

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

[2022] SGHC 125

Suit No 702 of 2018

Between

Ong Chin Woon

... Plaintiff

And

- (1) Ong Bee Hah (Co-Administratrix of the estate of Tan Ah Moi, deceased)
- (2) Ong Yew Hong (Co-Administratrix of the estate of Tan Ah Moi, deceased)
- (3) Ng Wuay Ming
- (4) Ong Chin Ee
- (5) Ng Yee Ping Grace (Sole Executrix of the estate of Ong Ee Peng, deceased)
- (6) Ong Bee Hah
- (7) Ong Yew Hong
- (8) Ong Ah Hua

... Defendants

JUDGMENT

[Trusts — Constructive trusts — Common intention constructive trusts]
[Trusts — Resulting trusts — Presumed resulting trusts]

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Ong Chin Woon
v
Ong Bee Hah (co-administratrix of the estate of Tan Ah Moi,
deceased) and others

[2022] SGHC 125

General Division of the High Court — Suit No 702 of 2018
Lai Siu Chiu SJ
24–27, 30, 31 August; 1, 2 September; 1 October 2021

24 May 2022

Judgment reserved.

Lai Siu Chiu SJ:

Introduction

1 Suit No 702 of 2018 (“this Suit”) involved a contest between siblings over the property of their late mother Tan Ah Moi (“the Deceased”) located at No 8 Jalan Jermin, Singapore (“the Property”). The Property is the only valuable asset of the Deceased’s estate (“the Estate”).

2 Ong Chin Woon (“the Plaintiff”) is the second eldest child of the Deceased and the older of the Deceased’s two sons. His six siblings (or their estates) are the defendants in this suit. They are: (i) Ong Bee Hah (“Bee Hah”), a sister who is the first and sixth defendant; (ii) Ong Ah Hua (“Ah Hua”) another sister who is the eighth defendant; (iii) Ong Chin Ee (“Chin Ee”) a brother who is the fourth defendant; (iv) Ong Ee Peng (“Ee Peng”), a sister who passed away in 2017 and whose estate is represented by Ee Peng’s daughter Ng Yee Ping

Grace (“Grace”), is the fifth defendant and (v) Ong Yew Hong (“Yew Hong”) a sister who is the second and seventh defendant. The Plaintiff had another sister Ong Siew Eng (“Siew Eng”), the eldest in the family, who passed away intestate on 25 October 1997. Her son Ng Wuay Ming (“Wuay Ming”), who is the only beneficiary of her estate, is the third defendant. Ah Hua, the eighth defendant, was given up for adoption when she was a child but remains a beneficiary of the Estate because she was not formally adopted by her adoptive family. Henceforth, where the context requires, Bee Hah and Yew Hong will be referred to collectively as “the administratrices”. In this Suit, the Plaintiff has sued the administratrices in their dual capacity – as administratrices and as beneficiaries of the Estate. Chin Ee and his sisters will, where the context is appropriate, be referred to collectively as the “siblings” in relation to the Plaintiff – the term does not include Ah Hua, as she was never part of the Ong family throughout the years where the events concerning this Suit took place.

3 The siblings’ father Ong Kim Huat (“the Father”) passed away on 21 March 1976 while the Deceased herself passed away in February 2015.

4 The facts hereafter set out are extracted from the affidavits of evidence-in-chief (“the AEICs”) of the Plaintiff, Chin Ee, Bee Hah, Yew Hong, Ong Geok Leng (“Geok Leng”) who is the Plaintiff’s wife and Ong Wen Jin (“Wen Jin”) who is the Plaintiff’s daughter. Yew Hong filed two affidavits, one as an administratrix of the Estate, *ie*, in her capacity as the second defendant and the other as a beneficiary of the Estate, as the seventh defendant. Where reference is made to Yew Hong’s AEIC and unless otherwise stated, it refers only to her AEIC that was filed in her capacity as a beneficiary of the Estate. The reasons

for this will be apparent when the court refers to the joint defence filed by the administratrices¹.

5 The text of the Plaintiff's AEIC totalled less than 28 pages but his exhibits were compiled into three thick bundles of documents and consisted of more than 1,000 pages, while similar documents formed the bulk of the 11 volumes of the agreed bundles of documents.

6 In his AEIC, the Plaintiff deposed that while the latter was alive, the Father conducted a business called Southern Tyre Co ("Southern Tyre") which sole-proprietorship was registered in the name of the Deceased (on 1 October 1960²) because the Father had a gambling habit. Southern Tyre was in the business of supplying tyres to lorries and trucks that used to transport logs from Peninsular Malaya to sawmills in Singapore. On 1 January 1975, Southern Tyre was converted into a partnership with Chin Ee and the Plaintiff as the partners of the Deceased.

7 In or about 1972, the Father ventured into the logging business in Malaysia. He became a shareholder in a company called Lian Pong Timber Industries Sdn Bhd on or about 26 November 1973.

8 The Plaintiff went to Peninsular Malaya to help in the Father's timber business and was stationed in Negeri Sembilan and Pahang. Chin Ee was left to manage Southern Tyre in Singapore. Chin Ee managed Southern Tyre until he emigrated to Canada on or about 12 December 1988 when the business was taken over by Chin Ee's brother-in-law Seah Tua Chew ("Seah"). On 27 June

¹ See [56] *infra*

² See ACRA search at AB5748

1991, both the Plaintiff and the Deceased formally withdrew from the partnership and Seah officially took over the business of Southern Tyre.

9 After Malaysia banned the export of raw timber to Singapore in or about 1977, the Plaintiff deposed that he incorporated Success Lumber International Pte Ltd (“Success Lumber”) to sell timber logs in Singapore after the timber was first sawn and turned into logs in Malaysia. The Deceased and Chin Ee were shareholders of Success Timber but were not involved in running its operations. The Plaintiff was not a shareholder even though Success Lumber was his company as he did not want his partners in his Malaysian timber business to know he owned a competing business.

10 The Plaintiff deposed that he would help out in the business of Southern Tyre whenever he returned to Singapore from Malaysia on weekends. The Plaintiff took all the credit for the family’s prosperity³ and claimed that it was the success of his timber business that enabled the family to attain a middle to upper middle-class lifestyle which included owning Mercedes Benz vehicles.

11 Besides Southern Tyre and Success Lumber, the family ventured into other businesses and companies in Malaysia. These were (i) Syarikat Jayawaras Sdn Bhd (“Jayawaras”); (ii) Crescent Realty Sdn Bhd (“Crescent”) and (iii) Foras Realty Development Sdn Bhd (“Foras”). There was also a Singapore company called Goldrich (S) Pte Ltd (“Goldrich”) that was incorporated in 1977. The Deceased was a shareholder of all these companies and received

³ See transcripts on 25 August 2021 at p 222

regular dividends from them. More will be said about some of these companies later⁴.

12 In the early days of Southern Tyre, the Deceased and her children resided at the second floor or attic of a shophouse that she owned at No 895, Upper Bukit Timah Road (“the Shophouse”) which ground floor was where the business of Southern Tyre was conducted. The Shophouse was acquired by the government sometime in the 1990s and the Deceased received by way of compensation around \$100,000.

13 In 1975, the family moved into a property located at No 1 Phoenix Garden (“the PG Property”) which was purchased in the name of the Deceased although it was funded by monies from Southern Tyre and a bank overdraft facility of Southern Tyre. On 14 June 1977, the Plaintiff and Chin Ee were added as joint owners to the PG Property without any payment on their part.

14 On 27 May 1985, the Plaintiff married Geok Leng but he continued to live at the PG Property after his marriage. On 18 August 1988, three months before the completion of the purchase of the Property, the Plaintiff and Geok Leng purchased a condominium unit at No 5 Newton Road #04-13 Elmira Heights (“Elmira Heights” or “the Flat”). He deposed in his AEIC that he looked forward to moving into the Flat with his family but he gave up the idea because the Deceased was not keen to live there as it was less convenient for her friends to visit her.

⁴ See [19–20] and [74–75] *infra*

15 In 1988, the PG Property was sold. The Deceased had initially wanted to renovate the PG Property but changed her mind. Instead, she decided to and did sell the PG Property for \$540,000 and replaced it with the Property⁵ as the family home, at a purchase price of \$620,000. The Deceased, Yew Hong (who was then unmarried), the Plaintiff and Geok Leng moved into the Property in 1989 after the PG Property was sold.

16 Although the Flat was ready for occupancy by the second half of 1990, Bee Hah deposed in her AEIC⁶ that the Plaintiff (with Geok Leng and later their children) continued to reside at the Property. Therefore, because of his and his family's continued occupation of the Property until the time it was sold, it was the Plaintiff's case in this Suit that the Property was his matrimonial property (which the defendants disputed).

17 In late 1988, Chin Ee emigrated to Canada with his wife and first child. On 21 May 1988, the Deceased (then about 60 years of age) called for a family meeting ("the May 1988 meeting") to discuss financial matters with her children before Chin Ee left for Canada. For the May 1988 meeting, the Deceased requested Yew Hong to take notes – which handwritten notes Yew Hong produced at the trial⁷ and were also exhibited in her AEIC⁸. In the handwritten notes, the Plaintiff was referred to as "W" while Chin Ee was referred to as "D" (which stands for David). What transpired at the May 1988 meeting has a material bearing on this Suit and requires elaboration.

⁵ See [1] *infra*

⁶ At para 38

⁷ See 2AB30–35

⁸ As exhibit OYH-6

18 At the May 1988 meeting, following upon discussions amongst the family members, the following were some of the significant matters discussed and agreed upon:

- (a) the Plaintiff and Chin Ee would set up a joint UOB account (“the Brothers’ Account”) to which they would contribute \$100,000 each. Their contributions were to defray the daily, travelling and other expenses of the Deceased as well as to take care of the university fees and wedding expenses of Yew Hong in the future. If the balance in the Brothers’ Account was depleted below \$10,000, the two brothers would have to top up the shortfall equally to bring the balance back to \$200,000;
- (b) Siew Eng, Ee Peng and Bee Hah would separately set up a bank account with OCBC (“the Sisters’ Account”) into which they would transfer monies from the Brothers’ Account to fund the Deceased’s personal but not the household expenses. (The Sisters’ Account with OCBC that was set up in or about September 1988 was closed after Siew Eng’s demise in 1997. Thereafter, Bee Hah, Yew Hong and Ee Peng opened a new joint account with Industrial and Commercial Bank which then became the Sisters’ Account);
- (c) the Plaintiff and Chin Ee would transfer back to the Deceased their interest in the PG Property;
- (d) \$20,000 would be returned to the Deceased from Selegie;
- (e) the cost of renovation and car to be shared 50:50 by the Plaintiff and Chin Ee. Each to give \$50,000;

(f) based on a list that the Plaintiff produced, Siew Eng set out the Deceased's shares in various companies and arrived at a value of \$164,000.

19 The Deceased wanted her children to bear witness to the agreement of the Plaintiff and Chin Ee in [18(c)] to transfer back to her their interest in the PG Property. Hence, Siew Eng wrote out a short note in Chinese to which the children appended their signatures. The English translation of the document reads:

Number 1 Phoenix Garden belongs to Tan Ah Moi (Chen Zhenmei)

Ong Chin Woon, Ong Chin Ee are willing to withdraw their names. Chen Zhenmei (Tan Ah Moi) [to] handle [it] at her discretion.

Twenty years later at a family meeting held on 10 March 2009 (“the March 2009 meeting”)⁹, it was confirmed that when the PG Property was sold, the Deceased took all the sale proceeds.

20 The reference to “Selegie” and \$20,000 in [18(d)] requires an explanation. According to Chin Ee¹⁰, “Selegie” was a reference to a five-storey apartment building (“the Selegie Building”) situated along Selegie Road which Goldrich owned. The entire Ong family were Goldrich's shareholders before Chin Ee moved to Canada with the Deceased being the major shareholder. Goldrich had purchased for \$140,000 the plot of land upon which the Selegie Building was constructed; the Plaintiff and Chin Ee paid \$120,000 while the Deceased lent the balance of \$20,000.

⁹ See [75]–[76] *infra*

¹⁰ See para 58 of his AEIC

21 Whilst the Selegie Building was still under construction in 1988, the Plaintiff was embroiled in disputes with the contractor over delays in construction works. This resulted in the Plaintiff's car being vandalised. The Deceased was afraid that matters would get out of hand and wanted the Selegie Building disposed of with the return of her loan of \$20,000. The Selegie Building was sold in 1989 for at least \$1m. Less the bank loan used for construction and the Deceased's loan, Chin Ee¹¹ estimated that he and the Plaintiff would have received \$240,000 each from the sale proceeds. Chin Ee requested the Plaintiff to use \$100,000 therefrom for the Deceased's care which Chin Ee assumed was done but, he never received the difference of \$140,000.

22 The reference to 50:50 in [18(e)] was to the Deceased's then intention to renovate the PG Property to which the Plaintiff and Chin Ee had agreed to make an equal contribution of \$50,000 each.

