purchase of the property.<sup>48</sup> Mr Ng says that since Seacon was *his* sole proprietorship, the financial contributions to the purchase of the Sennett Lane Property were all his and Mdm Thum had not contributed a cent.<sup>49</sup> However, I accept Mdm Thum's position that although Seacon remained a sole proprietorship under Mr Ng's name, they ran the business jointly, and money earned from the business was regarded as jointly earned by them.<sup>50</sup>

22 Besides working for Seacon without remuneration, Mdm Thum traded on her own account, tendering or bidding for abandoned goods in the port and reselling them as salvaged goods, with the profits from those trades sometimes being used for Seacon's working capital.<sup>51</sup> I also accept her evidence that she used her savings from her time working with ICB, for Seacon's business.<sup>52</sup> Thus, some of the money which Seacon used towards the payments for the Sennett Lane Property was:

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<sup>48</sup> Mr Ng's AEIC at paras 9–10 (BAEIC at pages 4–5); Mdm Thum's AEIC at para 12 (BAEIC at page 81); Supplemental Agreed Bundle of Documents ("SAB") at pages 107–109.

<sup>49</sup> Mr Ng's AEIC at para 10 (BAEIC at page 5); PWS at para 13.

<sup>50</sup> Defence at paras 12 and 18 (SDB at page 38); DWS at para 14.

<sup>51</sup> Mdm Thum's AEIC at paras 10–12 (BAEIC at page 81).

<sup>52</sup> Mdm Thum's AEIC at paras 11–12 (BAEIC at page 81).

- (a) money contributed by Mdm Thum to Seacon's business on the basis that Seacon was *their* business, and not solely *Mr Ng's* business; and
- (b) money saved by Seacon in not paying Mdm Thum for work that she had done for Seacon.

23 Mdm Thum says she also procured loans from her family members for Seacon.<sup>53</sup>

24 Mdm Thum's younger sister, Mdm Tham Lai Pheng, gave evidence that in or about the 1980s, her husband (who has since passed away) had extended a loan to Mdm Thum on Mdm Thum's request.<sup>54</sup> At the time, Mr Ng and Mdm Thum were already cohabiting.<sup>55</sup>

25 Mdm Thum's elder sister, Mdm Tham Fong Ching, similarly gave evidence that she had at Mdm Thum's request extended a loan to Mdm Thum, also during the period when Mr Ng and Mdm Thum were cohabiting. However, she could not recall exactly when she had extended the loan.<sup>56</sup>

26 Mdm Thum's nephew, Mr Goh Ling Kiat ("Mr Goh"), also gave evidence that he had at the request of Mdm Thum extended a loan of \$30,000,

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<sup>53</sup> Mdm Thum's AEIC at para 12 (BAEIC at page 81).

<sup>54</sup> Affidavit of Evidence-in-Chief of Tham Lai Pheng sworn on 22 November 2021 ("Tham Lai Pheng's AEIC") at para 3 (BAEIC at page 96).

<sup>55</sup> Tham Lai Pheng's AEIC at para 5 (BAEIC at page 96).

<sup>56</sup> Affidavit of Evidence-in-Chief of Tham Fong Ching affirmed on 22 November 2021 at paras 3–4 (BAEIC at page 98).

during the period when Mr Ng and Mdm Thum were cohabiting. However, he likewise could not recall exactly when the loan was extended.<sup>57</sup>

27 Mr Ng acknowledged that Mdm Thum had procured loans from her mother, her younger sister and her nephew, but not her elder sister.<sup>58</sup> Mr Ng further acknowledged that Mdm Thum had used her savings for Seacon's business, when he exceeded the overdraft he had taken for Seacon's business.<sup>59</sup>

28 However, from the evidence of Mdm Thum's family members,<sup>60</sup> the loans might only have been made after the Sennett Lane Property was fully paid up (by 9 March 1979, as the transfer of that date indicates).<sup>61</sup>

29 With that caveat, I accept that Mdm Thum had, prior to or in the course of the payments made by Seacon towards the Sennett Lane Property, made both direct and indirect financial contributions to Seacon's business. I would thus consider that both Mr Ng and Mdm Thum had contributed financially towards the purchase of the Sennett Lane Property. Mr Ng himself acknowledged under cross-examination that Mdm Thum did contribute to the business of Seacon, which was then the source of funds for the purchase of the Sennet Lane Property.<sup>62</sup>

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<sup>57</sup> Affidavit of Evidence-in-Chief of Goh Ling Kiat affirmed on 22 November 2021 ("Goh Ling Kiat's AEIC") at paras 3–4 (BAEIC at page 100).

<sup>58</sup> NE, 18 January 2022, page 19, lines 8–16.

<sup>59</sup> NE, 18 January 2022, page 19, lines 20–22.

<sup>60</sup> NE, 21 January 2022, page 3, line 18–page 4, line 1; 24 January 2022, page 12, lines 5–25.

<sup>61</sup> Mr Ng's AEIC at para 9 (BAEIC at pages 4–5); SAB at page 107–109.

<sup>62</sup> NE, 18 January 2022, page 26, lines 13–15.

*The joint tenancy over the Sennett Lane Property*

30 In view of the above, it is unsurprising that the Sennett Lane Property was held as a joint tenancy in the names of Mr Ng and Mdm Thum: they had jointly contributed to its purchase, and regarded it as jointly owned by them.

31 Mr Ng seeks to avoid the consequences of the Sennett Lane Property being held as a joint tenancy with Mdm Thum, by coming up with a story as to how he “added” her name as a joint tenant of the property “subsequently”.<sup>63</sup> He claims that the purchase was in his sole name, and that he went to see a lawyer later to add Mdm Thum’s name; but he says he did not sign any documents to add Mdm Thum’s name subsequently or pay any stamp duty for the purchase of the Sennett Lane Property.<sup>64</sup>

32 The transfer from the developer dated 9 March 1979<sup>65</sup> acknowledged receipt of the purchase price of \$160,000 from Mr Ng and Mdm Thum, and transferred the property to them as joint tenants. There is nothing to show that the purchase was originally in the sole name of Mr Ng, with Mdm Thum’s name only being added later. Indeed, the transfer document contradicts that.

