Ong Jane Rebecca *v* PricewaterhouseCoopers and others
[2011] SGHC 146

Case Number	: Suit No 156 of 2006 (Registrar's Appeal No 158 of 2011)
Decision Date	: 03 June 2011
Tribunal/Court	: High Court
Coram	: Choo Han Teck J
Counsel Name(s)	: Plaintiff in-person; Sylvia Tee (Allen & Gledhill LLP) for the first and second defendants; Chandra Mohan s/o Rethnam and Gillian Hauw Hui Ying (Rajah & Tann LLP) for the third defendant.
Parties	: Ong Jane Rebecca — PricewaterhouseCoopers and others

Civil Procedure

3 June 2011

Choo Han Teck J:

1 Jane Rebecca Ong ("the plaintiff") is the modern day Odysseus. She first arrived in the courts here in 1991 when she sued her former husband and his mother for various claims including the fraudulent transfer and concealment of assets to which she had a share. The present proceedings, taking place about 20 years later, seem remote to the Originating Summons she filed in 1991 but is connected to and arose from that action.

2 The plaintiff had made many journeys to the courts, and in the present proceedings she is again the plaintiff. The first defendant was the firm of accountants that was engaged to act as her experts in proceedings arising from the Originating Summons No 939 of 1991 action. The first defendant had since transformed itself into a new entity known as a limited liability partnership and thus named as the second defendant. The third defendant was the firm of solicitors that acted for her in previous proceedings in 2004 and 2005. Like Odysseus, the plaintiff faced many obstacles in her journeys. The latest came in the form of an application by the third defendant to strike out parts of her (the plaintiff) claim against it (the third defendant). There have been many decisions bearing the title of "Jane Rebecca Ong" hence, for convenience and the avoidance of confusion this episode may be referred to as "Jane Rebecca Ong and the Phantom Strike".

3 In the present proceedings in Suit No 156 of 2006 the plaintiff is claiming damages in tort and contract for the alleged negligent conduct on the part of her professional advisers. Her statement of claim is 271 pages long. Counsel, English Queen's Counsel and our Senior Counsel included, readily settle pleadings in fewer than twenty pages even in cases no less complex or complicated than the present. Verbosity or necessity? That question should serve as a requisite test for every line pleaded in any pleadings - must a statement setting out the facts that support a cause or even several causes of action require hundreds of paragraphs and pages? An abuse of the general interlocutory process, such as a request for further and better particulars can sometimes contribute to excess and verbosity in the pleadings, and consequent interlocutory applications will increase the costs of litigation. Returning to the basics in pleadings is thus an appropriate starting point in drafting. Subsequently, counsel should properly consider what rightfully lies in the province of further and better particulars, in discovery, in interrogatories, and finally, in the affidavits of evidence-in-chief. The trained and experienced eye will see the logical and systematic progression of the pre-trial case

thus unfolding expeditiously and gradually, but without hurry or excess.

4 In the present case, horrified by the length of the statement of claim Mr Chandra Mohan, who is counsel for the third defendant, applied to strike out various parts of the claim on the grounds that they were frivolous and vexatious, and disclosed no reasonable causes of action. Mr Chandra Mohan explained that he had hoped to "streamline" the case for the trial judge. As a unilateral effort, that will not likely be welcomed by opposing counsel or even the judge. Since every case can be understood from the plaintiff's as well as the defendant's points of view, if a case is to be "streamlined", it should be done jointly by all parties concerned (including third parties, if any). A consensus towards the common cause should not be difficult to achieve in most cases. If it were, the problem can often be attributed to a want of professional fellowship. I asked Mr Chandra Mohan which paragraphs of the statement of claim he wished to expunge and why he thought that they were frivolous and vexatious. It transpired that some of the allegations were, in counsel's opinion, time barred; others were, again in counsel's words, "clearly unsustainable" because the facts, according to counsel, show that the allegations were untrue. All these assertions were matters of fact and disputed by the plaintiff. They were thus matters that ought to be decided by the trial judge. Indeed, Mr Chandra Mohan conceded that had the learned assistant registrar considered his submissions on these points and had decided in this way, he would have accepted it. The gravamen of Mr Chandra Mohan's complaint was that the assistant registrar rejected his application to strike out. Counsel argued that the assistant registrar had no right to reject an application that had already been electronically filed. Mr Chandra Mohan submitted that once an application has been filed, the registrar was bound to hear it.

5 What led to the action of the assistant registrar to reject the application? The parties had previously been directed to attend before the assistant registrar on 11 May 2011 for a pre-trial conference. They were also directed to file their applications for striking out, if any, by 15 April 2011. On 10 May 2011, the day before the pre-trial conference, Mr Chandra Mohan's firm filed an application to strike out various paragraphs of the plaintiff's claim. This was the application in issue before me. When Mr Chandra Mohan informed the assistant registrar that he filed the application the previous day, he was told that the application was filed out of time and since no application was made for an extension of time, the application will be rejected. I am of the view that there is no basis for the argument that once an application has been filed it must be heard. The Rules of Court stipulate the form in which applications and documents are to be filed. In a manual system, the registry clerk will reject any application that does not conform to the rules. An electronic filing system such as the one we have will also reject forms that do not comply with the requirements. The system automatically rejects forms that are not recognisable. However, the fact that a form was not electronically rejected does not mean that the registrar cannot subsequently reject it before the hearing. There may be defects or irregularities not detectable by the electronic systems. An application filed out of time as in the present case is a good example. Further, and contrary to Mr Chandra Mohan's submission, in the present circumstances, had the assistant registrar proceeded to hear the third defendant's application, the plaintiff would have been fully justified in objecting to it. The application was made in breach of a court order. It was not filed in time, and until that irregularity has been corrected by an order for an extension of time, the assistant registrar was entitled not to let the application proceed to a hearing.

6 The proper and correct procedure in such cases is to apply for an extension of time and counsel conceded that no such application was made. He, however, argued that the application for an extension of time will be made when the registrar hears the application to strike out. The discipline of law is a long process of learning, and begins by complying with simple rules and procedure. This application before me thus did not require any order because the assistant registrar clearly could not make any orders on a phantom application that somehow slipped past the electronic eyes. There was

therefore nothing to appeal against. However, for the avoidance of doubt, I recorded the obvious recourse for the third defendant, and that was that he was at liberty to apply for an extension of time to file his application to strike out those paragraphs he wish to have struck out.

7 In a case such as this, the most expedient way to bring the suit to a speedy conclusion may be to proceed to trial with the least distraction. In such a bulky claim scheduled to be heard for weeks, minor skirmishes ought to be avoided either if they can be more quickly fought as part of the main battle at trial, or where victory would be merely pyrrhic. Odysseus returned to Ithaca after ten years. The plaintiff has taken twice as long, and is no nearer home.