23 The Plaintiff deposed that while he resided at the Property, he paid for all the household expenses using monies withdrawn from the Brothers' Account. Bee Hah (and the other daughters) opined that this in effect meant that Chin Ee was paying for half of the Plaintiff's expenses which they felt was unfair. Hence, from about 1991 onwards, the Plaintiff took over the payment of the regular household expenses at the Property as by then, he had two children. Furthermore, the Deceased had since October 1990, started making annual trips of about six months' duration each to Canada to visit Chin Ee and his family. She would leave for Vancouver in spring (March or April) and return to Singapore in autumn (September or October) when the Canadian weather started to turn cold. Her last trip to Canada was in late 2014. According to Yew

¹¹ At para 61 of his AEIC

Hong, due to the Deceased's long absences from Singapore between 1990 and 2014, the bulk of the expenses incurred at the Property was, in any case, those of the Plaintiff and his family.

24 Between 1997 and 2005, the Deceased's daughters took her to see lawyers with a view to making a will, as the Deceased did not speak English. However, despite visiting three law firms between 19 March 1997 and 14 September 2005, the Deceased did not execute a will.

25 Yew Hong deposed in her AEIC¹² (and so too did Bee Hah¹³) that in every consultation she had with various lawyers/law firms, the Deceased expressed her wish that the Property was to be sold after her death and the sale proceeds distributed. Sometimes she would give details of the percentages or amounts she intended to give to various individuals or charities, but she remained undecided and no will was executed as a result.

26 On one occasion, on 11 February 2012, the Deceased accompanied by Yew Hong visited Bee Hah at her home. There, the Deceased raised the subject of the Property which she estimated was worth \$2.5m. She instructed Bee Hah to write down her instructions on how much to give to who, based on the figure of \$2.5m. Whenever Bee Hah went to the kitchen, Yew Hong would take over recording the Deceased's instructions. The notes were exhibited in Yew Hong's AEIC¹⁴ and the originals were also produced in court¹⁵. Counsel for the defendants, Ms Hing, described the notes as the Deceased's informal will as it

¹² At para 60

¹³ At para 50 of her AEIC

¹⁴ At exhibit OYH-16

¹⁵ See exhibit D4 and 2AB125–127

set out the Deceased's wishes on how her assets should be dealt with after her demise.

27 Towards the end of 2014 after her return from Canada, the Deceased's health deteriorated. She spent considerable amounts of time in hospitals until her demise on 5 February 2015 at 87 years of age.

28 After the Deceased's funeral, her children and grandchildren gathered at the Property on 15 February 2015, at the Plaintiff's request. At that gathering, some of the Deceased's belongings such as her watch and jewellery were distributed together with the cash donations from people who had attended her wake.

29 Another meeting of the siblings followed on 25 March 2015 ("the March 2015 meeting"). Yew Hong made notes of the discussions¹⁶ which primarily turned on the sale of the Property, the distribution of the sale proceeds and the appointment of administrators for the Estate. The Plaintiff made it clear that he did not want to be an administrator. The Plaintiff also said the Deceased had been prepared to sell the Property to him for \$800,000 some 20 years back, but he would not press the issue as it would cause friction in the family.

30 On 20 May 2015, the Plaintiff, Yew Hong, Ee Peng and Bee Hah met the Estate's solicitors for the first time ("the May 2015 meeting") to discuss the role of administrators – this included arranging for the Property to be sold and distributing the sale proceeds to the Estate's beneficiaries. The Plaintiff indicated that he was prepared to move out of the Property. Although she was

¹⁶ See exhibit OYH-17 in her AEIC and 2AB143–144.

initially reluctant to take on the role, Bee Hah eventually agreed to be appointed an administratrix of the Estate along with Yew Hong and Ee Peng. The grant of letters of administration was extracted on 3 November 2015. With the death of Ee Peng on 7 May 2017, Yew Hong and Bee Hah are the remaining administratrices of the estate.

31 Yew Hong deposed¹⁷ that out of the blue, in the interval between February and May 2015, the Plaintiff told her that a loan of \$500,000 had been taken out for the Deceased's purchase of the Property and that the Deceased's monies were used to repay the loans.

32 On 4 August 2016, a family meeting was held at the Property. At this meeting, the Plaintiff said he and Chin Ee wanted to purchase the Property by paying \$200,000 to each of the other beneficiaries. However, nothing came out of this proposal as the administratrices did not obtain the consent of the other beneficiaries. The discussions were recorded in a WhatsApp message to the siblings from Yew Hong on the following day¹⁸.

33 Five months later on 18 January 2017, the Plaintiff, Chin Ee, Ee Peng, Yew Hong and Bee Hah met at Ee Peng's house. By then, Ee Peng was in poor health. All the beneficiaries present agreed to sell the Property on the open market. The delay in selling since the letters of administration were extracted (on 3 November 2015) according to Chin Ee¹⁹ was due to the demise of Siew Eng's husband (the third defendant's father) and the passing of Yew Hong's father-in-law.

¹⁷ At para 102 of her AEIC as a beneficiary

¹⁸ At 1AB4186–4188

¹⁹ See his AEIC at para 128

34 As he was still residing at the Property, the Plaintiff requested that any sale must be subject to a three-years leaseback arrangement (“the leaseback condition”). Although she did not voice her objections, Yew Hong deposed in her AEIC²⁰ that she was not supportive of the leaseback condition, as almost two years had passed since the Deceased’s demise and she was mindful that the Deceased wanted the Property to be sold as soon as possible after her passing. However, as the Plaintiff was then the eldest while she was the youngest child in the family, she felt it was not her place to object and she did not. It should be noted that during cross-examination of the Plaintiff²¹, he denied that the leaseback condition only benefited him/his family as he was the only one staying at the Property. In answer to the court’s question, the Plaintiff gave the absurd explanation that he believed the Deceased’s spirit would return within five years and she needed a roof over her head.

35 Between February and April 2017, the Plaintiff allowed the appointed real estate agent, Jeannie Lim (“Jeannie”), to conduct viewings of the Property which was marketed initially at \$3.5m and subsequently at \$3.25m. After considerable difficulty, Jeannie found a buyer who was willing to pay \$2.95m for the Property (“the \$2.95m offer”) and to accept the leaseback condition.

36 However, in May 2017, before the administratrices could act on the \$2.95m offer, Bee Hah and Yew Hong at a lunch with the Plaintiff and Chin Ee were asked by the Plaintiff to sell the Property to his daughter Wen Jin at \$2.7m instead. The Plaintiff also asked that the estate pay him a commission of \$60,000 and pay Wen Jin monthly rent of \$4,000 under the leaseback condition. Not

²⁰ At para 100

²¹ See transcripts on 27 August 2021 at p 349 line 21

surprisingly, the Plaintiff's unreasonable demands²² caused heated arguments and led to Yew Hong and then Bee Hah walking off. Chin Ee had to step in to mediate the dispute between them.

37 On 9 June 2017, the Plaintiff sent a WhatsApp message to the Estate's chat group that had been created for the beneficiaries. It stated:

As I had infm CE the same early days.

Wen Jin n her boyfriend had confirmed to buy [Jalan Jermin]
at \$2.76M

Pls infm then to whom they will pay 1% option money asap

38 Subsequently, Chin Ee informed Yew Hong²³ that the offer price had been increased by \$60,000 from \$2.7m to \$2.76m and that the purchasers would be the Plaintiff and Wen Jin. Yew Hong was also told that the extra \$60,000 was meant²⁴ to be given back to the Plaintiff by the Estate as his commission. In her AEIC²⁵, Yew Hong said:

In other words, [the Plaintiff] wanted to extract the commission
he had requested from his own daughter and future son-in-law.

39 On 10 June 2017, all the beneficiaries consented to the sale to the Plaintiff and Wen Jin. From June to July 2017, the administratrices agreed to sell the Property with vacant possession at the price of \$2.76m but it was not to the Plaintiff and Wen Jin – it was to Wen Jin's husband-to-be. The reason for the change was based on legal advice. Wen Jin's lawyers were concerned that as the daughter of a beneficiary of the Estate that was selling the Property, her

²² According to para 66(g) of Bee Hah's AEIC

²³ See para 127 of her AEIC.

²⁴ Ibid para 127

²⁵ Ibid para 127

loan application may be affected and not be approved by virtue of that relationship. To show it was an “arm’s length” transaction, Wen Jin and/or the Plaintiff decided that Wen Jin’s future husband would be the sole purchaser.

40 For reasons that will become apparent in the court’s subsequent findings, Yew Hong made copious references in her AEIC to the WhatsApp exchanges that showed that the Plaintiff actively encouraged Wen Jin (and Wen Jin’s future husband) to purchase the Property at a discount to the market value. In her communication with the administratrices in particular with Yew Hong, Wen Jin also made no secret of the fact she could only afford to buy the property with the (financial) support of her father as her budget was only \$2.7m and the Plaintiff would pay the difference of \$60,000.

41 The administratrices issued the option to purchase for the Property in July 2017 and the sale was completed in October 2017. Upon completion, the Plaintiff insisted that the administratrices distribute the sale proceeds quickly. He took issue with the steps taken by the administratrices in August and September 2017 to ascertain claims for expenses made against the Estate prior to distribution of the sale proceeds. There was a considerable exchange of correspondence between the parties as well as between the solicitors for the Estate and the Plaintiff in that regard.

42 On 19 September 2017²⁶, the Plaintiff submitted a handwritten note in Chinese setting out his claims against the Estate. Besides a sum of \$298,008.94 for the Deceased’s hospitalisation, his note included a claim for \$100,000 (“the \$100,000 claim”) for his eldest son Yan Jie that the Deceased had purportedly

²⁶ See 1AB4300 and exhibit OYH-30 in Yew Hong’s AEIC

promised to him. However, the administratrices rejected the \$100,000 claim on the basis that it was not the Deceased's debt and they could not admit the claim without the consent of the other beneficiaries (which was not forthcoming) as required under the law of intestacy.

43 As Bee Hah was going on holiday in October 2017, the administratrices planned to distribute the sale proceeds in November 2017. However, distribution of the sale proceeds did not take place as planned in November 2017. Despite repeated requests from the administratrices, the Plaintiff failed to provide accounts of all the cash donations he collected from well-wishers at the wake as well as the sums he disbursed therefrom to each sibling. He failed and/or refused to do so even when the Estate's solicitors wrote to him. Unlike the other beneficiaries, the Plaintiff further refused to confirm the Estate's accounts when the same were sent to him before distribution could take place. Indeed, he objected to the distribution taking place before his claims against the Estate were paid.

44 On 26 January 2018²⁷, the Plaintiff through his lawyers stated for the first time that the Plaintiff had contributed substantially to the purchase of the Property and there was no basis for an equal distribution of the sale proceeds to all the beneficiaries of the estate. In response, the administratrices requested for evidence from the Plaintiff to support his claim to the Property and the sale proceeds. However, no evidence was forthcoming from him between February and July 2018.

²⁷ At 1AB4338

45 Hence, on 16 July 2018, despite the Plaintiff's objections, the administratrices through the Estate's solicitors, made a distribution of \$300,000 of the sale proceeds to each beneficiary for a total distribution of \$2.1m. The Plaintiff was unsuccessful in his attempt to obtain an injunction to stop the payments that the administratrices made. On the same day, the Plaintiff served his writ of summons in this Suit on the administratrices followed by service of the statement of claim ("SOC") on 27 July 2018.

46 On 25 July 2018, the Plaintiff requested and subsequently received a cheque for \$300,000 as his share of the interim distribution from the sale proceeds of the Property. However, unlike the other beneficiaries, he did not sign the receipt and discharge documents prepared by the Estate's solicitors.

The pleadings

47 When the Plaintiff first commenced this Suit, he only sued Bee Hah and Yew Hong in their capacity as administratrices of the estate. It was pursuant to the administratrices' application in Summons No 1743 of 2019 filed on 3 April 2019 and which was granted on 1 August 2019 (despite the Plaintiff's objections and which order was upheld on the Plaintiff's appeal to a judge in chambers), that all the siblings (or their estates' representatives) were joined as defendants in this Suit.

48 In his SOC (Amendment No 3), the Plaintiff narrated the facts leading up to the purchase of the Property, including the purchase and sale of the PG Property. The *gravamen* of the Plaintiff's case was that there was a common intention²⁸ between himself and the Deceased at the time of the purchase of the

²⁸ See para 14 of the SOC

Property on how the beneficial interest in the Property would be held. He averred that at that time, the Deceased no longer had significant income while he was the sole breadwinner in the family.