33 The Sennett Lane Property was purchased in the joint names of Mr Ng and Mdm Thum from the start; I accept Mdm Thum’s evidence that her name was not added in later as Mr Ng alleges.<sup>66</sup> I also accept Mdm Thum’s evidence that the lawyer had explained that if one of them were to pass away, the other would become the sole owner of the property; and that Mr Ng and Mdm Thum

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<sup>63</sup> SOC at para 4 (SDB at page 61), Mr Ng’s AEIC at para 9 (BAEIC at pages 4–5).

<sup>64</sup> NE, 18 January 2022, pages 28, line 21–page 29, line 4.

<sup>65</sup> SAB at page 107.

<sup>66</sup> Mdm Thum’s AEIC at para 15 (BAEIC at page 82).

agreed to this.<sup>67</sup> Mr Ng admitted that he had not told the lawyer that Mdm Thum would have no share in the property although she was a joint owner.<sup>68</sup>

*Occupation of the Sennett Lane Property*

34 I accept Mdm Thum’s evidence that Mr Ng’s wife and children only turned up at the Sennett Lane Property after a few years of her and Mr Ng living there, and that their arrival came as a shock to Mdm Thum.<sup>69</sup> Mdm Thum’s evidence is that Mr Ng’s wife complained about Mr Ng leaving her and their children to live in a cramped HDB flat, while he and Mdm Thum lived in a bungalow. Mr Ng’s wife also demanded that she and the children be allowed to live at the Sennett Lane Property, and they did live there together with Mr Ng and Mdm Thum for a few years.<sup>70</sup>

35 Mdm Thum’s version of events is corroborated by the evidence of Mdm Lee Beng Yam, her next-door neighbour at Sennett Lane.<sup>71</sup> Mdm Lee testified that Mdm Thum moved in before Mr Ng’s wife did; she also said that Mdm Thum and Mr Ng “moved in like a couple” and that “they were co-habiting”.<sup>72</sup>

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<sup>67</sup> Mdm Thum’s AEIC at para 15 (BAEIC at page 82).

<sup>68</sup> NE, 18 January 2022, page 29, lines 5–10.

<sup>69</sup> Mdm Thum’s AEIC at para 17 (BAEIC at pages 82–83).

<sup>70</sup> Mdm Thum’s AEIC at para 17–19 (BAEIC at pages 82–83).

<sup>71</sup> Affidavit of Evidence-in-Chief of Lee Beng Yam affirmed on 15 December 2021 at paras 2–3 (exhibited to Mdm Thum’s Affidavit affirmed on 30 December 2021 in HC/SUM 5955/2021).

<sup>72</sup> NE, 24 January 2022, page 3, line 11–page 6, line 22, specifically at page 3, lines 24 and 26.



36 Mr Ng suggested that he, his wife, and their four children had lived at the Sennett Lane Property first, with Mdm Thum only moving in later (which Mr Ng's wife tolerated).<sup>73</sup> He also said in his AEIC that his wife and children continued to live in the Sennett Lane Property until it was sold in or about 2010.<sup>74</sup>

37 Under cross-examination, however, Mr Ng said that his wife and children moved out in the mid-1980s – they did not stay until the property was sold in or around 2011.<sup>75</sup> Only Mr Ng and Mdm Thum stayed there from 1978 until the property was sold.<sup>76</sup> Mr Ng further said that his wife and children were unhappy that Mdm Thum was a named co-owner of the property, whereas they were not.<sup>77</sup>

38 Mr Ng claimed that one reason for purchasing the Sennett Lane Property was to house his wife and four children in proper accommodation.<sup>78</sup> He further claimed that he was the sole beneficial owner of the Sennett Lane Property although it was registered in the joint names of him and Mdm Thum. Yet, when there was unhappiness on the part of his wife and children about the Sennett Lane Property being held in the joint names of Mr Ng and Mdm Thum, Mr Ng did nothing to change the manner in which the property was held – either to his sole name, or to the names of him and his wife. Instead, he was content to stay

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<sup>73</sup> Mr Ng's AEIC at para 9 (BAEIC at pages 4–5).

<sup>74</sup> Mr Ng's AEIC at para 10 (BAEIC at page 5).

<sup>75</sup> NE, 18 January 2022, page 33, lines 16–17.

<sup>76</sup> NE, 18 January 2022, page 33, lines 25–32.

<sup>77</sup> NE, 18 January 2022, page 33, line 25–page 34, line 5.

<sup>78</sup> Mr Ng's AEIC at para 8 (BAEIC at page 4).

on with Mdm Thum at the Sennett Lane Property (which continued to be in their names as joint tenants), while his wife and children moved out to stay elsewhere.

39 Conspicuously, although Mr Ng contends that Mdm Thum was a co-owner in name only,<sup>79</sup> he does not give any reason *why* she was named as a co-owner, or why *she* was named as a co-owner instead of his wife. I find that Mdm Thum was not a co-owner in name only; rather, Mr Ng and Mdm Thum were named as co-owners of the Sennett Lane Property because they had intended to hold the Sennett Lane Property as joint tenants from the time it was purchased.<sup>80</sup> This is consistent with Mr Ng's inaction when confronted with his wife's and children's unhappiness regarding the manner in which the property was held.

*The parties' interests in the Sennett Lane Property*

40 Both parties used the analytical framework in *Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048 ("*Chan Yuen Lan*"), which I apply in the present case.