49 The Plaintiff particularised the common intention as follows:

- (a) the Deceased would utilise her share of the monies from the sale of the PG Property to pay the 10% deposit of \$62,000 as well as another \$58,000 whilst the difference of \$500,000 of the purchase price (\$620,000 - \$62,000 - \$58,000) would be funded by a bank loan;
- (b) the Plaintiff would be responsible for servicing the bank loan and the interest as the Property was to be the Plaintiff's. Had the Plaintiff not agreed to service the bank loan that was obtained, the Property could not have been purchased;
- (c) the Property would be the Plaintiff's matrimonial home and the Deceased would continue to reside with and be taken care of by the Plaintiff;
- (d) notwithstanding that the bank loan was to be serviced by the Plaintiff, the Property would initially be registered in the name of the Deceased because the Plaintiff was newly married and he was still developing the timber business in Singapore and Malaysia; however, the Plaintiff was to own the Property.

During his cross-examination²⁹, the Plaintiff added two more reasons to (d) – the Malaysian roads were dangerous and the Flat³⁰ had just been purchased. The court is unable to understand the relevance of these two factors to the non-registration of the Plaintiff’s name as the owner of the Property.

50 The Plaintiff averred that the common intention was evidenced by the following acts:

- (a) a bank loan was obtained from United Overseas Finance Limited (“UOF loan”) with the Deceased as the mortgagor and the Plaintiff as the guarantor;
- (b) the Plaintiff paid the stamp and legal fees as well as incidental costs amounting to \$22,500.00;
- (c) the Plaintiff serviced the monthly instalments of the UOF loan through the joint Chung Khiaw Bank Limited account (“the CKB account”) he maintained with his wife. The UOF loan was fully redeemed around May 1992 when he paid \$591,889.85 (of which an overpayment of \$13,699.84 was subsequently refunded to him);
- (d) the Plaintiff continued to take care of the Deceased;
- (e) the Plaintiff paid for furnishings and renovation works at the Property as well as its utilities, property tax and other maintenance sums.

²⁹ See transcripts on 25 August 2021 at p 212

³⁰ See transcripts on 25 August 2021 at p 212 lines 7–12

51 In reliance on the common intention, the Plaintiff alleged that he had acted to his detriment as shown in the table below, which sets out his and the Deceased's contributions towards the purchase of the Property³¹:

Tan Ah Moi	\$62,000.00 + \$58,000.00 = \$120,000.00	16.3%
The Plaintiff	\$591,889.85+ \$22,500.00 = \$614,389.85	83.7%
Total	\$734,389.85	100%

Consequently, the Plaintiff averred that he is entitled to 83.7% of the Property's sale proceeds by virtue of a resulting trust arising from his contributions.

52 In the alternative, the Plaintiff asserted that he is the beneficial owner of the Property and he is entitled to 100% of the sale proceeds of the Property by reason of a common intention constructive trust.

53 In the further alternative, the Plaintiff contended he is entitled to 100% of the sale proceeds of the Property based on proprietary estoppel, which he particularised as follows:

- (a) the Deceased had assured and/or represented to him that she intended that the Property be the matrimonial home of the Plaintiff and that he be the owner of the Property;

³¹ See para 20 of the SOC

- (b) the Deceased encouraged the Plaintiff to be responsible for the repayment of the UOF loan and interest on the understanding he would be the owner of the Property.

The Plaintiff pleaded that he relied on the Deceased's representations to his detriment.

54 The Plaintiff alleged that none of the siblings contributed financially, directly or indirectly, towards the purchase of the Property – it was not his and the Deceased's common intention that the siblings should have any interest in the Property. This was because Ah Hua was no longer a member of the family since she was young, Chin Ee emigrated to Canada and the Deceased made provisions for Ee Peng, Siew Eng and the administratrices during her lifetime through various *inter vivos* gifts including the opening with them of joint bank accounts and safe deposit boxes.

55 The Plaintiff alleged that the defendants refused to recognise his beneficial interest in the Property despite his repeated demands. Hence, he sought:

- (a) a declaration that he has 100% beneficial interest in the Property, that he is entitled to all the sale proceeds and that the administratrices pay him the sale proceeds of the Property in satisfaction of his claim including taking all necessary steps to recover whatever monies that have been distributed to the defendants;
- (b) in the alternative, the Plaintiff prayed for a declaration that he holds 83.7% beneficial interest in the Property and that the administratrices pay him 83.7% of the sale proceeds of the Property in

satisfaction of his claim including taking steps to recover whatever monies that have been paid to the defendants.

56 As alluded to earlier,³² the court only referred to Yew Hong's AEIC affirmed as a beneficiary of the estate. This was due to the defence filed by the administratrices. In that joint defence, Bee Hah and Yew Hong stated that they are not in a financial position as administratrices to defend this Suit properly due to a lack of funds. They had proposed to utilise the Estate's funds to defend this suit but were precluded from doing so by the Plaintiff's objections. Consequently, the administratrices averred that they adopt a neutral position in respect of the Plaintiff's claim and will abide by the court's decision. In the same vein, Yew Hong in the AEIC that she filed as administratrix of the estate, deposed that she would abide by the decision of the court.

57 Not surprisingly, in the joint defence that they filed as the third to eighth defendants, the siblings (and the two legal representatives of the siblings) put up a lengthy and robust defence to the Plaintiff's allegations in the SOC.

58 The siblings set out in their defence the events that took place from the time of the demise of the Deceased and the appointment of the three sisters as the administratrices of the Estate. They further set out the background of Southern Tyre and described the Deceased as an independent and entrepreneurial woman who was behind the success of the tyre business.

59 The siblings averred that the names of the Plaintiff and Chin Ee were added to the title of the PG Property because they were the only sons in the

³² At [4] *supra*

family and this was a traditional Chinese family. If anything should happen to the Deceased, the PG Property would pass to the Plaintiff and Chin Ee and the siblings would have a roof over their heads. It was pointed out that when the two sons became joint tenants of the PG Property, they were in their mid-twenties and had been involved in Southern Tyre for only a few years. The Plaintiff worked there on Saturdays and made limited contribution towards the business as he was then still in his polytechnic course. Hence, the siblings denied the Plaintiff's claim that he and Chin Ee were made joint tenants because they helped out in the family business from which income the entire family was supported.

60 Instead, the defendants asserted that a resulting trust arose in favour of the Deceased from the joint tenancy held by the Plaintiff and Chin Ee in the PG Property. Neither of them provided consideration for the addition of their names as joint tenants.

61 The defendants further denied that after the Father's passing, it was the Plaintiff who provided the main financial support to the family from his business activities in Malaysia. They averred that the Deceased continued to receive income from Southern Tyre and from her investments in other businesses including Goldrich, which income the Deceased used to pay for household and other expenses. By 1976, all the siblings save for Yew Hong, were above 18 years of age and were either working or married. They did not rely on the Deceased or the Plaintiff for financial support save that some of them were still living with the Deceased.

62 The defendants referenced the May 1988 meeting³³ and set out the major items agreed to therein as set out earlier at [18]. The defendants denied the Plaintiff's allegation of a common intention regarding the Property as set out earlier at [49]–[50]. The defendants averred that until the commencement of this Suit, none of them was aware of that alleged common intention – the decision to purchase the Property was made by the Deceased alone. Consistent with her intention that the Property was to be her house, the Deceased was registered as its sole owner³⁴.

63 As the Plaintiff assisted the Deceased to negotiate and complete the sale of the PG Property, the defendants averred that they were unaware of the details surrounding the sale of the PG Property and the purchase of the Property with regards to (i) the sale price of the PG Property, (ii) how its sale proceeds were paid out and (iii) how the purchase of the Property was funded including the bank loan and mortgage as well as the stamp and legal fees and other incidental costs. To the best of the defendants' knowledge, the Deceased had sufficient funds from the sale proceeds of the PG Property and her other sources of income to pay for the Property.

64 The defendants denied the Plaintiff's allegation that Chin Ee gave up one-third of his share of the sale proceeds of the PG Property as his contribution towards the costs of care for the Deceased.

65 The defendants averred that until her demise, the Deceased occupied the master bedroom of the Property while the Plaintiff (and subsequently his wife

³³ See [17] *supra*

³⁴ See para 18(b) of the defence of the 3rd to 8th defendants

and children after his marriage) occupied other bedrooms in the Property. Further, the Deceased kept a bedroom for Chin Ee and his family's use even after Chin Ee emigrated to Canada. The Deceased did not allow the Plaintiff or the Plaintiff's family to occupy Chin Ee's room until after the Plaintiff's third or fourth child was born.

66 The defendants set out the steps that were taken by the Deceased between 1997 and 2015 to distribute her assets (which included the sale proceeds of the Property) that negated the existence of the alleged common intention. These included:

- (a) meeting with various sets of lawyers on or around 19 March 1997, 11 June 2001 and 14 September 2005, to execute a will and divide her assets although ultimately no will was executed as the Deceased could not decide how her assets should be divided;
- (b) when the Deceased visited Chin Ee in the early 2010s, she told him the Property should be sold after her demise and that \$500,000 of the sale proceeds should be given each to the Plaintiff and Chin Ee and \$300,000 to Yew Hong;
- (c) at the February 2012 meeting, mentioned above in [26], the Deceased indicated that the Plaintiff should vacate the Property within six months of her passing and the Property should then be sold;
- (d) when the Deceased was warded at Raffles Hospital in September or October 2014, in the presence of the Plaintiff, Chin Ee and Ee Peng, the Deceased stated how she intended to distribute the sale proceeds of the Property;

(e) between October 2014 and February 2015, while she was warded at Tan Tock Seng Hospital (“TTSH”), the Deceased discussed with Yew Hong and Ee Peng how she wanted the sale proceeds of the Property to be divided.

67 The defendants averred that the Plaintiff’s own conduct after the Deceased’s passing made it clear that there was no common intention as seen from the following events:

(a) Between February and May 2015, the Plaintiff mentioned that a loan had been taken out to pay for the Property when he met Yew Hong at the Property and said monies used to repay the loan belonged to the Deceased.

(b) On or about 26 March 2015, the Plaintiff and Chin Ee were at the Property to perform religious rites in the presence of Ee Peng, Bee Hah and Yew Hong. The parties discussed selling the Property in accordance with the Deceased’s intention and how the sale proceeds would be distributed including the Plaintiff and Chin Ee being given a larger share of the sale proceeds as sons of the Deceased, if the other beneficiaries consented.

(c) At the May 2015 meeting at [30], the Plaintiff confirmed the Property was the Deceased’s only substantial asset and he could move out at any time since he had his own property. By then, the Flat had been sold and he had purchased another property at Geylang which was rented out.

(d) The schedule of assets dated 19 October 2015 for the Estate listed the Property as her only substantial asset based on the Plaintiff's confirmation at the May 2015 meeting.

(e) The Plaintiff inquired of Chin Ee in August 2016 whether the two of them should buy out the interest of the other beneficiaries in the Property at \$200,000 each ("the buy-out proposal")³⁵ but the buy-out proposal was abandoned as Ah Hua did not agree.

(f) On or about 18 January 2017 at Ee Peng's house³⁶, the Plaintiff agreed with other beneficiaries to sell the Property but with a leaseback condition.

(g) Between February and April 2017, the Plaintiff allowed viewings of the Property to prospective buyers.

(h) On or about 22 May 2017, the Plaintiff proposed that his daughter Wen Jin purchase the Property and on 9 June 2017, he confirmed that she offered \$2.76m for the Property.

(i) On 9 October 2017, the sale to Wen Jin's future husband was completed.

(j) In or about August 2017 and thereafter, the Plaintiff repeatedly pressed for distribution of the sale proceeds of the Property even though the administratrices indicated they would do the distribution in November 2017 after the beneficiaries had first submitted their claims

³⁵ See [32] *supra*

³⁶ See [33] *supra*

against the Estate. The Plaintiff submitted unsubstantiated claims against the Estate.

(k) In or about September 2017, the Plaintiff repeatedly insisted the \$100,000 claim being paid from the sale proceeds on the basis that his son Yan Jie was the Deceased's eldest grandson.

(l) It was only by the Plaintiff's solicitors' letter dated 19 January 2018³⁷ that the Plaintiff alleged for the first time that the estate was not entitled to 100% of the sale proceeds of the Property.

(m) At no time in the past 30 years since the purchase of the Property did the Plaintiff assert to any of the defendants that he had any ownership interest in the Property.

In the circumstances, there was no common intention as alleged.

68 In the alternative, the defendants averred that if indeed there was a common intention when the Property was purchased as the Plaintiff alleged, the same was superseded by a change in the common intention between the Deceased and the Plaintiff by their conduct in having the Deceased registered as the sole legal and beneficial owner of the Property.

69 The defendants put the Plaintiff to strict proof of his allegation that he had contributed towards the Property's purchase price.

70 In the further alternative, in the event that the court finds that the Plaintiff has a cause of action, the defendants asserted that the Plaintiff's claim

³⁷ At 1AB4337

is barred from relief by laches as he had acquiesced in the matters he complained of – the Plaintiff was guilty of prolonged, inordinate and inexcusable delay in bringing this Suit and seeking reliefs. As a result, the defendants have suffered prejudice as they have been deprived of Ee Peng’s direct knowledge and evidence of the circumstances in which the Property was purchased. In the further alternative, the Plaintiff had waived all his rights.

71 In his reply to the defence of the defendants, the Plaintiff³⁸ denied that the purchase of the Property was funded by the sale proceeds of the PG Property save for what he asserted at [51]. He averred he had assisted to negotiate and handle the sale of the PG Property as at the material time, the Deceased was away in China. During the Plaintiff’s cross-examination, it was established that the Deceased left for China on 31 August 1988 after signing the option to purchase for the Property³⁹.

The evidence

(i) The Plaintiff’s case

72 As alluded to earlier⁴⁰, the text of the Plaintiff’s AEIC was barely 28 pages in length but his exhibits exceeded 1,000 pages. The exhibits comprised, *inter alia*, of (i) heavily redacted bank statements from the CKB joint account of the Plaintiff and Geok Leng from as far back as 1 February 1989; (ii) voluminous invoices dating from 1989 or earlier for furniture and appliance purchases, light fittings, even for toolboxes and wire cutters, gas lighters, petrol

³⁸ At para 30 of the reply

³⁹ See transcripts on 26 August 2021 at p 234 and exhibit P4, a travel agent’s receipt for the purchase of the Deceased’s air ticket

⁴⁰ At [5]

receipts; (iii) property tax bills (in the name of the Deceased) and television licence fees for the PG Property, (iv) CPF foreign worker levy payments advices addressed to the Plaintiff at the PG Property; (v) utility bills in the Deceased's name dated as far back as 2004 incurred at the PG Property; (vii) the Plaintiff's Singtel bills at the PG Property's address, *etc.* Many more bills and receipts were contained in the 11 volumes of the agreed bundles of documents.

73 The Plaintiff's version of the facts has already been set out earlier⁴¹. The court therefore turns to the evidence that was adduced from him during cross-examination.

74 Contrary to his pleaded case, the Plaintiff's cross-examination showed that the sale proceeds of the PG Property were utilised for the purchase of the Property. The Deceased received the 10% deposit (\$54,000) as well as \$162,000. Notwithstanding that he and Chin Ee received \$162,000 each, the Plaintiff after being pressed repeatedly, finally agreed that their total sum of \$324,000 was given to the Deceased. In exchange, the Deceased gave up her shares in Goldrich. This was pursuant to the agreement reached at the March 2009 meeting.

75 The March 2009 meeting was attended by the Plaintiff along with the Deceased, Ee Peng, Yew Hong and Bee Hah while Chin Ee was represented by his wife. According to Yew Hong⁴², the Plaintiff called for this family meeting to discuss matters relating to Jayawaras⁴³ in which the Deceased and the siblings (including Ah Hua) held 5,000 shares each.

⁴¹ At [6]–[14] *supra*

⁴² See paras 31–33 of her AEIC

⁴³ See [11] *supra*

76 Yew Hong made a brief note of the discussions that took place at the March 2009 meeting⁴⁴. The Deceased had then raised the subject of the PG Property. She told the Plaintiff and Chin Ee that since she received the entire sale proceeds of the PG Property, she was willing to give up all her shares in Goldrich. Yew Hong's note recorded the discussion as follows:

When sold Phoenix Garden (under Tan Ah Moi, Ong Chin Woon, Ong Chin Ee – 3 names), proceeds all given to Tan Ah Moi.

In return, mother agree all her shares in Goldrich (S) Pte Ltd belongs to Ong Chin Woon and Ong Chin Ee.

Now under name Tan Ah Moi, but to be equally distributed to Ong Chin Woon & Ong Chin Ee.

77 During his cross-examination⁴⁵, counsel for the defendants (Ms Hing) pointed out to the Plaintiff that at the March 2009 meeting, neither he nor the Deceased at any time raised the fact that a bank loan had been taken for the PG Property which the Plaintiff paid off. The Plaintiff also did not correct the Deceased to say he (and Chin Ee) had taken his/their share(s) of the sale proceeds of the PG Property. Not surprisingly, the Plaintiff would not admit that Yew Hong's note in [76] was accurate, pointing out there were no signatures affixed to it.

78 Ms Hing drew the Plaintiff's attention to para 39 of his AEIC where, *inter alia*, he stated:

... the sales proceeds of \$486,000.00 was distributed to the 3 joint tenants in equal shares with myself, Tan Ah Moi and Ong Chin Ee each getting \$162,000.00 ... I had agreed with Ong Chin Ee that our respective shares of \$162,000.00 each will be deposited into the Brothers' Account for the maintenance of [Tan Ah Moi]. Ong Chin Ee instructed me to utilise his 1/3 share

⁴⁴ Exhibited at OYH-9 in her AEIC and see 2AB115

⁴⁵ See the transcripts on 24 August 2021 at pp 73–74

as his contribution for the costs of care for Tan Ah Moi in his absence.

The above passage was repeated in para 13 of the SOC. The end result of this portion of the Plaintiff's cross-examination was his inability to show that his and Chin Ee's share of the sale proceeds of the PG Property were indeed spent on the maintenance and upkeep of the Deceased. This is clearly seen in [79] below. His assertion was also not pleaded in the SOC.

79 It turned out from the Plaintiff's overnight search for documents⁴⁶ after the hearing was adjourned on 25 August 2021 that the sum of \$324,000 was lent to Goldrich⁴⁷ and then deposited in the names of two third-party individuals into the Bank of America. When he was cross-examined⁴⁸, Chin Ee testified that he knew nothing about the loan of \$324,000 to Goldrich. As far as Chin Ee was concerned, the sum should have gone to the Deceased as it was her money.

80 The Plaintiff further produced a receipt issued by Goldrich to the Deceased dated 31 December 1988 for \$136,000 evidencing her loan to the company⁴⁹.

81 The nub of Ms Hing's cross-examination of the Plaintiff was to disprove his claim that the Deceased did not have sufficient funds to purchase the Property and he paid for it. At the material time, contrary to the Plaintiff's contention that the Deceased had no significant income⁵⁰, the defendants

⁴⁶ See transcripts of 25 August 2021 at pp 112–113

⁴⁷ See receipt at exhibit P1

⁴⁸ See transcripts on 31 August 2021 at pp 733 and 741–742

⁴⁹ See exhibit P1

⁵⁰ See para 14 of the SOC and [48] *infra*

produced⁵¹ bank statements from December 1984 to December 1997 of a joint account that the Deceased maintained with Yew Hong that showed she had substantial savings of around \$70,000. In addition, the Deceased ran tontines actively between 1988 to 1990 and even dabbled/invested in shares. Further, there were documents which showed she was paid director's fees of \$30,000⁵² per year by Goldrich for 1988 and 1989. The Plaintiff himself produced the receipt in [80] of the Deceased's loan to Goldrich for \$136,000.

82 Another source of income for the Deceased was the monthly rent of \$2,000 that Chin Ee paid to her in 1988 for the Shophouse. There was also the rubber plantation that was sold to Crescent for RM1.6m according to the notes of the family meeting in May 1988⁵³. The amount was equivalent to S\$1m in December 1996.

83 The Plaintiff had produced in court the letter of offer dated 5 October 1988⁵⁴ from UOF ("UOF's letter of offer") in relation to the purported loan the Deceased took to fund the purchase of the Property. He did not produce the previous letter of offer from UOF dated 6 September 1988 ("UOF's first letter") referred to in the first paragraph of UOF's letter of offer. The Plaintiff elaborated in [49(d)] during cross-examination⁵⁵ on why the Property was not registered in his name. He explained it was because he was busy establishing his timber business at the material time and it would have been too risky to register him as the owner as he was a personal guarantor for loans obtained for Success

⁵¹ At 1AB6418–6421

⁵² See 1AB5759–5761

⁵³ See [17] *infra*

⁵⁴ At 1AB177–180

⁵⁵ At transcripts on 24 August 2021 at p 100

Lumber. In re-examination⁵⁶, the Plaintiff explained that the role of Success Lumber was to act as the subsidiary for all his Malaysian companies, to collate and receive timber orders for the Malaysian companies and supply the timber to the customers when the timber came from Malaysia.

84 Ms Hing obtained the Plaintiff's confirmation (after considerable prevarication on his part) that the PG Property was sold on 16 September 1988⁵⁷ and the sale was completed on 29 December 1988. The purchase of the Property took place earlier on 29 August 1988 with completion on 29 November 1988. UOF's letter of offer was dated 5 October 1988 and the loan was drawn down on 9 December 1988. Because the sale proceeds of the PG Property were received by the Deceased *after* the purchase of the Property was completed, all that the Deceased needed was a short-term bridging loan for the interval between the completion of the purchase of the Property and the sale of the PG Property. She did not need any 15 years' term loan for the net shortfall of \$80,000 between the purchase price of the Property (\$620,000) and the sale price of the PG property (\$540,000), let alone for \$500,000.

85 After repeated questioning, the Plaintiff eventually admitted⁵⁸ that he took the UOF loan in the Deceased's name for his own benefit. In his further cross-examination⁵⁹ Ms Hing pointed the Plaintiff to the fact that UOF charged interest on its 15 years' loan at only 4% per annum⁶⁰.

⁵⁶ At transcripts on 27 August 2021 at pp 390–391

⁵⁷ See exhibit D3, search from Singapore Titles Automated Registration System ("STARS")

⁵⁸ At transcripts on 25 August 2021 at p 121

⁵⁹ At transcripts on 27 August 2021 at p 381

⁶⁰ See UOF's letter of offer at 1AB177

86 The UOF loan was taken for the Plaintiff's own benefit and he arranged to pay off the UOF loan in full in December 1991 after the expiry of the prepayment penalty period, due to rising interest rates⁶¹.

87 The defendants then addressed the Plaintiff's assertion that the Deceased did not receive his and Chin Ee's two-third share of the sale proceeds of the PG Property to pay towards the purchase price of the Property. During his cross-examination, the Plaintiff was questioned on the \$324,000. He disclosed that the \$324,000 lent to Goldrich was converted to sterling pounds to earn interest which interest was deposited into the Brothers' Account. In order to avoid income tax, he did not use either his or Chin Ee's names but the names of third parties for the deposit⁶² of £134,830.88 which was renewed until 17 July 1989⁶³. All these arrangements were made without Chin Ee's knowledge or consent⁶⁴. Thereafter, neither the Plaintiff nor the documents he produced explained what happened to the \$324,000. He could not prove it had been deposited into the Brothers' Account. The defendants pointed out that the Plaintiff's production of exhibit P3 did not assist him – that was a letter dated 13 March 1990 addressed to Bank of America by Cheah Kwai Foong and Lee Swee Lean instructing the former to remit A\$51,749.75 to Citibank Hong Kong to the credit of Ong Chin Ee and/or Seah Chwee Kim from a time deposit of A\$103,499.51. The sum of A\$103,499.51 did not equate to £134,830.88. Neither could the Plaintiff corroborate his claim that the \$324,000 was expended on the care of the

⁶¹ See the Plaintiff's AEIC at para 53

⁶² See transcripts on 24 August 2021 at pp 89–90

⁶³ See exhibit P2 at p 5

⁶⁴ See Chin Ee's testimony at transcripts on 31 August 2021 at pp 732–733

Deceased.⁶⁵ Hence, the defendants submitted⁶⁶ that the inescapable inference was that the Deceased received the \$324,000, and that sum was used to pay down the mortgage loan for the Property.

88 Subsequently, the Plaintiff applied to Banque Indosuez for a facility which, by the said bank's letter dated 29 April 1991 ("Indosuez Bank's facility letter")⁶⁷ was approved for an overdraft of \$500,000 ("the overdraft facility"). What was noteworthy and which Ms Hing highlighted was the fact that the overdraft facility was secured on three fixed deposits of the Plaintiff charged to Indosuez Bank, one in the amount of £220,148.41, the second in the sum of DEM458,209.76 and the third in the amount of CHF392,203.75.

89 According to historical exchange records maintained by the Monetary Authority of Singapore, in April 1991, the exchange rate between the sterling pound and the Singapore dollar was about £1.00 to S\$3.14, 100 units of the Swiss franc was then worth between S\$121.00 and S\$125.18 and 100 German marks was then equivalent to between S\$101.49 and \$104.36. (According to the Bank of America letter in exhibit P1, the exchange rate between the sterling pound and Singapore dollar was S\$3.4515 to £1.00 as of 10 January 1989). Consequently, £220,148.41 would have approximated S\$691,266.01 (@ S\$3.14 to £1.00), CHF392,203.75 would have been worth at least S\$474,566.54 and DEM458,209.76 was about S\$465,037.09. The total value of the Plaintiff's fixed deposits exceeded S\$1.63m.

⁶⁵ At para 39 of his AEIC

⁶⁶ At para 59 of the DCS.