41 The first step in the *Chan Yuen Lan* framework is to ask if there is sufficient evidence of the parties' respective financial contributions to the purchase price of the property (*Chan Yuen Lan* at [160(a)]). The answer to that is "no". As I stated above at [29], I consider that both Mr Ng and Mdm Thum made financial contributions to the purchase price of the property. However, I cannot discern the exact proportions of their respective financial contributions based on the available evidence. Accordingly, there is no presumption of resulting trust (that they hold the beneficial interest in the property in proportion

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<sup>79</sup> Mr Ng's AEIC at para 10 (BAEIC at page 5); NE, 18 January 2022, page 29, line 5–7.

<sup>80</sup> Mdm Thum's AEIC at para 15 (BAEIC at page 82).

to their respective contributions to the purchase price). It will thus be presumed instead that the parties hold the beneficial interest in the Sennett Lane Property in the same manner in which the legal interest is held. Here, the legal interest was held on a joint tenancy, and it is therefore presumed that Mr Ng and Mdm Thum held the Sennett Lane Property on a beneficial joint tenancy (see *Damodaran s/o Subbarayan v Rogini w/o Subbarayan* [2020] 5 SLR 1409 (“*Damodaran*”) at [33]–[34]).

42 Moving to the second step, regardless of whether there is sufficient evidence of the parties’ respective financial contributions to the purchase price of the property, is there sufficient evidence of an express or an inferred common intention that the parties should hold the beneficial interest in the property in a proportion which is different from that set out in the first step (*Chan Yuen Lan* at [160(b)])? The answer to that is “no”. I find in the present case that the parties intended to hold the Sennett Lane Property as beneficial joint tenants, *ie*, it was jointly owned in their lifetime not in any particular proportion (unless that joint ownership were severed), with the property going to the survivor in the event of the death of one of them (see [39] above). As the answers to both the first and second steps are “no”, it follows that the parties hold the beneficial interest in the Sennett Lane Property in the same manner as that in which they hold the legal interest, *ie*, as beneficial joint tenants (*Chan Yuen Lan* at [160(c)]).

43 If, as Mr Ng contended, the loans Mdm Thum procured from her family members were only extended after the Sennett Lane Property had been fully paid for, that would nevertheless be relevant in considering the parties’ intentions regarding the Sennett Lane Property at the time it was sold in or around 2011. Whatever the situation at the time the property was acquired, the parties could have a subsequent express or inferred common intention as to how they hold the beneficial interest in the property (*Chan Yuen Lan* at [160(f)]).

44 In the present case, the Sennett Lane Property was held as a beneficial joint tenancy from the time of acquisition, and events after the purchase do not point to a change in the parties' intention. On the contrary, Mdm Thum continued to contribute to Seacon (including by procuring loans from her family members for Seacon), and I accept that she did so in the belief (which Mr Ng shared) that Seacon was *their* business; and that the Sennett Lane Property which was purchased with money from Seacon was *their* property.

### ***The UOB account***

45 The Sennett Lane Property was sold in or around 2011, and the net sale proceeds of \$3,738,796.99 were deposited into the UOB joint account of Mr Ng and Mdm Thum.<sup>81</sup>

46 Absent evidence to the contrary, the sale proceeds of a property held on a joint tenancy would continue to be held by the co-owners as joint tenants. In particular, where those proceeds are deposited into a joint account, the co-owners continue to be joint tenants of the chose in action for the balance proceeds in the account: see *Zeligs Estate v Janes* [2015] BCJ No 9 ("*Zeligs (SC)*") at [176]–[178].

47 Here, the UOB joint account had already been opened before the net sale proceeds of the Sennett Lane Property were received: the January 2012 bank statement shows that there was a balance of \$5,325.15 on 1 January 2012 and the net sale proceeds were then deposited on 9 January 2012.<sup>82</sup>

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<sup>81</sup> Mr Ng's AEIC at paras 12 and 15 (BAEIC at pages 5–7); Mdm Thum's AEIC at para 21 (BAEIC at page 83); AB at page 6.

<sup>82</sup> AB at page 6.

48 Mr Ng says that he was the sole bank account holder of *Seacon's* bank account – he explained that Mdm Thum's name was never added to that bank account, for he feared that if the relationship soured, there would be a lot of problems if she were a joint bank account holder.<sup>83</sup> Mr Ng's stated concern about having assets in joint names with Mdm Thum did not, however, stand in the way of the Sennett Lane Property being purchased in their joint names, or the UOB account and the BOC account being in their joint names.

49 Mr Ng alleges that he extracted some undertaking from Mdm Thum before her name was added to the BOC account (an allegation which I reject, as I explain later at [56]–[64]),<sup>84</sup> but he does not say any undertaking was extracted in relation to the Sennett Lane Property or the UOB account (into which the net sale proceeds were deposited).

50 Various payments were made out of the UOB account in short order in January 2012,<sup>85</sup> including a sum of \$1m to Mdm Thum (comprising four cheques of \$250,000 each),<sup>86</sup> a total of \$300,000 (\$100,000 each) to three of Mr Ng's four children,<sup>87</sup> and \$38,000 to repay Mdm Thum's nephew Mr Goh for a loan (the principal amount lent was \$30,000, and another \$8,000 was paid representing interest thereon).<sup>88</sup> By the end of January 2012, the balance in the UOB account had been reduced to \$352,190.68. The UOB account was

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<sup>83</sup> Mr Ng's AEIC at para 4 (BAEIC at pages 2–3).

<sup>84</sup> Mr Ng's AEIC at para 20 (BAEIC at page 8–9); PWS at para 29.

<sup>85</sup> AB at page 6.

<sup>86</sup> Mr Ng's AEIC at paras 14–15 (BAEIC at pages 6–7); Mdm Thum's AEIC at paras 22 and 25 (BAEIC at pages 83–84).

<sup>87</sup> NE, 18 January 2022, page 39, line 19–page 40, line 10; Mdm Thum's AEIC at para 22(b) (BAEIC at page 84).