⁶⁷ At 1AB188–189

90 It would appear from the evidence adduced from the Plaintiff in cross-examination that he was a very shrewd investor who knew how to make money from the spread in interest rates between 1988 and 1991. The interest rates on foreign currencies were then in double digits as against single digits for loans in local currency. According to the Bank of America documents in exhibits P1 and P2, the then interest rate for sterling pound deposits ranged between 12% to 13.3125% per annum. What the Plaintiff did was to borrow in the name of the Deceased with him as guarantor, \$500,000 in the UOF loan at 4% interest per annum, convert the sum into foreign currency and profit from the interest spread of 8–9% (12%–13% less 4%).

91 Ms Hing suggested to the Plaintiff that he had the same *modus operandi* for the Flat. He took a loan from CKB⁶⁸ converted the loan into foreign currency, placed it in a fixed deposit and earned the spread from the difference between the local and foreign currency interest rates. It should be noted however that in relation to the Flat, the Plaintiff only disclosed the option to purchase dated 18 August 1988⁶⁹(“the Option”) and a letter from his solicitors dated 14 October 1991⁷⁰ to CKB stating that the Transfer instrument and mortgage had been registered. That was the only inkling that the Flat was mortgaged to CKB. The Plaintiff did not produce CKB’s letter of offer for the loan he took. Since the Plaintiff had by April 1991 at [89] deposits in excess of S\$1.63m, there was hardly a need for him to take any loan from CKB, bearing in mind the purchase price of the Flat was only \$479,000 as stated in the Option.

⁶⁸ See letter dated 14 October 1991 from his solicitors to Chung Khiaw Bank at 1AB1512

⁶⁹ At 1AB1508

⁷⁰ At 1AB1512

92 Unsurprisingly, the Plaintiff questioned⁷¹ the validity of the handwritten notes made by Bee Hah and Yew Hong on 11 February 2012⁷² setting out the Deceased’s instructions. He considered the notes as his sisters’ records and he did not know when they were instructed by the Deceased. He opined that it was written “based on someone’s idea”⁷³. The Plaintiff disagreed that the notes reflected the wishes of the Deceased as to how she wanted her assets to be distributed after her passing as well as the extent of her assets. He accused his two sisters of heavily influencing the Deceased by taking her to see lawyers – which fact he was unaware of. Had he known of the notes of and/or, the February 2012 meeting, he said he would have questioned the Deceased.

93 Geok Leng’s AEIC painted the Deceased as someone who “bullied” her (in the Plaintiff’s words). The Deceased, in Geok Leng’s words⁷⁴, “made [Geok Leng] wait on [the Deceased] for all of her needs on a daily basis”. Geok Leng alleged that the Deceased made her tidy all the rooms, sweep and mop the floor, wipe the tables and chairs, wash the toilets, hand wash everybody’s laundry as well as another ten sets of clean clothes which the Deceased would randomly pull from her wardrobe, water the garden plants using a big pail as the Deceased did not allow her to use the garden hose. Geok Leng also alleged she had to prepare breakfast for Yew Hong and the Deceased. Geok Leng added that she had to complete all the aforesaid chores before she walked for 20 minutes to Southern Tyre’s premises to work as the Deceased would not allow her to take the Plaintiff’s car to work.

⁷¹ At transcripts on 26 August 2021 at p 308

⁷² At exhibit D4

⁷³ At transcripts at p 309

⁷⁴ At para 7 of her AEIC

94 After work, Geok Leng alleged that she had to return home to wash laundry, water the garden plants, prepare dinner and set the dinner table. She had to climb the stairs to inform the Deceased when dinner was ready and, get a pair of slippers ready for the Deceased's use at the bottom of the staircase. At the dinner table, Geok Leng alleged that she had to sit next to the Deceased and serve her every dish. After dinner, Geok Leng deposed she had to cut fruits for each diner, clear/clean the table, do the washing-up, wash/scrub the kitchen and put away the washed clothes into individual wardrobes. She then had to massage the Deceased's legs.

95 Geok Leng claimed she was so exhausted physically and mentally that after a year of marriage, she asked the Plaintiff for a divorce. She even alleged that after a maid was employed in 1989 when she was pregnant, the Deceased told her that the maid was hired by the Plaintiff to take care of the Deceased and Yew Hong. Geok Leng was not allowed to make use of the maid.

96 In cross-examination⁷⁵, Geok Leng claimed she complained to the Plaintiff about her ill-treatment but he told her to bear with it.

97 When Bee Hah took the stand, the court questioned her on Geok Leng's allegations against the Deceased⁷⁶. Bee Hah disagreed pointing out it was the Deceased who suffered and had a hard life, being widowed, having to clear the Father's debts and raising a family of six children (less Ah Hua). Yet, the Deceased managed to improve the family's circumstances from living in an attic of a shophouse without a toilet to moving into a semi-detached house at the PG

⁷⁵ At transcripts on 27 August 2021 at p 438

⁷⁶ See transcripts on 2 September 2021 at p 991

Property. In any case, when she worked as a secretary starting in 1976, Bee Hah testified she would prepare breakfast for the Deceased and her two brothers before she went off to work in the morning and she would rush home from Jurong to prepare dinner for them in the evening. For that reason, she never did overtime work⁷⁷.

98 Geok Leng not surprisingly aligned herself with the Plaintiff's version of how the purchase of the PG Property came about. She also confirmed the Plaintiff's reason why the couple did not move to live at the Flat after it was completed⁷⁸ and instead, lived with the Deceased at the PG Property and established that as the couple's matrimonial home. In cross-examination⁷⁹, Geok Leng claimed that the Deceased wanted to stay with the couple because the Deceased expected her to take care of the Deceased for life.

99 Geok Leng's negative and unkind comments of how her mother-in-law made her life a misery were in sharp contrast to the letters she had written to the Deceased while the latter was visiting Chin Ee in Canada⁸⁰ two of which⁸¹ were read out in court⁸². Confronted with those letters, Geok Leng explained she was made to write such letters by the Plaintiff to improve her relationship with the Deceased. It appeared that Geok Leng even helped the Deceased with her

⁷⁷ Ibid p 988 and 991

⁷⁸ See [14] *infra*

⁷⁹ At transcripts on 27 August 2021 at p 434

⁸⁰ See an example, Geok Leng's letter dated 5 November 1990 at 1AB4149

⁸¹ At 1AB4149 (dated 5 November 1990) and 1AB4168 (dated 20 June 1992)

⁸² See transcripts on 25 August 2021 at pp 196 and 216

tontine activities in 1992 according to some of Geok Leng's letters to the Deceased while the latter was in Canada⁸³.

100 In cross-examination, Ms Hing effectively demolished Geok Leng's unkind allegations regarding the Deceased.

101 The court notes that an unkind and mean mother-in-law as Geok Leng described the Deceased, would not have left her a bequest of \$20,000 upon her demise, let alone given her (in 2011) a 3.5-carat diamond ring for safe-keeping, to be passed later to Geok Leng eldest son's wife when the son got married. When she was cross-examined⁸⁴, Geok Leng denied receiving the 3.5-carat diamond ring. In re-examination⁸⁵, she claimed that the Deceased returned to her a 1.7-carat diamond ring which the Plaintiff had bought for the Deceased.

102 The court finds it unnecessary to address Wen Jin's testimony as nothing turns on it. Her answers in cross-examination were unhelpful and at best non-committal, to assist her father.

(ii) The defendants' case

103 Chin Ee testified via video link from Vancouver, Canada. Prior to his retirement, Chin Ee operated a tyre business in Vancouver called Southern Enterprises Inc. Chin Ee's testimony under cross-examination was consistent with his AEIC. He was steadfast in his responses to questions about the PG Property. He testified that the PG Property belonged to the Deceased. Hence,

⁸³ See an example, Geok Leng's letter dated 20 June 1992 at 1AB4168

⁸⁴ At transcripts 27 August 2021 at p 431

⁸⁵ At transcripts 27 August 2021 at p 450

the entire sale proceeds went to her or should have gone to her as neither he nor the Plaintiff had any beneficial interest in the PG Property. Chin Ee was equally adamant that the family's increasing prosperity in the years after Southern Tyre was started was entirely due to the Deceased's hard work in the tyre business as well as her other income-generating activities like tontines and dividends received from the Father's investments in Malaysian companies.

104 However, Chin Ee was unaware of the financial aspects of Southern Tyre's business which he said was left to the Deceased and or the Plaintiff to handle. He testified he had no choice but to trust the Plaintiff⁸⁶ to take care of family matters after he left for Canada.

105 Chin Ee was repeatedly pressed by counsel for the Plaintiff, Mr Yeo, to show proof that two-thirds of the sale proceeds of the PG Property was paid to the Deceased and not to him and his brother; he could not. He left for Canada (on or about 12 December 1988) before the sale of the PG Property was completed on 29 December 1988⁸⁷. Hence, Chin Ee gave a letter of authority to the Plaintiff to collect on his behalf the cashier's order for his share of \$162,000 from the sale proceeds.

106 However, notwithstanding his lack of documentary evidence of the Deceased's receipt of all the sale proceeds of the PG Property, the court has no doubt that Chin Ee spoke the truth as his testimony was corroborated by that of his sisters.

⁸⁶ See transcripts on 31 August 2021 at p 705

⁸⁷ See [84] *supra*

107 Being in Canada since late 1988, Chin Ee was not aware of what transpired in Singapore between his siblings and the Deceased post-December 1988. What he knew was hearsay based on what Chin Ee was told save for the family meetings he attended when he returned to Singapore.

108 The court therefore finds it more helpful to turn to the evidence of Chin Ee's sisters, starting with Yew Hong. As the defendants' version of events from Yew Hong's AEIC has been set out earlier, the court turns to the testimony adduced from her in the course of cross-examination.

109 Yew Hong, as the only sibling with a tertiary education, was a far more coherent witness than Chin Ee, whose testimony was often disjointed, due to his poor command of English.

110 Yew Hong disclosed in cross-examination that the Deceased did not believe in banks and hid cash "here and there" in the PG Property, including putting cash into a non-working water heater and in the hollow interior of a stool⁸⁸. She said the money came from Southern Tyre which was largely a cash business.

111 In Yew Hong's cross-examination, counsel for the Plaintiff, Mr Yeo, sought to show that the household expenses as well as those of the Deceased (and Yew Hong's before she married) were funded initially by the Plaintiff and subsequently from monies in the Brothers' account. Yew Hong's response was to point out that the thousands of bank statements and other documents produced by the Plaintiff cannot be taken at face value⁸⁹. She explained that

⁸⁸ See transcripts on 1 September 2021 at p 805

⁸⁹ Ibid p 821–822

sometimes the Plaintiff was giving the Deceased her own money or paying from her funds, from his bank account. She cited as an example the dividends the Deceased received from the Malaysian companies listed in [11] above. Yew Hong also disclosed⁹⁰ that the Deceased used to complain to her without fail, whenever the Deceased handed dividend cheques for Yew Hong to deposit into the Deceased's POSB account, that the dividends were "so little". The Plaintiff would pay the Deceased from the CKB or other bank accounts, her dividends from Crescent or Foras. The source of his pay-out would be Crescent or Foras but the money came from his account. The Plaintiff collected the Deceased's dividends from the Malaysian companies, converted the sums into Singapore dollars and then paid the Deceased from the CKB account he maintained with his wife.⁹¹

112 As far as Yew Hong and her siblings were aware, and because she lived with the Deceased and the Plaintiff/the Plaintiff's family until she married in 1995⁹², the PG Property belonged to the Deceased – it was the Deceased who paid its purchase price which she could well afford from her various sources of income referred to earlier at [61] and listed at para 19 of Yew Hong's AEIC.

113 Mr Yeo pointed out to Yew Hong that just because the Deceased had various income sources that could have funded her purchase of the PG Property, this did not mean that she paid for it from those sources. It was the Plaintiff who paid \$500,000 of its purchase price from the UOF loan. Yew Hong disagreed –

⁹⁰ See transcripts on 1 September 2021 at p 850

⁹¹ Ibid p 852

⁹² See paras 13 and 18 of her AEIC

she testified that it was out of character for the Deceased to behave as if she was the owner of the PG Property if she was not its owner.

114 Yew Hong countered that⁹³ apart from his bank statements which probative value she questioned, the Plaintiff also did not have evidence to prove that he paid \$614,389.85 towards the PG Property. The fact that the Deceased was not short of funds was also seen in the fact that the Deceased could have but did not, ask the Plaintiff and Chin Ee for funds. She would not hesitate to do so if there was a need, as seen in the fact that the Deceased asked each of them subsequently for \$50,000 for the proposed renovation of the PG Property.

115 Mr Yeo pointed out that the shortfall in funds for the purchase of the Property based on the sale proceeds of the PG Property was \$120,000, not \$80,000. Mr Yeo referred to the completion account of the Property dated 3 November 1988 (“the completion account”) from the Deceased’s lawyer Chan Kam Foo⁹⁴. The increase in the shortfall amount from \$80,000 to \$120,000 was due to the addition of the Deceased’s share of property tax and legal/stamp fees. It was noted that the completion account did not include the sale proceeds of \$540,000 of the PG Property but the UOF loan. However, the Plaintiff conceded that the Deceased paid \$120,000 but nothing more. Yew Hong surmised⁹⁵ that one possibility would have been that the Deceased passed the entire sales proceeds of \$540,000 to the Plaintiff and he chose to take the UOF loan or, she reimbursed him subsequently.

⁹³ See transcripts on 1 September 2021 at p 858

⁹⁴ At 1AB174.

⁹⁵ At transcripts on 1 September 2021 at p 876

116 Yew Hong pointed out that if indeed the Deceased needed funds to cover any shortfall in the requisite funds for the purchase of the PG Property, she could have resorted to selling her equity in the Malaysian companies at [11]. This was proven by the fact that she sold her stakes in Jayawaras in 2009 for \$5,000.00⁹⁶ and in Foras in 2001 for \$58,691.25⁹⁷. Yew Hong alleged that the Plaintiff's claims "are completely made up"⁹⁸; he produced documents selectively which documents she opined lacked credibility.

117 Yew Hong revealed⁹⁹ that the Deceased could not make up her mind on how to distribute her assets despite visiting three law firms in 1997, 2001 and 2005¹⁰⁰. In each visit, the Deceased would come up with different permutations of the percentages she wanted to give to a "whole long list of people"¹⁰¹.

118 When Mr Yeo suggested to Yew Hong that the Deceased's indecisiveness and inability to make a will was because the Deceased was in a dilemma being fully aware that the Property belonged to the Plaintiff, Yew Hong disagreed. She pointed out that if indeed the Plaintiff owned the Property beneficially, the Deceased could have simply made a will and bequeathed the Property to him¹⁰². Yew Hong disclosed that the Deceased had apparently visited

⁹⁶ See the payment voucher to the Deceased from Jayawaras at 1AB5711

⁹⁷ See the payment voucher to the Deceased from Foras at 1AB5513

⁹⁸ At transcripts on 1 September 2021 at p 883

⁹⁹ Ibid at pp 915–919

¹⁰⁰ See [24] *supra*

¹⁰¹ At transcripts on 1 September 2021 at p 915 line 13

¹⁰² At transcripts on 1 September 2021 at p 915

a lawyer on her own as well after 2005, but again, no will was executed by her after the visit¹⁰³.

119 Mr Yeo also suggested to Yew Hong¹⁰⁴ that if the Deceased could have a private arrangement with her daughters (except Ah Hua) to give the three of them all the monies (\$289,814.28) in her joint POSB account opened with Yew Hong and Bee Hah, which arrangement she did not want the Plaintiff to know, the Deceased could equally have had a private arrangement with the Plaintiff on the ownership of the Property without the siblings' knowledge. Yew Hong disagreed. She pointed out that there was a vast difference between the two matters – the monies in the POSB account were the Deceased's to dispose of as she pleased. However, if the Property was not hers, the Deceased being an honourable person, would not/could not deal with it in the manner she intended as recorded in the informal will dated 11 February 2012 at exhibit D4.

120 During cross-examination, Yew Hong was questioned on the following extracts of the note she made of the siblings' meeting on 25 March 2015¹⁰⁵ (which she wrongly dated 26 March 2015):

Chan Kam Fu [sic] & Assoc lawyer 20+ years ago. People's Park area > give house to [the Plaintiff], but under table to sell at 800K.

[The Plaintiff] say no more and even if have, won't bring out because subject to dispute in family.

¹⁰³ Ibid p 922

¹⁰⁴ Ibid p 937–938

¹⁰⁵ See [29] *supra* and 2AB144, and see also Yew Hong's AEIC para 86

Yew Hong explained¹⁰⁶ that the Plaintiff had raised the subject of some paper that was done at the law firm of Chan Kam Foo which she was not clear about – it was either a sale agreement or a private agreement. The Plaintiff then said the Deceased was supposed to sell the Property to him at \$800,000 “under the table” but the Deceased apparently tore up the agreement or something to that effect. In any case, the Plaintiff added that he would not bring up the matter anymore as it was subject to dispute in the family.

121 Mr Yeo suggested to Yew Hong¹⁰⁷ that it was precisely for the reason that the Plaintiff wanted to preserve the harmony within the family that he did not then raise the issue of his having paid for the Property at the request of the Deceased. Yew Hong disagreed and responded – why did the Plaintiff sue the siblings if indeed he wanted to preserve harmony within the family?

122 Had the Plaintiff raised at the March 2015 meeting the issue of his having paid for the Property and that there was a common intention with the Deceased for him to inherit the Property, Yew Hong said the siblings would have discussed the issue there and then and made him take on the role of administrator. Instead, the Plaintiff’s main concern at the meeting was whether Ah Hua (known as Angie) was entitled to a share, repeatedly saying that she was not because she had been adopted. The Plaintiff also questioned whether Siew Eng’s son (the third defendant) and Ee Peng’s daughter (the fifth defendant) were entitled to any share. He raised the issue of being given a bigger share. Yet, although he spoke for 80%–90% of the duration at the meeting, the Plaintiff did not once say he had paid for the Property.

¹⁰⁶ See transcripts on 2 September 2021 at pp 964–965

¹⁰⁷ Ibid pp 966–967

123 The plaintiff had produced WhatsApp exchanges amongst the siblings¹⁰⁸ for the period between 1 September 2014 to 5 February 2015 in the midst of Yew Hong’s cross-examination. However, those were of no assistance to the Plaintiff’s case.

124 Bee Hah had moved out of the Property in 1984 after her marriage. Before that, she testified (contrary to Geok Leng’s testimony), that she was the one who took care of the home before and after her work as a secretary¹⁰⁹. In subsequent years, the family hired a maid.

125 As stated earlier at [97], Bee Hah disagreed with the unkind comments made by Geok Leng at [93]–[95] against the Deceased. Bee Hah acknowledged that the Deceased (whom Yew Hong said the family jokingly called “the empress dowager”) was not an easy person to take care of and live with. She was loud and impatient but, she was their mother and the siblings embraced her for what she was, with her weaknesses and strengths.

126 Like Yew Hong, Bee Hah disagreed with Mr Yeo’s suggestion (see [119]), that just as the Deceased had a private arrangement with her three daughters to give them all the monies in her POSB account, she could have had the same arrangement with the Plaintiff with regards to the Property¹¹⁰.

¹⁰⁸ At exhibit P5

¹⁰⁹ See transcripts on 2 September 2021 at p 991

¹¹⁰ See transcripts on 2 September 2021 at p 1026

The submissions

(i) The Plaintiff's submissions

127 In the Plaintiff's closing submissions ("the PCS") he pointed out¹¹¹ that the Malaysian companies in [11] were incorporated after the Father's death. Hence, he argued that the defendants had exaggerated the Deceased's involvement in the Malaysian logging companies in which the Father invested. She was only involved in Southern Tyre and even then, only in the finances of the business and not in its day-to-day operations.

128 The Plaintiff added that the Father's involvement in the logging business was only from 1973 until his demise in 1976. He claimed he was the one who developed and operated the Malaysian logging businesses from 1976 onwards and under his watch, the business boomed. He submitted¹¹² that the logging business was the other arm of the family business (besides Southern Tyre) that enabled the family to enjoy the middle to upper middle-class lifestyle that he deposed to in his AEIC¹¹³.

129 The Plaintiff stated that the income received from the Malaysian logging businesses was initially deposited into the bank account of Southern Tyre and after 1979, it was deposited into the Brothers' Account. It was from the Brothers' Account¹¹⁴ that the family's expenses were paid. Chin Ee left the management of the Brothers' Account to the Plaintiff from the time the Brothers' Account was set up and throughout the time Chin Ee was in Canada.

¹¹¹ At para 12 of the PCS

¹¹² At para 15 of the PCS

¹¹³ See [10] *supra*

¹¹⁴ See [18(a)] *supra*

130 The Plaintiff submitted¹¹⁵ that the addition of his and Chin Ee’s names as partners to the business of Southern Tyre and as joint owners to the PG Property was “an issue of family business succession and ... the responsibility fell on both [the Plaintiff] and [Chin Ee] to continue to run the family business and thereby finance the payment of the [PG property] and to support the entire family, including [Deceased]”.

131 The Plaintiff described the May 1988 meeting¹¹⁶ as a family restructuring. He disagreed with the defendants’ interpretation of the withdrawal of his and Chin Ee’s names from the PG Property as the Deceased’s desire to take back the PG Property from them. He submitted that their interpretation is not supported by the facts. First, the Deceased never demanded the transfer back to her of the brothers’ legal interest and no such transfer took place. Second, when the PG Property was sold, the Deceased did not ask for all the sale proceeds to be paid to her. He argued that all that the Deceased wanted was to take back control of the PG Property. He added that the family restructuring was completed when Chin Ee took over the management of Southern Tyre, the joint tenancy of the PG Property was resolved by its sale and what the Deceased had was a new residence at the Property – which payment was settled by the Plaintiff.

132 On his claim that he had contributed 83.7% of the purchase price of the Property which gave rise to a resulting trust in his favour, the Plaintiff repeated his assertion that the Deceased did not receive the entire sale proceeds of the PG Property. She only received \$162,000 (as well as the 10% deposit of \$54,000),

¹¹⁵ See para 22 of the PCS

¹¹⁶ See [17]–[18] *supra*

of which, she lent \$136,000 to Goldrich together with the Plaintiff's and Chin Ee's two-thirds share totalling \$324,000. In the family context, the Plaintiff argued that it would not be expected that there would be a written agreement to record the terms of the common agreement between himself and his late mother. He submitted¹¹⁷ that it can be inferred from the conduct of the parties and in this case, the critical period(s) would have been (i) the period after Chin Ee's announcement that he would migrate to Canada; (ii) the purchase of the Property and (iii) the sale of the PG Property. The Plaintiff then repeated para 14 of his SOC¹¹⁸.

133 The Plaintiff argued¹¹⁹ that just because the Deceased did not inform the siblings of the common intention, this did not mean there was no such common intention. He argued that the defendants' reasoning in this regard is flawed. He cited other instances where the Plaintiff or his siblings were kept in the dark: (i) the discussion between the Plaintiff and the Deceased on the funding and ownership of the Property; (ii) the daughters' visits with the Deceased to lawyers with a view to making the Deceased's will and (iii) the February 2012 meeting where the Deceased told her three daughters she would give them the monies in her POSB account.

134 With respect, it is the Plaintiff's reasoning in [133] which is flawed. Apart from his bare allegation, the Plaintiff had nothing to substantiate his example in (i). As for (ii), in her AEIC¹²⁰ Yew Hong could identify the dates

¹¹⁷ At paras 54–55 of the PCS

¹¹⁸ See [48]–[49] *supra*

¹¹⁹ At para 62 of the PCS

¹²⁰ At paras 59–60 of her AEIC

and the three law firms/lawyers whom the Deceased consulted. She was even able to produce a cheque stub of the payment made to the second lawyer the Deceased had consulted¹²¹. As for (iii), Yew Hong had testified that it was made known to the three sisters by the Deceased that the monies in her POSB account (which passbook was produced) were to be divided equally between them and this was done on 4 February 2015, a day before her passing¹²². In other words, items (ii) and (iii) had corroborative evidence.

135 The Plaintiff questioned¹²³ exhibit D4 as to the Deceased's instructions on the Property. He also found it suspicious that the other siblings knew nothing about the document nor of the February 2012 meeting. He described exhibit D4 as a "self-serving" document¹²⁴ to which little weight should be given. Most critically, he submitted, the Deceased's instructions were not reduced to a will.

136 The Plaintiff pointed out¹²⁵ that there was no evidence that the Deceased was paid compensation of \$100,000 for the acquisition of the Shophouse let alone that she utilised it towards the purchase price of the Property. It was also the Plaintiff's evidence that the compensation sum was only \$70,000.

137 The Plaintiff argued that his claim was not barred by laches submitting¹²⁶ that he was not tardy in pursuing his claim and even if there was a delay, it did not cause the defendants any prejudice. The Plaintiff further submitted that he

¹²¹ See her exhibit OYH-15

¹²² See transcripts on 1 September 2021 at p 930

¹²³ At para 79 of the PCS

¹²⁴ See para 80 of the PCS

¹²⁵ At para 35(i)(iii) of the PCS

¹²⁶ See paras 95–98 of the PCS

was not barred from relief by acquiescence¹²⁷ – he had asserted his rights when the issue of the ownership of the Property was called into question and he had raised this issue shortly after the demise of the Deceased.

138 The Plaintiff also submitted his claim was not barred by waiver¹²⁸ as his conduct had always been consistent with the position that the Property was his matrimonial home and he had explored various ways to keep the Property.

139 These two last submissions completely ignore the evidence that was adduced in court and which the court will address below.