<sup>88</sup> AB at page 33; Goh Ling Kiat's AEIC at para 7 (BAEIC at page 100).

eventually closed on 31 March 2020.<sup>89</sup> Mr Ng testified that a joint account had to be used to receive the net sale proceeds of the Sennett Lane Property (as the property was in joint names).<sup>90</sup> However, he was evidently unconcerned about Mdm Thum *remaining* a joint account holder of the UOB account after the sale proceeds were received, which still held over \$350,000 at the end of January 2012 – he took no steps to remove Mdm Thum as a joint account holder of the UOB account. This stands in stark contrast to the cautious attitude Mr Ng claims he had in relation to Seacon’s account – he says he had not named Mdm Thum as a joint account holder out of fear that problems would arise if the relationship soured.<sup>91</sup>

51 I therefore find that the money in the UOB account (substantially comprising the sale proceeds of the Sennett Lane Property), was held by Mr Ng and Mdm Thum as beneficial joint tenants, in the same manner as the Sennett Lane Property had been held by them.

### ***The BOC account***

#### *The opening of the BOC account*

52 On 11 January 2012, two cheques of \$1m each were drawn on the UOB account and used to place two \$1m time deposits with BOC.<sup>92</sup>

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<sup>89</sup> AB at page 38.

<sup>90</sup> NE, 18 January 2022, page 57, lines 2–9.

<sup>91</sup> Mr Ng’s AEIC at para 4 (BAEIC at pages 2–3).

<sup>92</sup> AB at pages 6 and 30; Mr Ng’s AEIC at para 18 (BAEIC at pages 7–8); Mdm Thum’s AEIC at para 30 (BAEIC at page 85); NE, 18 January 2022, page 44, lines 16–23.

53 Mr Ng claims that the BOC account was held solely in his name, and that Mdm Thum's name was subsequently added as a joint account holder.<sup>93</sup> That is contradicted by BOC's letter of 27 October 2021 stating that the account was opened on 11 January 2012 in the names of Mdm Thum and Mr Ng, with an initial deposit of \$2m.<sup>94</sup>

54 Confronted with this, Mr Ng maintained on the stand that the account was opened in his sole name, and Mdm Thum's name was added later; he said it could be that the bank had forgotten this.<sup>95</sup> This was a desperate attempt to cling to a story that was plainly false. It bears noting that Mr Ng's solicitors had written to BOC on other matters, but they did not write to dispute BOC's position that the BOC account was opened in joint names.<sup>96</sup>

55 Mr Ng's pleaded case was that *in or about 2011*, \$1.5m of the net sale proceeds had gone to Mdm Thum, whereupon Mr Ng made it clear to her that the balance of \$2,278,000 in the UOB account belonged solely to him, which Mdm Thum acknowledged. He pleaded further that he had informed Mdm Thum that he was holding the \$2m in the BOC account (supposedly in his sole name) for the future of his children, which Mdm Thum also acknowledged.

56 Mr Ng pleads that it was only in the year *after* those events, "[i]n or about 2012", that Mdm Thum managed to convince him to include her name as a joint account holder of the BOC account, which he did after extracting some undertaking from her.

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<sup>93</sup> SOC at paras 8–9 (SDB at pages 62–63); Mr Ng's AEIC at paras 18–21 (BAEIC at pages 7–9).

<sup>94</sup> AB at page 103.

<sup>95</sup> NE, 18 January 2022, page 49, lines 18–32.

<sup>96</sup> AB at pages 75 and 79.

57 There are several problems with Mr Ng's version of events:

(a) the net sale proceeds of the Sennett Lane Property were only received in the UOB account in January 2012, and this contradicts Mr Ng's claim that he had transferred \$1.5m to Mdm Thum from the sale proceeds of the Sennett Lane Property in 2011;<sup>97</sup>

(b) Mr Ng claims that in 2011 he withdrew a sum of about \$500,000 for the purpose of Mdm Thum's purchase of the Pine Close Flat,<sup>98</sup> but there is no evidence of any such withdrawal from the UOB account (or any account) through the end of 2012, and the Pine Close Flat was only purchased in 2014;<sup>99</sup> and

(c) Mdm Thum did not receive \$1.5m, but only \$1m, from the net sale proceeds in 2012,<sup>100</sup> and in particular Mdm Thum had only received \$1m when the \$2m in time deposits were placed with BOC.<sup>101</sup>

58 On the stand, Mr Ng then said (contrary to his pleaded case) that the adding of Mdm Thum's name as a joint account holder of the BOC account did not take place in the year after the account had been opened in his sole name – instead, it all happened *on the same day*.<sup>102</sup>

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<sup>97</sup> AB at page 6.

<sup>98</sup> SOC at para 7 (SDB at page 62).

<sup>99</sup> AB at pages 50–55, specifically at pages 50 and 53.

<sup>100</sup> Mdm Thum's AEIC at para 22 (BAEIC at pages 83–84).

<sup>101</sup> AB at pages 33–34.

<sup>102</sup> NE, 18 January 2022, page 45, line 12–page 46, line 16.



59 The simple truth is that the BOC account was in joint names from the time it was opened, and Mr Ng's story is just a concoction to improve his case for claiming that all of the money in the BOC account was his.

60 Part of Mr Ng's story is that he did not include his eldest son's name as a joint account holder of the BOC account as Mr Ng wanted to surprise him and his other children by giving the \$2m to them at an appropriate time and "to seek atonement for [his] moral wrongness in having an affair with [Mdm Thum]." <sup>103</sup> In similar vein, Mr Ng says in para 7 of his AEIC that he knew it was morally wrong of him to have a relationship with Mdm Thum while married to his wife. He says he could not bring himself to explain to his children his moral wrongdoing, and he wanted to earn some money to give to his children in the future and ask for forgiveness for his moral wrongdoing. <sup>104</sup>

61 On the stand, however, Mr Ng disavowed all the references to his moral wrongdoing in having a relationship with Mdm Thum. He said it was not wrong of him to have taken a mistress: "[a]s long as both parties consent, then it is okay". <sup>105</sup> He went further to say that there were many unmarried women in Singapore, and more women than men, and so men could have more than one woman and not waste the women. <sup>106</sup> Mr Ng considered that he, as a man, as a husband, and as a father, could do anything he wanted so long as he did not commit a crime; and taking a mistress is not a crime. <sup>107</sup> Mr Ng said he had not talked about asking his children for forgiveness. He said that all the references

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<sup>103</sup> MR Ng's AEIC at para 18 (BAEIC at pages 7–8).

<sup>104</sup> BAEIC at page 4.

<sup>105</sup> NE, 18 January 2022, page 36, lines 16–19.

<sup>106</sup> NE, 18 January 2022, page 36, lines 6–11.

<sup>107</sup> NE, 18 January 2022, page 37, lines 1–3.

in his affidavit to moral wrongness and forgiveness were written by his lawyer; they did not reflect what he believed.<sup>108</sup>

62 There is no truth in Mr Ng's story that he wanted to surprise his children later with the money in the BOC account and seek their forgiveness for his moral wrongdoing. He did not consider that there was any moral wrongdoing to seek forgiveness for. The evidence shows that he had already given his children what he wanted to in January 2012 (*ie*, \$100,000 each to three of them and nothing to the remaining one). Mr Ng's true intention (which was a common intention shared with Mdm Thum) was that the money in the BOC account was meant for Mr Ng and Mdm Thum in their lifetime, with the money going to the survivor upon the death of either of them, *ie*, the money in the BOC account was held on a joint tenancy.

63 There is also no truth in Mr Ng's story about procuring some undertaking from Mdm Thum as a pre-condition for her being added as a joint account holder of the BOC account.<sup>109</sup> Mdm Thum was a joint account holder of the BOC account from the time it was opened; she was not added later.

64 Moreover, I do not believe that Mr Ng sought, or that Mdm Thum gave, any undertaking at any point in time. In particular, Mdm Thum did not:

- (a) acknowledge that she was a joint account holder of the BOC account in name only;
- (b) acknowledge that she had not contributed any money in the BOC account;

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<sup>108</sup> NE, 18 January 2022, page 37, line 16–page 38, line 16.

<sup>109</sup> Mr Ng's AEIC at para 20 (BAEIC at pages 8–9).

(c) acknowledge that the money in the BOC account belonged solely to Mr Ng; or

(d) undertake not to draw out any money from the BOC account on the understanding that the money was reserved for the future of Mr Ng's children.

65 I accept Mdm Thum's evidence that money was withdrawn from the BOC account for expenses, as well as for transfers back to the UOB account.<sup>110</sup> This indicates that the parties had intended the balance for the time being in those accounts to be held by them as joint tenants.

66 In the circumstances, I find that the money in the BOC account, like the Sennett Lane Property and the money in the UOB account, was held by Mr Ng and Mdm Thum as beneficial joint tenants. The balance in the BOC account came from the sale proceeds of the Sennet Lane Property, which Mr Ng and Mdm Thum had held as beneficial joint tenants, and they continued to be beneficial joint tenants of the balance in the BOC account, until the events of March 2020.

*Money for Mdm Thum's purchase of the Pine Close Flat*

67 Besides the \$1,000,000 paid to Mdm Thum in January 2012, and the \$762,000 withdrawn by Mdm Thum from the BOC account, had Mdm Thum also received from the net sale proceeds a further sum of money from Mr Ng that was used towards Mdm Thum's purchase of the Pine Close Flat? Mr Ng pleaded that Mdm Thum had received a sum of about \$500,000 for the purpose

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<sup>110</sup> NE, 20 January 2022, page 46, lines 20–30.

of purchasing the Pine Close Flat (which he later changed to \$520,000 in his testimony),<sup>111</sup> but Mdm Thum denied it.<sup>112</sup>

68 The Pine Close Flat was purchased in 2014 at a price of \$700,000.<sup>113</sup> Mdm Thum said that including commissions (and presumably other expenses of the purchase) she had paid \$770,000 in all. She said that this was financed by:

(a) \$200,000 from the \$1m she received from the Sennett Lane proceeds in January 2012;<sup>114</sup>

(b) \$64,043.40 being the principal amount withdrawn from her CPF account;<sup>115</sup> and

(c) around \$500,000 from her own savings (which did not come from the sale proceeds of the Sennett Lane Property).<sup>116</sup>

69 I have some difficulty with Mdm Thum's evidence on this.

70 Given that she only worked as a secretary in ICB for some 10 years (in the 1960s-1970s), after which she worked for Seacon for no remuneration, it is unlikely for her to have saved up \$500,000 from her employment. That amount of savings is also unlikely even if I were to include her earnings from trading

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<sup>111</sup> SOC at para 7 (SDB at page 62); NE, 18 January 2022, page 40, line 11–page 41, line 21.

<sup>112</sup> Defence at paras 33 – 35 (SDB at pages 41–42).

<sup>113</sup> NE, 20 January 2022, page 44, lines 2–7.

<sup>114</sup> Mdm Thum's AEIC at para 26 (BAEIC at pages 84–85).

<sup>115</sup> Mdm Thum's AEIC at para 26 (BAEIC at pages 84–85); AB at page 66.

<sup>116</sup> NE, 20 January 2022, page 44, lines 21–22 and page 47, lines 18–22.

on her own account. Moreover, Mdm Thum's own evidence that she had occasionally used her savings and profits from her own trades for Seacon's working capital makes it all the more unlikely that she could have accumulated a further \$500,000 in savings (on top of what she contributed to Seacon).<sup>117</sup> As a comparison, the Sennett Lane Property was purchased for just \$160,000; and when Seacon's overdraft with Maybank was settled from the sale proceeds of the Sennett Lane Property, the outstanding amount on that overdraft was only \$220,000.<sup>118</sup> It is improbable that Mdm Thum could have managed to save \$500,000 during that period – an amount which would have been sufficient then to purchase the Sennett Lane Property three times over, with money to spare.