(ii) The defendants' submissions

140 The defendants submitted that there was no oral agreement as the Plaintiff had alleged that culminated in the Plaintiff's three causes of action in (i) a common intention constructive trust; (ii) a resulting trust and/or (iii) a proprietary estoppel.

141 The defendants pointed out that the alleged oral agreement hinged on two key planks presented by the Plaintiff namely: (a) at the time of the purchase of the Property in August 1988, the Deceased no longer had significant income and (b) thus the Deceased had to rely on the Plaintiff as the sole breadwinner in the family to pay for the Property. The defendants submitted that neither of these planks is borne out by the evidence.

¹²⁷ See para 100 of the PCS

¹²⁸ See para 101 of the PCS

142 In the defendants' closing submissions ("DCS")¹²⁹, they listed the Deceased's numerous sources of income that could have paid the full purchase price of \$620,000. These included (i) her past dividends and/or sale of some \$164,000 worth of shares; (ii) annual directors' fees of about \$30,000; (iii) monthly rental of \$2,000 for the Shophouse from Southern Tyre; (iv) the sale proceeds of the PG Property amounting to \$540,000; (v) her savings over 30 years which included \$60,000 in her joint POSB account with Yew Hong¹³⁰; (vi) \$136,000 lent to Goldrich¹³¹ as well as (vii) a share of RM1.6m from the sale of a parcel of land in Malaysia in or about 1996¹³².

143 Regarding the UOF loan, the defendants pointed¹³³ out that it was orchestrated by the Plaintiff for his own convenience and benefit. They questioned the necessity for the Deceased (then nearing 60 years of age in 1988) to take a 15 years' loan for some 81% of the purchase price of the Property. She was not even aware of the terms of the loan, not being literate in English. As far as the Deceased was concerned, she was going to receive the sale proceeds of the PG Property and left it to the Plaintiff to see to the necessary arrangements.

144 The defendants submitted that exhibit D4 revealed the Deceased's state of mind and intention in 2021:

- (a) far from having agreed with the Plaintiff that the Property would be his matrimonial property to the exclusion of her other children, the

¹²⁹ At paras 20–22

¹³⁰ See 1AB6419

¹³¹ See receipt in exhibit P1

¹³² See 1AB4177

¹³³ See paras 46–60 of the DCS

Deceased wanted the Property to be sold soonest possible after her demise;

(b) she treated her two sons equally with each to receive \$500,000 of the sale proceeds of the Property, assuming the sale price was \$2.5m;

(c) her three daughters would not be treated equally – as Ee Peng married well, she would receive a lower sum than Yew Hong and Bee Hah;

(d) her two daughters-in-law were treated equally and given \$20,000 each.

The issues

145 The court has to determine:

(a) Was there a common intention between the Deceased and the Plaintiff that he would be the beneficial owner of the Property although the Deceased was the legal owner. Did a constructive or resulting trust arise if there was such a common intention? Is the remedy of proprietary estoppel available to the Plaintiff?

(b) If indeed there was a common intention, is the Plaintiff barred from any relief by laches, due to his prolonged, inordinate and/or inexcusable delay in bringing this Suit?

(c) In the alternative, did the Plaintiff waive his rights by his conduct?

The findings

146 It bears remembering that the burden is on the Plaintiff to *prove* his claim on a balance of probabilities, it is *not* for the defendants to disprove his case. The defendants only have to rebut his claim, also on a balance of probabilities. The *gravamen* of the defendants’ case is that, contrary to the Plaintiff’s pleaded case, the Deceased had sufficient funds from the sale of the PG Property to pay for the Property save for a shortfall of \$80,000 which she could have easily covered from her other sources of income.

147 The court will first give a broad overview of the evidence before addressing the issues in [145] and making its findings. Due to his prevarication and predilection not to give straight “Yes” or “No” answers in cross-examination, the Plaintiff spent 4 of the 8 days’ trial in the witness box. He was neither truthful nor forthright and the court was not impressed with his testimony.

148 To elaborate, the court sets out below the many instances where the Plaintiff was found to have no compunctions about lying in his AEIC or on the witness stand.

149 To quote counsel for the defendants¹³⁴, the Plaintiff dishonoured his mother and everything she had done for the family by the many unfounded allegations he put in his AEIC and in his claim. As Ms Hing rightfully put it, the Plaintiff’s case was full of inconsistencies and contradictions¹³⁵.

¹³⁴ See transcripts on 25 August 2021 at p 164 lines 1–3

¹³⁵ Ibid at p 208

150 Despite the clear documentary evidence before the court (including his own WhatsApp message referred to earlier at [37] conveying his daughter's offer to purchase the Property, the Plaintiff had the gall to testify¹³⁶ that his siblings forcibly sold the Property.

151 The Plaintiff portrayed himself as a filial son of the Deceased – nothing could be further from the truth. Contrary to his claim that he was the only child the Deceased could rely on, exhibit D4 recorded the Deceased's feelings of how poorly the Plaintiff treated the Deceased who cited an instance where the Plaintiff would not even fetch her home when she went out. The defendants also relied on Chin Ee's AEIC where he deposed¹³⁷ that the Deceased complained to him that the Plaintiff and his children were rude to, ignored and neglected her and the Plaintiff had said more than once (to the Deceased and also to Chin Ee), that he wanted to move out of the Property.

152 The Deceased was very hurt by the Plaintiff's threats to move out of the Property and leave her alone. In contrast, exhibit D4 also recorded that the Deceased stated Chin Ee had assured her if the Plaintiff did not want her, Chin Ee would take full responsibility for her and apply for her to go to Canada.

153 The Plaintiff waited until his mother passed away before launching a dishonest and unmeritorious claim against the Estate, requiring his siblings to defend their late mother from being wrongly maligned not only by him but also by his equally ungrateful wife. The couple's conduct was disgraceful, to say the least.

¹³⁶ Ibid at p 187

¹³⁷ At paras 91–92

154 Contrary to his pleaded case¹³⁸ that he wanted to honour his mother's wishes and common intention by having his daughter/son-in-law buy the Property, the Plaintiff's action was inconsistent with such common intention. He was untruthful when he testified that he proposed the "buy-out" to keep the Property within the family. His only interest as Ms Hing put to him¹³⁹, was the cash he could get out of the Property, to the extent he was prepared to throw out the family's ancestral tablets. He was hypocritical to say the least – saying one thing and acting to the contrary.

155 The defendants had relied on a letter the Plaintiff wrote to Chin Ee on 11 September 1990¹⁴⁰ where he said "Mother has yet to decide whether or not to sell the semidetached house". The Plaintiff's nonsensical explanation of his letter¹⁴¹ that he was "trying to say it is mother who would express her wish whether she wanted to carry on staying or not in the house" (due to incidents of burglary in the neighbourhood) and it was not an acknowledgment the Deceased was the owner is yet an instance of the many lies he told on the witness stand.

156 The Plaintiff was greedy and calculating. As Ms Hing pointed out to him during cross-examination, he even produced a bill dated 4 January 1989 for a gas lighter for the sum of \$8.50¹⁴² and another bill dated 10 January 1989 for a cutter for \$6¹⁴³. The Plaintiff had meticulously kept these bills that went back 32 years ago (as at the date of trial) and yet, he could not/did not produce UOF's

¹³⁸ At para 59 of his reply

¹³⁹ At transcripts on 26 August 2021 at p 330

¹⁴⁰ At 1AB4143

¹⁴¹ At transcripts on 26 August 2021 at pp 246–247

¹⁴² At p 148 of exhibit OCW-11

¹⁴³ At p 142 of exhibit OCW-11

first letter claiming he could not find it when cross-examined¹⁴⁴. In re-examination¹⁴⁵, the Plaintiff sought to explain that the only difference between UOF's two letters of offer was a change in the tenure of the loan from 25–30 years in UOF's first letter to 15 years in UOF's letter of offer. The court is sceptical of his explanation in the light of the many instances where the Plaintiff was found to be untruthful.

157 The Plaintiff's greed knew no bounds. He attempted to obtain a commission of \$60,000 from the Estate for arranging for his own daughter to buy the Property and even demanded that the Estate pay her rent under the lease-back arrangement. He further attempted to force the administratrices to pay the \$100,000 claim notwithstanding there was no such provision under intestacy law.

158 The Plaintiff not only maligned his late mother but was ungrateful towards his siblings. Yew Hong had emailed her siblings on 28 June 2017¹⁴⁶ to inform them that the Property had been valued at \$3.13m by Bernard Valuers & Real Estate Consultants. There was also an offer from a prospective purchaser dated 22 May 2017 of \$2.95m which accepted the lease-back condition¹⁴⁷. Because of the Plaintiff's claim that he wanted to keep the Property within the family, the defendant agreed to their detriment, to sell it to the Plaintiff's daughter at below market price (\$2.76m). As it turned out, it was the Plaintiff's son-in-law Low Chig Wee and not his daughter who bought the Property. This

¹⁴⁴ See transcripts on 24 August 2021 at p 105

¹⁴⁵ See transcripts on 27 August 2021 at p 397

¹⁴⁶ At 1AB4266

¹⁴⁷ See [35] *supra*

was a further concession made by the defendants. Instead of being grateful, the Plaintiff turned around and sued the siblings. His conduct was deplorable.

159 Even more egregious was the Plaintiff's conduct in relation to the Deceased's hospital bills that he had purportedly incurred. He submitted to the administratrices claims totalling \$298,000 without taking into account Chin Ee's payment to him in February 2015 of \$150,000 as Chin Ee's 50% contribution towards the expenses of the Deceased. He also failed to disclose to the siblings that he had made arrangements with TTSH to pay the outstanding medical bills by instalments. He further submitted an inflated claim of \$149,000 without disclosing the fact that TTSH's bill of \$149,052.57 dated 15 February 2015 was subsequently discounted and reduced to \$101,269.66 on 10 May 2015 in TTSH's final invoice.

160 Confronted with the above information (which was set out in the Estate's solicitors' letter dated 4 June 2018 to his lawyers¹⁴⁸) the Plaintiff claimed he was not aware of and did not receive, the reduced bill until he and his wife visited TTSH "to beg"¹⁴⁹ saying they had no money to pay – it was only then that TTSH reduced the bill. The Plaintiff added he had been paying TTSH monthly instalments of \$1,200 (since 30 June 2015 in accordance with TTSH's letter dated 20 May 2015¹⁵⁰). The Plaintiff was plainly dishonest in this regard as Ms Hing put to him¹⁵¹.

¹⁴⁸ At 1AB4345

¹⁴⁹ See transcripts on 27 August 2021 at p 385

¹⁵⁰ At 1AB5777.

¹⁵¹ See transcripts on 27 August 2021 at p 389 line 4

161 The Plaintiff had also included in his voluminous bundles of bills and receipts¹⁵² copies of Singtel's going back to the years 1992–2005 for broadband charges. These were most likely incurred by his children (the oldest of whom was 16 in 2005) and yet he claimed the charges as part of household expenses which were subsidised 50% by Chin Ee.

162 The Plaintiff's greed was not matched by any generosity on his part towards the siblings. Correspondence from his sisters to Chin Ee read in court revealed the Plaintiff to be mean spirited – he would not even contribute 50% (although Chin Ee did) towards the cost of Yew Hong's airfare to Canada to bring the Deceased back to Singapore¹⁵³ for the reason that she had graduated from university even though she had not started working yet.

163 His meanness was also reflected in a letter from Siew Eng to Chin Ee dated 4 February 1991¹⁵⁴ where she recorded that the Plaintiff was angry that the sisters withdrew \$1,500 from the Sisters' account for food expenses¹⁵⁵ without informing him. Indeed, he demanded that the sum be refunded.

164 The Plaintiff's AEIC gave the false impression that he was making a huge sacrifice by not moving into the Flat. It was to his benefit not to do so. He collected rent while staying with the Deceased for 27 years at the Property and his family's expenses (six persons excluding the maid) incurred at the Property

¹⁵² At exhibit OCW-1

¹⁵³ See translation of Siew Eng's letter to Chin Ee dated 14 August 1992 at 1AB4172

¹⁵⁴ English translation at 1AB4157

¹⁵⁵ See transcripts on 26 August 2201 at pp 273–274

were subsidised 50% by Chin Ee. Pressed by the court¹⁵⁶, he admitted he received a further windfall as the Elmira Heights condominium was the subject of an en-bloc sale in 2007.

(i) Was there a common intention between the Deceased and the Plaintiff that he would own the Property even though the Deceased was the legal owner?