71 For Mdm Thum to have had \$500,000 in savings is also incongruous with her needing to procure loans from her family members to help Seacon.

72 Mdm Thum testified that of the \$1m she received in January 2012 from the sale proceeds of the Sennett Lane Property, she only used \$200,000 towards the purchase of the Pine Close Flat. She said that some of the remaining \$800,000 went towards settling loans given by her relatives (other than Mr Goh's loan, which was directly settled from the sale proceeds), some went towards reimbursing her for money that she had put into Seacon, some went towards paying for her daily expenses, and the rest was kept by her as savings for her old age.<sup>119</sup> But her case is that no part of this \$800,000 balance went towards purchasing the Pine Close Flat: only \$200,000 of the \$1m went towards that. Mdm Thum's position, however, means that she would have needed a

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<sup>117</sup> Mdm Thum's AEIC at para 11 (BAEIC at page 81).

<sup>118</sup> Mr Ng's AEIC at para 12 (BAEIC at pages 5–6).

<sup>119</sup> NE, 20 January 2022, page 42, lines 27–31; page 48, lines 11–15; page 60, lines 6–18.

further \$500,000 (or thereabouts) to purchase the Pine Close Flat (which she says came from her savings).

73 Mr Ng's position on the \$500,000 is not without difficulty either. In his AEIC at para 30,<sup>120</sup> Mr Ng said that in March 2020 (when Mdm Thum withdrew the disputed \$762,000 from the BOC account), he expected the BOC account to have a balance sum of at least \$2m. However, after deducting from the net sale proceeds of \$3,738,796.99 the payments of \$1m to Mdm Thum, \$300,000 (in total) to three of Mr Ng's children, \$38,000 to Mdm Thum's nephew Mr Goh, and \$2m for placement as time deposits with BOC, there would only be some \$400,000 left. Mr Ng could not have given Mdm Thum \$500,000 for her to purchase the Pine Close Flat, whilst still leaving \$2m intact in the BOC account.

74 Mr Ng initially seemed to suggest in his AEIC that he had withdrawn about \$500,000 *from the UOB account* for Mdm Thum to use in purchasing the Pine Close Flat,<sup>121</sup> but this is contradicted by the UOB bank statements. As I noted above at [50], the UOB bank account had a balance of \$352,190.68 after various payments were made out of the account in January 2012. The bank statements indicate that \$1m was withdrawn (in four withdrawals of \$250,000 each) – that went to Mdm Thum, but there is nothing to show that a further \$500,000 went to Mdm Thum. The balance of \$352,190.68 was insufficient to support a withdrawal of about \$500,000 for Mdm Thum's use thereafter.

75 In his testimony, Mr Ng then said that he had given Mdm Thum a sum of about \$520,000 which had come from the BOC account, not the UOB

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<sup>120</sup> BAEIC at page 12.

<sup>121</sup> Mr Ng's AEIC at para 17 (BAEIC at page 7).

account.<sup>122</sup> He said that there was a placement of a \$480,000 time deposit, which is what remained of an original \$1m time deposit, and that showed that he had withdrawn \$520,000 for Mdm Thum to use to buy the Pine Close Flat. The documents do not, however, reflect the \$480,000 time deposit that Mr Ng mentioned. The four time deposits listed in the BOC statement dated 31 December 2014 are:<sup>123</sup>

- (a) \$1,000,000;
- (b) \$400,004.38;
- (c) \$100,000
- (d) \$50,000.

76 What the BOC statements and letters show,<sup>124</sup> is that the time deposits totalling \$2m when the BOC account was opened on 11 January 2012 had been reduced to time deposits totalling \$1,550,004.38 by the end of 2014 – a reduction of around \$450,000. The 31 December 2014 statement also shows that \$27,002.32 was paid as interest in the year 2014. If the interest paid in 2012 (from 11 January 2012 onwards) and 2013 was comparable, it would mean that by the end of 2014, there had been a net withdrawal of around \$500,000 from the BOC account.

77 Mdm Thum made various withdrawals from the BOC account in the course of 2014: cashier's orders for \$24,400, \$580,000, and \$25,000, and cash withdrawals of \$22,534.38 and \$25,010.14. Those withdrawals total

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<sup>122</sup> NE, 18 January 2022, page 40, line 11–page 43, line 11.

<sup>123</sup> AB at page 35.

<sup>124</sup> AB at pages 30 and 35.

\$676,944.52.<sup>125</sup> Mdm Thum said that the withdrawals were for the purpose of renewals and placements of time deposits,<sup>126</sup> and there are indeed references to that in BOC's letter of 2 March 2021.<sup>127</sup>

78 The BOC statement of 31 December 2014 indicates that by the end of 2014, one of the \$1m time deposits was simply renewed on 11 January 2014 (the anniversary of the original placement on 11 January 2012), yet the other \$1m time deposit had become three-time deposits totalling just \$550,004.38 (making a total balance of \$1,550,004.38). Put another way, it appears that not all of the \$676,944.52 withdrawn by Mdm Thum in 2014 (supposedly for the purpose of renewals and placements of time deposits) was deposited back into the BOC account.

79 2014 is a significant year because the title search on the Pine Close Flat shows that the contract date for Mdm Thum's purchase was 1 April 2014, and that the transfer to Mdm Thum was registered on 27 October 2014.<sup>128</sup>

80 On the available evidence, it is likely that *some* money from the BOC account was used towards Mdm Thum's purchase of the Pine Close Flat – as much as about \$500,000 may have been used, as Mr Ng says.

81 The question then is whether that has an impact on Mr Ng's claim for the \$762,000 withdrawn by Mdm Thum on 9 March 2020.

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<sup>125</sup> AB at page 104; see also AB at page 79.

<sup>126</sup> NE, 20 January 2022, page 45, line 11–page 46, line 9.

<sup>127</sup> AB at page 79.

<sup>128</sup> AB at pages 50–55.



82 Mr Ng did not begrudge Mdm Thum the sum of about \$500,000 being used towards the purchase of the Pine Close Flat. Indeed, he said that he was the one who withdrew that money for her use.<sup>129</sup> Moreover, Mr Ng and Mdm Thum stayed together at the Pine Close Flat for some years, from 2014 until late 2019.<sup>130</sup> In September 2019, Mr Ng was hospitalised after a fall, but he returned to the Pine Close Flat after he was discharged.<sup>131</sup> In October 2019, he was hospitalised again after another fall; this time, after his discharge he stayed in a nursing home instead.<sup>132</sup> He was still staying in a nursing home at the time of the trial.<sup>133</sup>

83 It is not Mr Ng's case that Mdm Thum's receipt of money from the sale proceeds severed the joint ownership of the sale proceeds, such that the remaining balance was all Mr Ng's. Rather, Mr Ng's case is that all of the sale proceeds of the Sennett Lane Property (which eventually found their way into the BOC account) had always belonged beneficially to him,<sup>134</sup> but I have found against him on that (see [42], [51] and [66] above).

84 Nor is it Mdm Thum's case that the joint ownership of the sale proceeds was ever severed prior to her withdrawing \$762,000 (half of the balance in the BOC account) on 9 March 2020 and leaving the other half for Mr Ng.

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<sup>129</sup> Mr Ng's AEIC at para 17 (BAEIC at page 7).

<sup>130</sup> Mr Ng's AEIC at para 22 (BAEIC at page 9); Mdm Thum's AEIC at para 32 (BAEIC at page 86).

<sup>131</sup> Mr Ng's AEIC at para 24 (BAEIC at page 10).

<sup>132</sup> Mr Ng's AEIC at paras 25–26 (BAEIC at page 10).

<sup>133</sup> Mr Ng's AEIC at para 28 (BAEIC at page 11).

<sup>134</sup> SOC at para 11 (SDB at page 63); PWS at paras 56–65.

85 From the evidence, I cannot glean any common intention of Mr Ng's and Mdm Thum's, other than that the balance from time to time in the UOB account, and the BOC account, was owned by them as joint tenants; that is, until Mdm Thum's withdrawal of \$762,000 from the BOC account on 9 March 2020.

86 It follows that even if I accept that \$500,000 from the BOC account had been used towards the purchase of the Pine Close Flat in 2014 (whether it was withdrawn by Mdm Thum herself or withdrawn by Mr Ng and given to Mdm Thum), it does not affect Mr Ng's claim in the present suit for the \$762,000 that was withdrawn by Mdm Thum on 9 March 2020. It is not contended, nor does the evidence show, that the joint tenancy in respect of the balance in the BOC account for the time being was severed by the withdrawal of about \$500,000 to be used towards the purchase of the Pine Close Flat.

***Severance of the joint tenancy over the balance sale proceeds***

87 There was a small balance of \$5,325.15 in the UOB account prior to the sale proceeds being received on 9 January 2012,<sup>135</sup> which I would regard as having been withdrawn and expended in 2012 (and in any case before March 2020).

88 By March 2020, what remained in the UOB account, and the BOC account, would thus be the balance of the sale proceeds of the Sennett Lane Property (including interest thereon) comprising:

- (a) \$1,532,140.94 in time deposits in the BOC account;<sup>136</sup> and

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<sup>135</sup> AB at page 6.

<sup>136</sup> AB at page 36.

- (b) some \$5,000 in the UOB account.<sup>137</sup>

89 In March 2020, the parties withdrew all of the money from the BOC and UOB accounts, and both accounts were closed by Mr Ng on 31 March 2020:

- (a) on 9 March 2020 Mdm Thum withdrew \$762,000 from the BOC account; and
- (b) on 31 March 2020 Mr Ng withdrew \$761,048.42 from the BOC account and \$5,418.20 from the UOB account, totalling \$766,466.62.

90 In *Zeligs (SC)*, which involved facts similar to the present case, the defendant and her mother sold a property which was owned by them as joint tenants, and deposited the sale proceeds into a joint bank account. The issue was whether the defendant's withdrawal of the *entire* balance of the joint bank account (whilst her mother was still alive) severed the joint tenancy over the balance in the bank account, such that the rule of survivorship ceased to operate in the defendant's favour when her mother passed away. The British Columbia Supreme Court held that the defendant's withdrawal of *all of* the funds in the bank account solely for her and her husband's benefit severed the joint nature of the account as the unity of possession was destroyed (*Zeligs (SC)* at [185]).

91 On appeal, the British Columbia Court of Appeal in *Zeligs Estate v Janes* [2016] BCJ No 1355 ("*Zeligs (CA)*") affirmed the lower court's decision. The appellate court considered whether there was severance of the joint tenancy over the sale proceeds of the jointly-held property which had been deposited in the joint account (*Zeligs (CA)* at [73]–[74]). The court found that the defendant's act of transferring the entirety of the sale proceeds contained in the joint bank

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<sup>137</sup> AB at page 38.

account to herself and her husband resulted in the severance of the joint tenancy over those sale proceeds as the unity of title was destroyed, which in turn extinguished the defendant's right of survivorship (*Zeligs (CA)* at [77]–[78]). Consequently, the defendant held a half-share of what she had taken, on trust for her mother's estate (*Zeligs (CA)* at [79]).