165 Apart from his say-so and his reliance on the appellate court's decision in *Chan Yuen Lan v See Fong Mun* [2014] 3 SLR 1048 ("*Chan Yuen Lan*"), the Plaintiff did not produce one iota of evidence in support of this claim. If indeed as the Plaintiff submitted¹⁵⁷, there was such an alleged common intention and it was the Deceased who requested that the Property be registered in her name even though the UOF loan was serviced by the Plaintiff, it is strange that neither the Deceased nor the Plaintiff raised this even once in the many family meetings that took place before the Deceased's passing. Family meetings which the Plaintiff attended took place on (i) 15 February 2015¹⁵⁸; (ii) 25 March 2015¹⁵⁹; (iii) 20 May 2015¹⁶⁰; (iv) 4 August 2016¹⁶¹ and (v) 18 January 2017¹⁶². At none of these meetings did the Plaintiff raise the subject of a common intention he had with the Deceased. Moreover, at the 11 February 2012 meeting¹⁶³ at Bee Hah's house, the Deceased did not once mention that the Property was supposed to go back to the Plaintiff. That would be unlike the Deceased whom Yew Hong

¹⁵⁶ At transcripts on 26 August 2021 at p 266

¹⁵⁷ At para 66 of the PCS

¹⁵⁸ See [28] *supra*

¹⁵⁹ See [29] *supra*

¹⁶⁰ See [30] *supra*

¹⁶¹ See [32] *supra*

¹⁶² See [33] *supra*

¹⁶³ See [26] *supra*

repeatedly said (and Chin Ee confirmed) was an honourable person, if indeed the Deceased had such a common intention with the Plaintiff. The Deceased was a person who would insist on repaying Chin Ee the \$58,000 that she owed him¹⁶⁴.

166 The thousands of bills/invoices that the Plaintiff included in his AEIC and in the agreed bundles did not help his case. How would the outgoings he paid (if indeed he paid them as most bills were in the name of the Deceased and his bank statements were heavily redacted) help to prove a common intention existed between himself and the Deceased?

167 The court turns now to exhibit D4. Whilst the court cannot deem it an informal will as Ms Hing described it, the court accepts that the document did reflect the Deceased's wishes of how she wanted the Property to be dealt with after her demise. The court also accepts that the document was an accurate record taken down by Yew Hong and Bee Hah of their late mother's wishes. Both sisters came across as truthful witnesses. Indeed, it was amazing how detailed and meticulous the Deceased was in her instructions in exhibit D4 to the extent that she even made a provision of \$20,000 to a charity for the handicapped and bequeathed \$10,000 to each of her grandchildren and other beneficiaries.

168 The Plaintiff's conduct over the years both before and after the demise of the Deceased was inconsistent with the existence of a common intention he shared with the Deceased. This can be seen below.

¹⁶⁴ See transcripts on 31 August 2021 at p 756

169 The \$100,000 claim the Plaintiff made on behalf of his eldest son from the sale proceeds of the Property¹⁶⁵ (as stated in his handwritten note dated 19 September 2017¹⁶⁶ to the Estate¹⁶⁷) not only reflected his greed but was inconsistent with his claim to be the beneficial owner of the Property. In essence, he was making a claim on himself.

170 Another instance of the Plaintiff's conduct being inconsistent with the alleged common intention would be the Plaintiff telling the siblings at the March 2015 meeting¹⁶⁸ that the Deceased at one time intended to sell the Property to him for \$800,000 which money would be paid to them "under the table" – although the Property would be formally transferred to him as a gift. Further, he would also not have suggested paying \$200,000 to each of the siblings (save for Chin Ee) to buy over the Property¹⁶⁹ on 4 August 2016.

171 A further instance would be his agreeing with the siblings to sell the Property and requesting that the Property be sold to his own daughter. The court need only refer to the many other instances cited by the defendants in para 23 of their defence and reproduced at [67] above as cogent evidence that the Plaintiff's own conduct was inconsistent with the existence of such a common intention.

172 At this juncture, it would be appropriate for the court to turn to the case relied on by the Plaintiff, that of *Chan Yuen Lan*. In that case, the Court of

¹⁶⁵ At transcripts on 26 August 2021 at p 318

¹⁶⁶ At 1AB4301

¹⁶⁷ See [42] *supra*

¹⁶⁸ See [29] *supra* and Yew Hong's note at 2AB144

¹⁶⁹ See [32] *supra*

Appeal varied the orders made by the trial judge (see *See Fong Mun v Chan Yuen Lan* [2013] 3 SLR 685). A property purchased for \$1.83m was registered in the name of the defendant/appellant-wife but save for a contribution of \$290,000 from her, the purchase price was funded by the plaintiff/respondent-husband. The appellate court held that the wife held 84.17% of the beneficial interest in the property on a resulting trust for the husband.

173 *Chan Yuen Lan* does not assist the Plaintiff at all. In that case, there was cogent evidence of the parties' respective contributions towards the purchase price of the property. In this case, it was in evidence that the Deceased did not need the UOF loan of \$500,000 which the Plaintiff had admitted was taken out for his sole benefit¹⁷⁰. Given his own admission and the court's observations in [86]–[87] above, there was no evidence of the Plaintiff's contributions towards the purchase price of the Property.

174 More in point would be *Geok Hong Co Pte Ltd v Koh Ai Gek and others* [2019] 1 SLR 908 ("*Geok Hong*") a case cited by the defendants. There, the family of the deceased son ("TTL") of the late founder ("TGC") of the defendant company (a family business), instituted proceedings seeking a declaration that the property which had been the home of TTL's family but purchased in the name of the company in 1977 was vested in equity in the estate of TTL.

175 The judge relied on a statutory declaration ("SD") made by TTL days before his demise where TTL outlined his version of events (disputed by the defendant) concerning ownership of the property. TTL's SD alleged that when

¹⁷⁰ See [85] *supra*

he was given an option to purchase the property, TGC had told TTL that he would buy the property for TTL since TTL would be staying behind to handle the family business while his siblings were studying abroad. The property would be registered in the name of the company so that TTL's wife would not be able to get a share in the event of a divorce ("the oral representation"). TGC passed away in 1990. In 2012, TTL contracted liver cancer and made a will on 10 October 2012 bequeathing the property absolutely to his wife. The respondents alleged that 20 days later on 30 October 2012, TTL became agitated after a visit by some of his siblings – he told his children that his siblings had refused to return the property to him. TTL made the SD that same evening. None of his children witnessed the altercation between TTL and his siblings.

176 The company denied that the oral representation was ever made. The plaintiffs' claim was based on a common intention constructive trust and in the alternative, proprietary estoppel that had arisen from the oral representation. The court below allowed the respondents' claim based on a common intention constructive trust.

177 The appellate court reversed the decision of the court below and held that there was no resulting trust in favour of the estate of TTL. In allowing the company's appeal, the Court of Appeal's following holdings are particularly applicable to this case:

- (a) the veracity of the oral representation could not be tested given the lack of documentary evidence and the fact that the only two persons who could provide evidence on the circumstances of the oral representation were no longer available for cross-examination. Given that the oral representation could not be established, there was nothing

to rebut the presumption that the company as the legal owner was also the beneficial owner of the property (at [67]);

(b) it was troubling that TTL, throughout his lifetime, had never informed his siblings about the oral representation or his alleged beneficial interest in the property. The only person who could have validated the oral representation was TGC, yet TTL did not take any steps to realise his interest while TGC was alive (at [69]–[71]);

(c) In any event, the doctrine of laches would have barred the respondents’ claim. The difficulties with the fact and contents of the oral representation could not be clarified through cross-examination, given that information relating to the oral representation resided only in TTL and TGC. TTL had not taken steps to realise his interest while he was alive, but chose to assert his interest by way of the SD when he was suffering from terminal liver cancer. TTL had no reasonable explanation for his inordinate delay of almost 40 years before asserting his claim which was extremely prejudicial to the company (at [98] and [101]).

178 The holdings of the appellate court in *Geok Hong*, summarised in [177], would be pertinent to this Suit. The only person who could confirm or rebut the Plaintiff’s allegation of oral representations that the Deceased allegedly made to him as set out earlier at [53] would be the Deceased herself. The Plaintiff took no steps while the Deceased was still alive to realise his claim to be the beneficial owner of the Property.

179 The Plaintiff's claim based on a resulting trust¹⁷¹ due to his servicing of the UOF loan cannot succeed either. As submitted by the defendants¹⁷², the timing of such a trust is critical – an interest under a resulting trust must crystallise at the time of purchase (see *Su Emmanuel v Emmanuel Priya Ethel Anne and another* [2016] 3 SLR 1222 at [92]). There, the Court of Appeal said that actual repayments that *are not* referable to the parties' agreement as to how they intend to service the mortgage should not be taken into account for determining the ownership interest on a resulting trust analysis.

180 It is noted that the UOF loan was offered on 5 October 1988 *after* the Property had been purchased on 29 August 1988¹⁷³. The Plaintiff had also admitted that he took the UOF loan for his own benefit¹⁷⁴ as seen at [85] earlier. Moreover, it was undisputed that the Deceased knew nothing of the UOF loan¹⁷⁵.

181 An essential element of a claim based on proprietary estoppel is that there must be detriment which is substantial (see *Gillett v Holt* [2000] 3 WLR 815 which was endorsed in *Neo Hui Ling v Ang Ah Sew* [2012] 2 SLR 831).

182 For the plaintiff's claim based on proprietary estoppel¹⁷⁶, the law requires him to prove with objective evidence (i) the contents of the representations the Deceased allegedly made to him; (ii) that the Deceased encouraged the Plaintiff to be responsible for the repayment of the UOF loan

¹⁷¹ See para 21 of the SOC

¹⁷² See paras 140–144 of the DCS

¹⁷³ See [84] *supra*

¹⁷⁴ See [85] *supra*

¹⁷⁵ See [139] *supra*

¹⁷⁶ See para 23 of the SOC and [53] *supra*

and interest on the understanding he would be the owner of the Property and (iii) he suffered detriment as a result. The Plaintiff produced no proof to substantiate (i), (ii) or (iii). Indeed, not only did the Plaintiff not suffer any detriment but he and his family had in fact benefited as they lived rent-free for 27 years in the Property¹⁷⁷ while collecting rental from the Flat.

183 The court finds that the Plaintiff failed to establish there was a common intention or a resulting trust or that there was proprietary estoppel.

(ii) If indeed there was a common intention as he alleged, is the Plaintiff's claim as the defendants alleged, barred from any relief by laches, due to his prolonged, inordinate and/or inexcusable delay in bringing this Suit?

184 Assuming *arguendo* that the court's earlier findings are wrong and there was indeed a common intention shared by the Plaintiff with the Deceased that he would own the Property, is the Plaintiff's claim barred by laches? On the evidence, it is the court's finding that his claim is so barred. This can be seen from the following milestones:

- (a) date of purchase of the Property – 29 August 1988 with completion on 29 November 1988;
- (b) date of the Deceased's passing – 5 February 2015¹⁷⁸;
- (c) dates when the Plaintiff through his solicitors first raised the issue that the Estate was not entitled to 100% of the sale proceeds of the Property – 19 and 26 January 2018¹⁷⁹.

¹⁷⁷ See [164] *supra*

¹⁷⁸ See [27] *supra*

¹⁷⁹ See 1AB4337 and 1AB4338

The interval between (a) and (b) is 27 years and between (a) and (c) is 30 years. Yet, apart from his bald assertion¹⁸⁰ that he had not been tardy in making his claim, the Plaintiff produced no evidence to rebut the lengthy delay in his making this claim. In this regard, the appellate court's comments from *Geok Hong* set out earlier at [177(c)] would equally apply to the Plaintiff.

185 The Plaintiff's submission that even if there was delay, it did not cause the defendants any prejudice is incorrect. Had they known of his claim earlier during the lifetime of the Deceased, the Deceased would have had an opportunity to answer the Plaintiff's claim. As the defendants pointed out, if the Plaintiff had raised his claim before Ee Peng's demise on 7 May 2017¹⁸¹, they would have had the benefit of her knowledge of events that transpired. Indeed, had the defendants known of the Plaintiff's claim before they sold the Property to the Plaintiff's son-in-law at a discount to the market price, they may not have sold the Property at all let alone to the former.

(iii) In the alternative, did the Plaintiff waive his rights by his conduct?

186 Assuming further that the Plaintiff did have a common intention with the Deceased and his claim is not barred by laches, did the Plaintiff waive his rights by conduct? It is the court's finding that the Plaintiff's conduct throughout the years before and after the demise of the Deceased showed he had waived such rights. If he had not waived his rights he had at the very least, acquiesced in the conduct of the Deceased and/or the defendants which were against his rights.

¹⁸⁰ See [137] *supra*

¹⁸¹ See [30] *supra*

Conclusion

187 In the light of the evidence set out earlier and the conclusions drawn therefrom, the court finds that the Plaintiff has failed to prove any of the causes of action he had pleaded. Consequently, the court dismisses the Plaintiff's claim against all the defendants including the administratrices, with costs on a standard basis – such costs to be taxed unless otherwise agreed. In this regard, there will be two sets of costs, one set for the defendants who are beneficiaries and another set of costs (in a lesser sum) for Yew Hong and Bee Hah in their capacity as administratrices of the Estate.

Lai Siu Chiu
Senior Judge

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for the plaintiff;
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Kai Xin (Drew & Napier LLC) for the defendants.