92 *Zeligs (SC)* and *Zeligs (CA)* demonstrate that where the entire balance of a joint account is drawn down to zero, any joint tenancy over sale proceeds formerly in the account is necessarily severed for the four unities are no longer present. As stated by the Court of Appeal in *Goh Teh Lee v Lim Li Pheng Maria and others* [2010] 3 SLR 364 at [17]: the unities of interest, title, time and possession are pre-requisites for a joint tenancy to exist.

93 In the present case, Mdm Thum and Mr Ng each took around half of the balance of the sale proceeds in March 2020, and the bank accounts were closed. Mdm Thum deposited the \$762,000 which she withdrew into a bank account in her sole name, and Mr Ng deposited the \$766,466.62 which he withdrew into a bank account in his sole name. Thereafter, there ceased to be any chose in action that was held jointly by both parties, and the unities of interest, title, time, and possession no longer existed. I thus find that the withdrawal of the entire balance of both the BOC and UOB accounts (which comprised the balance sale proceeds of the Sennett Lane Property) – with the accounts then being closed – severed the joint tenancy over the balance sale proceeds in March 2020.

94 When Mdm Thum withdrew the \$762,000 from the BOC account on 9 March 2020, she intended thereby to end the joint ownership of the balance sale proceeds in that account. She did not intend to share with Mr Ng the \$762,000 she had taken, but neither did she intend to lay claim to the balance in

the BOC account – she left it for Mr Ng to take,<sup>138</sup> as he did on 31 March 2020. Similarly, when Mr Ng withdrew what remained in the BOC and the UOB accounts on 31 March 2020, he did not intend to share with Mdm Thum what he had taken – he intended to keep that for himself.

95 In *Zeligs (SC)* and *Zeligs (CA)*, one of two joint tenants emptied the joint bank account, leading to the end of the joint tenancy over the sale proceeds in the account. Here, each of the two joint tenants took around half of the balance of the sale proceeds of the Sennett Lane Property in March 2020, with the same end-result: nothing remained in their joint names, and the joint tenancy came to an end. Such conduct – where one or more joint tenants operate on their own interests in the property – is a recognised mode of severing a joint tenancy in equity: *Chan Lung Kien v Chan Shwe Ching* [2018] 2 SLR 84 at [18]–[19].

96 Absent any other intention of the parties, severance of a joint tenancy results in a tenancy in common in equal parts between Mr Ng and Mdm Thum (see *Lee Hwee Khim Rosalind v Lee Sai Khim and others* [2011] SGHC 64 at [25] and *Damodaran* at [92]–[94]). Accordingly, Mdm Thum was entitled to take a half-share of the money in the BOC account, as she did. If the balance in the UOB account were included as well, Mdm Thum took slightly less than half of the balance sale proceeds as at March 2020: she took \$762,000 whilst Mr Ng took \$766,466.62 (\$761,048.42 from the BOC account, and \$5,418.20 from the UOB account). Either way, Mdm Thum was entitled to the \$762,000 that she withdrew from the BOC account on 9 March 2020.

97 I have already rejected both grounds on which Mr Ng claimed the \$762,000 from Mdm Thum: see [10], [44] and [66] above. What remained was

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<sup>138</sup> NE, 20 January 2022, page 56, lines 7–10.

a joint tenancy over the balance sale proceeds which was severed in March 2020. Mdm Thum was entitled to take half of the balance, and what she took on 9 March 2020 is slightly less than half. It follows that Mr Ng’s claim for the sum of \$762,000 (or “such sums to be paid by Mdm Thum as determined by the court”<sup>139</sup>) fails.

98 I could not turn back the clock to when the sale proceeds of the Sennett Lane Property amounting to some \$3.7m were first received in January 2012, and limit Mdm Thum to only receiving half of that amount thereafter. It would have been unprincipled to attempt some retrospective division of the sale proceeds equally between Mr Ng and Mdm Thum – that would have gone against their common intention that the balance sale proceeds from time to time were jointly owned (as I have found at [42], [51] and [66] above).

99 In any case, the evidence before me did not allow for retrospective division of the sale proceeds of the Sennett Lane Property equally between Mr Ng and Mdm Thum. I accept Mdm Thum’s evidence that some part of the \$1m that she received in January 2012 went towards paying off loans that she had procured for Seacon’s benefit, and some part went towards reimbursing her for her direct financial contributions to Seacon.<sup>140</sup> If I were to divide the sale proceeds of some \$3.7m equally between the parties, I would first have to subtract the amounts which Mdm Thum had used to pay off the loans and to reimburse herself for her financial contributions – it would not be fair for Mdm Thum to have to use her share of the sale proceeds to repay the loans or reimburse herself. However, there was no evidence of exactly how much of the \$1m Mdm Thum received was used for those purposes. Furthermore, as I noted

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<sup>139</sup> SOC at para 21(b) (SDB at page 66).

<sup>140</sup> NE, 20 January 2022, page 42, lines 27–31; page 48, lines 11–15; page 60, lines 6–18.

above at [67]–[80], it is likely that some money from the BOC account was used by Mdm Thum towards the purchase of the Pine Close Flat, but on the evidence I cannot say precisely how much. Moreover, although the Pine Close Flat was in Mdm Thum’s sole name, both she and Mr Ng stayed there, and the evidence does not support a finding that what was used towards purchasing the Pine Close Flat was meant to be counted towards Mdm Thum’s share of the sale proceeds of the Sennett Lane Property.

### **Conclusion**

100 For the above reasons, I dismiss Mr Ng’s claim.

101 In principle, Mdm Thum is entitled to costs from Mr Ng. Unless the parties agree on costs, they are to file and serve their respective cost submissions, limited to 8 pages (excluding any schedule of disbursements), within 14 days. Costs will be assessed thereafter, by me or by a registrar.

Andre Maniam  
Judge of the High Court

Kanagavijayan Nadarajan (Kana & Co) for the plaintiff;  
Oei Ai Hoes Anna (Tan Oei & Oei LLC) (instructed) and  
Sng Kheng Huat (Sng & Co) for the defendant.